

Bill No.: \_\_\_\_\_

Requested: \_\_\_\_\_

Committee: \_\_\_\_\_

Drafted by: Collins

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**By: Montgomery County Delegation and Prince George’s County Delegation  
(By Request)**

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland–National Capital Park and Planning Commission – Open Space**  
3 **Dedication – Fee in Lieu**

4 **MC/PG 120–07**

5 FOR the purpose of altering the basis for calculating a certain monetary fee, paid in  
6 lieu of dedication of certain open spaces, to be used by the Maryland–National  
7 Capital Park and Planning Commission to purchase open spaces under certain  
8 conditions; and generally relating to subdivision regulations prepared by the  
9 Maryland–National Capital Park and Planning Commission or the governing  
10 body of either Montgomery or Prince George’s counties.

11 BY repealing and reenacting, with amendments,  
12 Article 28 – Maryland–National Capital Park and Planning Commission  
13 Section 7–116(a)  
14 Annotated Code of Maryland  
15 (2003 Replacement Volume and 2006 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



18 **Article 28 – Maryland–National Capital Park and Planning Commission**

19 7–116.

20 (a) In exercising the powers granted to it by § 7–115 of this title, the  
21 Commission or the governing body of either county may prepare regulations and  
22 amendments governing the subdivision of land within the regional district or the  
23 respective portions of the regional district within Montgomery or Prince George’s  
24 County. The regulations and amendments shall be adopted by the respective  
25 governing bodies of the counties, with whatever changes they consider appropriate,  
26 and shall be effective from the date of adoption or from such other date the governing  
27 body designates provided that such adoption does not affect in any manner the  
28 administration of the regulations by the Commission or its functions under § 7–115 of  
29 this title. In Montgomery County, on the adoption of any subdivision regulation or  
30 amendment by the district council, the regulation or amendment shall be delivered  
31 within 3 days to the County Executive who within 10 days thereafter shall approve or  
32 disapprove the regulation or amendment. If the County Executive disapproves the  
33 regulation or amendment, it shall be returned to the council with the reasons for the  
34 disapproval stated in writing. The council, by the affirmative vote of 6 members, may  
35 enact the regulation or amendment over the disapproval of the County Executive.  
36 Failure of the County Executive to act within 10 days constitutes approval of the  
37 regulation or amendment. The regulations may provide for (1) the harmonious  
38 development of the district; (2) the coordination of roads within the subdivision with  
39 other existing planned or platted roads or with other features of the district or with  
40 the Commission’s general plan or with any road plan adopted or approved by the  
41 Commission as part of the Commission’s general plan; (3) adequate open spaces for  
42 traffic, recreation, light, and air, by dedication or otherwise, and the dedication to  
43 public use or conveyance of areas designated for dedication under the provisions of the  
44 zoning and subdivision regulations and for the payment of a monetary fee, in lieu of  
45 dedication, [not to exceed 5 percent of the total new market value of the land, as  
46 stated on the final assessment notice issued by the State Department of Assessments  
47 and Taxation, that is the subject of an approved preliminary plan of subdivision] to be  
48 used by the Commission to purchase open spaces for the use and benefit of the  
49 subdivision in cases where dedication would be impractical, provided that when, in the  
50 judgment of the Commission, suitable land is not available for acquisition to serve the  
51 subdivision from which a fee has been exacted, or if adequate open space has  
52 heretofore been acquired and is available to serve the subdivision, then the  
53 Commission may use the fee collected in lieu of dedication to develop or otherwise

54 improve land or recreational facilities that will assist in supplying the overall  
55 recreational needs of the subdivision, and further provided that if the subdivision is in  
56 a municipality in Prince George's County that is not within the metropolitan district  
57 but is within the regional district and when requested by the municipality the  
58 mandatory fee in lieu of dedication received by the Commission shall be paid to and  
59 used by the municipality either to purchase open space for the use and benefit of the  
60 subdivision or to develop or otherwise improve land or recreational facilities that will  
61 assist in supplying the overall recreational and open space needs of the subdivision; (4)  
62 the reservation of lands for schools and other public buildings and for parks,  
63 playgrounds, highways, roads, mass transit facilities, including busways and light rail  
64 facilities, and other public purposes, provided no reservation of land for traffic,  
65 recreation or any other public purposes as herein provided shall continue for longer  
66 than three years without the written approval of all persons holding or otherwise  
67 owning any legal or equitable interest in the property; and provided further that the  
68 properties reserved for public use shall be exempt from all State, county, and local  
69 taxes during the period; (5) the conservation of or production of adequate  
70 transportation, water drainage and sanitary facilities; (6) the preservation of the  
71 location of and the volume and flow of water in and other characteristics of natural  
72 streams and other waterways, including the establishment of a stormwater  
73 management program in Montgomery County which would allow the county to accept  
74 monetary contributions, the granting of an easement, or the dedication of land; (7) the  
75 avoidance of population congestion; (8) the avoidance of scattered or premature  
76 subdivision of land as would involve danger or injury to health, safety or welfare by  
77 reason of the lack of water supply, drainage, transportation or other public services or  
78 necessitate an excessive expenditure of public funds for the supply of services; (9)  
79 conformity of resubdivided lots to the character of lots within the existing subdivision  
80 with respect to area, frontage, and alignment to existing lots and streets; (10) control  
81 of subdivision or building (except for agricultural or recreational purposes) in flood  
82 plain areas or streams and drainage courses, and on unsafe land areas; (11)  
83 preservation of outstanding natural or cultural features and historic sites or  
84 structures; or (12) other benefits to the health, comfort, safety or welfare of the present  
85 and future population of the regional district. In Montgomery County, the regulations  
86 may require the provision of adequate recreational facilities or, in lieu of providing  
87 recreational facilities, payment of a fee not exceeding the cost of providing adequate  
88 recreational facilities to serve the subdivision.

89           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
90 October 1, 2007.