

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2003 Legislative Session

Legislative Day # 6

BILL NO. 2003-04

Introduced by: Charles County Commissioners

Zoning Ordinance - ZTA 03-64 Age 55 Exemption from the Excise Tax

Date introduced: / /

Public Hearing: 06 / 17 / 2003

Commissioners Action: 06 / 17 / 2003 Enactment

Commissioner Votes: WC: Yes, RJF: Yes, MDL: Yes, WDM: Yes, ARS: Yes

Pass/Fail: Pass

Effective Date: 06 / 27 / 2003

Remarks:

NOTE: CAPITALS indicate matter added to existing text.
[Brackets] indicate matter deleted from existing law.

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2003 Legislative Session

Bill No. _____
Chapter.No. _____
Introduced by _____
Date of Introduction _____

BILL

1 AN ACT concerning

Zoning Ordinance

Age 55 Exemption from the Excise Tax

2
3
4 FOR the purpose of

5
6 Adding language to the current exemption which allows the County Commissioners to
7 assess the Excise Tax/Impact Fee, in the event the deed restrictions are not meet.

8
9 BY repealing and reenacting, with amendments:

10 Chapter 297, Section 258 (A)(2)(e)
11 Code of Charles County
12 (1994 Edition, 2000 Supplement)

13
14 BY adding to:

15 Chapter 297, Section 258 (G)
16 Code of Charles County
17 (1994 Edition, 2000 Supplement)

18
19 **SECTION 1.** BE IT ENACTED BY THE COUNTY COMMISSIONERS OF
20 CHARLES COUNTY, MARYLAND, that the Laws of Charles County, Maryland read as
21 follows:

22
23 **Chapter 297: Zoning**
24 **Commissioners, County**

25
26 **Section 297-258: Schools**

27
28 (A) This Section applies to all residential developments except the following:

- 29
30 (1) Those residential developments that are restricted by deed to the residency of
31 individuals aged 55 years or older and further restricted by deed to exclude
32 school age children from permanently residing on the property.

1
2 (2) Those residential developments in the Planned Residential Development zone
3 (PRD) OR THE PLANNED UNIT DEVELOPMENT ZONE (PUD) that have
4 deed restrictions which limit residency to at least one individual fifty-five (55)
5 years of age or older and exclude permanent occupancy by anyone under the
6 age of twenty-one (21) and that also have further deed restrictions which shall
7 include each of the following:
8

9 (a) No house may be occupied by any individual under the age of
10 twenty-one (21) for more than 30 days in any six-month period.
11

12 (b) Each house shall be occupied following its sale or lease by at least one
13 individual fifty-five(55) years of age or older. Individuals aged
14 twenty-one(21) or older may reside in the community, as long as they
15 occupy a house with an individual aged 55 years or older, and will be
16 allowed to remain in the house following the death, divorce or
17 incapacity of the individual aged fifty-five (55) years or older as long
18 as the number of residences occupied by such households does not
19 exceed 20% of the total occupied houses within the community. No
20 new individuals aged 21 to 54 can move into the house after the death,
21 divorce or incapacitation of the individual aged 55 years or older.
22

23 (c) In order to insure continuous compliance with the age restrictions,
24 each contract of sale or lease agreement for a house within the
25 community will require certification of the household composition,
26 i.e., the name and birth date of each resident. Each household shall
27 re-certify its composition (i.e., the name and birth date of each
28 resident) on an annual basis.
29

30
31 (d) The Homeowners' Association for the community shall be required to
32 enforce the covenants and shall be prohibited from electing to waive
33 its enforcement rights and obligations.
34

35 (e) The Charles County Commissioners shall be designated as a
36 beneficiary of the covenants based upon their agreement to exempt the
37 community from the obligation to pay THE FAIR SHARE SCHOOL
38 CONSTRUCTION EXCISE TAX or an impact fee for school capacity
39 and for the sole purpose of empowering Charles County with the right
40 to enforce the covenants. This designation shall not obligate Charles
41 County to enforce the covenants. THE DAMAGES INCURRED BY
42 CHARLES COUNTY IN THE EVENT OF THE HOMEOWNERS'
43 ASSOCIATION'S FAILURE TO ENFORCE THE COVENANTS
44 DESCRIBED IN SECTION 297-258(a)(2) WILL INCLUDE, BUT
45 NOT BE LIMITED TO, THE AMOUNT OF THE FAIR SHARE

1 SCHOOL CONSTRUCTION EXCISE TAX OR IMPACT FEE
2 THAT WOULD HAVE BEEN ASSESSED FOR THE ENTIRE
3 COMMUNITY, IF THE COMMUNITY HAD NOT BEEN EXEMPT
4 FROM THE FAIR SHARE SCHOOL CONSTRUCTION EXCISE
5 TAX OR IMPACT FEE.
6
7

8 (B) No final plat for a residential subdivision or development services permit for a
9 residential site plan shall be approved until school capacity allocation has been
10 granted by the Director of Planning and Growth Management. School capacity will
11 be deemed adequate upon the granting of a school capacity allocation. It is the intent
12 of this ordinance that the capacity of public schools shall not be adversely affected
13 by residential development.
14

15 (C) The annual school capacity allocation committee, composed of the Charles County
16 Commissioners and the Charles County Board of Education, and/or their designated
17 representatives, will meet to decide on the appropriate allocations for the upcoming
18 year. This committee will consider the following factors, as well as any other
19 information deemed pertinent, in establishing the allocatable school capacity for the
20 upcoming year:
21

- 22 (1) Current enrollments;
- 23 (2) Projected enrollments;
- 24 (3) Current capacities of individual schools;
- 25 (4) County-wide capacity at each level of school;
- 26 (5) Capacity to be provided within the next five (5) years by any current
27 CIP projects;
- 28 (6) Additional capacity provided by the use of relocatable classrooms
29 within the Board of Education's relocatable policy guidelines ;
- 30 (7) Current district boundaries for school attendance and redistricting
31 opportunities within the Board of Education's policy guidelines;
- 32 (8) Residential development and growth within the incorporated towns
33 which will impact the enrollments at county schools;
- 34 (9) Number of lots from minor subdivisions recorded in previous year;
35 and
- 36 (10) Core capacities of each school facility.
37

38 (D) When determining the amount of allocatable school capacity, allocation may be made
39 only if school capacity currently exists or is programmed to exist under the then
40 applicable capital improvement projects program within the next five years.
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42 (E) Allocation amounts may not exceed the amount of capacity available in the
43 allocatable school capacity currently in effect. These allocations shall be based on
44 the factors listed in (c) above.
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(F) The granting of school capacity allocations shall be in accordance with the policies and procedures established in the adequate public facilities manual.

(G) THE FAIR SHARE SCHOOL CONSTRUCTION EXCISE TAX ADOPTED BY ORDINANCE 02-97 SHALL NOT APPLY TO THOSE PROJECTS EXEMPTED UNDER PARAGRAPHS A AND B OF THIS SECTION.

SECTION 2. BE IT FURTHER ENACTED, that this Act shall take effect [TEN (10)] calendar days after it becomes law.