

**COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

**2004 Legislative Session**

**Legislative Day # 11**

**BILL NO. 2004-04**

**Introduced by: Charles County Commissioners**

**AN ACT concerning**

**Development rights and Responsibilities Agreements**

---

---

**Date introduced: 07/13/2004**

**Public Hearing: 08/09/2004**

**Commissioners Action: 10 / 04 /2004 Enact**

**Commissioner Votes: WC: Y, RF: Y, ML: Y, DM: Y, AS: Y**

**Pass/Fail: Pass**

**Effective Date: 11 / 17 / 2004**

**Remarks:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

**2004 Legislative Session**

Bill No. 2004-04

---

Chapter. No. 297 \_\_\_\_\_

Introduced by \_\_\_ County Commissioners

---

Date of Introduction \_\_\_ 07/13/2004

---

**BILL**

1 AN ACT concerning

2 Development Rights and Responsibilities Agreements

3  
4 FOR the purpose of

5 authorizing Charles County to enter into and amend development rights and  
6 responsibilities agreements; requiring allowing certain persons to petition the County  
7 Commissioners requesting that an agreement be executed; requiring that agreements  
8 include certain provisions; allowing inclusion of additional provisions; requiring that  
9 petitions be referred to the Planning Commission for review of consistency with the  
10 Comprehensive Plan; requiring public hearing by Commissioners prior to the execution  
11 of agreements; authorizing certain persons to amend or terminate agreements under  
12 certain circumstances; establishing that certain laws, rules, regulations, and policies  
13 govern agreements under certain circumstances; and generally relating to development  
14 rights and responsibilities agreements in Charles County.

1  
2 BY adding to:

3 Chapter 297 – Zoning Regulations

4 Article XXX – Development Rights and Responsibilities Agreements

5 *Code of Charles County, Maryland*

6 (1994 Edition, 2003 Supplement)

7  
8 **SECTION 1.** BE IT ENACTED BY THE COUNTY COMMISSIONERS OF  
9 CHARLES COUNTY, MARYLAND, that the Laws of Charles County, Maryland read as  
10 follows:

11 **ARTICLE XXX – DEVELOPMENT RIGHTS AND**  
12 **RESPONSIBILITIES AGREEMENTS**

13  
14 **297-497. PURPOSE.**

15 THE PURPOSE OF THIS CHAPTER IS TO PROVIDE AN ADDITIONAL TECHNIQUE FOR  
16 LAND DEVELOPMENT CONSISTENT WITH THE COMPREHENSIVE PLAN AS  
17 AUTHORIZED BY THE ANNOTATED CODE OF MARYLAND. IT IS THE PURPOSE OF  
18 THIS CHAPTER TO ENHANCE DEVELOPMENT FLEXIBILITY, INNOVATION AND  
19 QUALITY WHILE ENSURING PROTECTION OF THE PUBLIC INTEREST, HEALTH,  
20 SAFETY AND WELFARE.

21  
22 **297-498. AUTHORITY.**

23 THE COUNTY COMMISSIONERS DESIRE TO EXERCISE THE AUTHORITY GRANTED  
24 BY SECTION 13.01 OF ARTICLE 66B, ANNOTATED CODE OF MARYLAND, TO  
25 AUTHORIZE DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS  
26 GENERALLY.

27  
28 **297-499. APPLICABILITY.**

29 ANY PERSON HAVING A LEGAL OR EQUITABLE INTEREST IN REAL PROPERTY IN

1 CHARLES COUNTY MAY PETITION THE COUNTY COMMISSIONERS TO ENTER INTO  
2 AN AGREEMENT.

3  
4 **297-500. CONTENTS OF DEVELOPMENT RIGHTS AND RESPONSIBILITIES**  
5 **AGREEMENT.**

- 6 1. AT A MINIMUM A DEVELOPMENT RIGHTS AND RESPONSIBILITIES  
7 AGREEMENTS SHALL CONTAIN THE FOLLOWING:
- 8 a. A LAWYER'S CERTIFICATION THAT THE PETITIONER HAS  
9 EITHER A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY;
  - 10 b. A LEGAL DESCRIPTION OF THE PROPERTY SUBJECT TO THE  
11 AGREEMENT;
  - 12 c. THE NAMES OF ALL PARTIES HAVING AN EQUITABLE OR  
13 LEGAL INTEREST IN THE PROPERTY, INCLUDING LIEN  
14 HOLDERS;
  - 15 d. THE DURATION OF THE AGREEMENT, INCLUDING ANY  
16 PROPOSED PHASING PLANS FOR THE DEVELOPMENT;
  - 17 e. THE PERMISSIBLE USES OF THE REAL PROPERTY;
  - 18 f. THE DENSITY OR INTENSITY OF USE OF THE REAL PROPERTY;
  - 19 g. THE MAXIMUM HEIGHT AND SIZE OF STRUCTURES TO BE  
20 LOCATED ON THE REAL PROPERTY;
  - 21 h. ARCHITECTURAL ELEVATION SKETCHES;
  - 22 i. A DESCRIPTION OF THE PLAN APPROVALS AND PERMITS  
23 REQUIRED OR ALREADY APPROVED FOR THE DEVELOPMENT  
24 OF THE PROPERTY;
  - 25 j. A STATEMENT THAT THE PROPOSED DEVELOPMENT IS  
26 CONSISTENT WITH APPLICABLE DEVELOPMENT REGULATIONS  
27 AND THE COMPREHENSIVE PLAN;
  - 28 k. A DESCRIPTION OF THE CONDITIONS, TERMS, RESTRICTIONS  
29 OR OTHER REQUIREMENTS DETERMINED BY THE COUNTY

1 COMMISSIONERS OR THEIR DESIGNEES TO BE NECESSARY TO  
2 ENSURE THE PUBLIC HEALTH, SAFETY, OR WELFARE;

3 1. TO THE EXTENT APPLICABLE, PROVISIONS FOR:

4 (1) DEDICATION OR RESERVATION OF A PORTION OF THE  
5 REAL PROPERTY FOR PUBLIC OR PRIVATE USES;

6 (2) PROTECTION OF SENSITIVE AREAS;

7 (3) PRESERVATION AND RESTORATION OF HISTORIC  
8 STRUCTURES; AND

9 (4) CONSTRUCTION OR FINANCING OF PUBLIC FACILITIES.

10 m. PROVISIONS TO THE EFFECT THAT THE PETITIONER SHALL BE  
11 RESPONSIBLE FOR ATTORNEY'S FEES, COSTS, AND EXPENSES  
12 INCURRED BY THE COUNTY COMMISSIONERS IN THE EVENT  
13 AN AGREEMENT IS ABANDONED OR BREACHED BY THE  
14 PETITIONER.

15 2. AN AGREEMENT MAY FIX THE PERIOD IN AND TERMS BY WHICH  
16 DEVELOPMENT AND CONSTRUCTION MAY COMMENCE AND BE  
17 COMPLETED, AS WELL AS PROVIDE FOR OTHER MATTERS  
18 CONSISTENT WITH THIS TITLE, INCLUDING, BUT NOT LIMITED TO,  
19 PHASING SCHEDULES AND GRANDFATHER PROVISIONS.

20  
21 **297-501. REFERRAL TO PLANNING COMMISSION.**

22 UPON RECEIPT OF A PETITION, THE COUNTY COMMISSIONERS SHALL REFER THE  
23 PETITION TO THE PLANNING COMMISSION, WHICH MAY CONDUCT A PUBLIC  
24 HEARING, FOR A DETERMINATION ON WHETHER THE PROPOSED AGREEMENT IS  
25 CONSISTENT WITH THE COMPREHENSIVE PLAN. THE COUNTY COMMISSIONERS  
26 MAY NOT ENTER INTO AN AGREEMENT UNTIL THE PLANNING COMMISSION  
27 DETERMINES WHETHER THE PROPOSED AGREEMENT IS CONSISTENT WITH THE  
28 COMPREHENSIVE PLAN. THE COMMISSIONERS MAY, HOWEVER, CHOOSE NOT TO  
29 ACCEPT THE PLANNING COMMISSION RECOMMENDATION.

1           **297-502. PUBLIC HEARING BY COUNTY COMMISSIONERS.**

2           BEFORE AN AGREEMENT MAY BE EXECUTED BY THE COUNTY COMMISSIONERS,  
3           THE COMMISSIONERS SHALL HOLD A PUBLIC HEARING ON THE AGREEMENT.  
4           NOTICE OF THE HEARING SHALL BE AS PROVIDED IN ARTICLE 66B, SECTION 4.04  
5           OF THE ANNOTATED CODE OF MARYLAND.

6  
7           **297-503. AMENDMENT OF AGREEMENTS.**

- 8                   1.       SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND AFTER A  
9                   PUBLIC HEARING, THE PARTIES TO AN AGREEMENT MAY AMEND  
10                  THE AGREEMENT BY MUTUAL CONSENT.  
11                  2.       THE PARTIES MAY NOT AMEND AN AGREEMENT UNLESS THE  
12                  PLANNING COMMISSION DETERMINES THE PROPOSED AMENDMENT  
13                  IS CONSISTENT WITH THE COMPREHENSIVE PLAN.

14  
15           **297-504. TERMINATION OF AGREEMENTS; SUSPENSION.**

- 16                  1.       THE PARTIES TO AN AGREEMENT MAY TERMINATE THE  
17                  AGREEMENT BY MUTUAL CONSENT.  
18                  2.       AFTER A PUBLIC HEARING, THE COUNTY COMMISSIONERS MAY  
19                  SUSPEND OR TERMINATE AN AGREEMENT IF THE COMMISSIONERS  
20                  DETERMINE THAT SUSPENSION OR TERMINATION IS ESSENTIAL TO  
21                  ENSURE THE PUBLIC HEALTH, SAFETY, OR WELFARE.

22  
23           **297-505. APPLICABLE LAWS, REGULATIONS AND POLICIES.**

- 24                  1.       EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE  
25                  LAWS, RULES, REGULATIONS, AND POLICIES GOVERNING THE USE,  
26                  DENSITY, OR INTENSITY OF THE REAL PROPERTY SUBJECT TO THE  
27                  AGREEMENT SHALL BE THE LAWS, RULES, REGULATIONS, AND  
28                  POLICIES IN FORCE AT THE TIME THE PARTIES EXECUTE THE  
29                  AGREEMENT.

1                   2.     IF THE COUNTY COMMISSIONERS DETERMINE THAT COMPLIANCE  
2                   WITH LAWS, RULES, REGULATIONS, AND POLICIES ENACTED OR  
3                   ADOPTED AFTER THE EFFECTIVE DATE OF THE AGREEMENT IS  
4                   ESSENTIAL TO ENSURE THE HEALTH, SAFETY, OR WELFARE OF  
5                   RESIDENTS OF ALL OR PART OF THE COUNTY, AN AGREEMENT  
6                   SHALL NOT PREVENT THE COMMISSIONERS FROM REQUIRING A  
7                   PERSON TO COMPLY WITH THOSE LAWS, RULES, REGULATIONS, AND  
8                   POLICIES, AFTER 30 DAYS NOTICE TO THE LAND OWNER AND A  
9                   PUBLIC HEARING.

10  
11                   **SECTION 2.** BE IT FURTHER ENACTED, that this Act shall take effect FORTY-  
12                   FIVE (45) calendar days after it becomes law.