

COUNTY COUNCIL  
OF DORCHESTER COUNTY, MARYLAND

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2004 Legislative Session,  
Legislative Day No. August 17, 2004

Introduced by: County Council

Bill No. 2004 - 18

AN ACT OF THE COUNTY COUNCIL OF DORCHESTER COUNTY, MARYLAND, TO ADOPT NEW ARTICLE XIV AND NEW SECTION 155-71 TO CHAPTER 155 OF THE DORCHESTER COUNTY CODE TO PROVIDE REGULATIONS PERTAINING TO DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT AS AUTHORIZED UNDER ARTICLE 66B OF THE ANNOTATED CODE OF MARYLAND, SECTION 13.01 AND TO DEFINE TERM "AGREEMENT" IN THE ZONING ORDINANCE.

Introduced, read first time, order posted on official bulletin board of Dorchester County, County Office Building, 501 Court Lane, Cambridge, Maryland 21613.

Ordered publication for once a week for two (2) successive weeks, and public hearing scheduled on Tuesday, September 28, 2004, room 110, County Office Building, 501 Court Lane, Cambridge, Maryland at 6:15 p.m.

By Order: Jane Baynard  
Jane Baynard, County Manager

AN ACT OF THE COUNTY COUNCIL OF DORCHESTER COUNTY, MARYLAND, TO ADOPT NEW ARTICLE XIV AND NEW SECTION 155-71 OF CHAPTER 155 OF THE DORCHESTER COUNTY CODE TO PROVIDE REGULATIONS PERTAINING TO DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT AS AUTHORIZED UNDER ARTICLE 66B OF THE ANNOTATED CODE OF MARYLAND, SECTION 13.01 AND TO DEFINE TERM "AGREEMENT" IN THE ZONING ORDINANCE.

**SECTION ONE:** Acting under Article 25A, Section 5(x) of the Annotated Code of Maryland (the "Act"), be it ENACTED and ORDAINED by the County Council of Dorchester County, Maryland that new Article XIV and new section 155-71 of Chapter 155 of the Dorchester County Code be adopted to read as follows:

Article XIV, DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT

**§ 155-71. Development Rights and Responsibilities Agreement**

**A. Definitions**

Unless otherwise provided in this subtitle, the definitions provided in Chapter 155 shall apply.

**B. Authority.**

The County Council for Dorchester County shall exercise the authority granted by Section 13.01 of Article 66B, Zoning and Planning, of the Annotated Code of Maryland to enter into development rights and responsibility agreements.

**C. Applicability.**

Any person having a legal or equitable interest in real property in Dorchester County may petition the County Council for Dorchester County to enter into an agreement.

**D. Contents of development rights and responsibilities agreements.**

**1. At a minimum a development rights and responsibilities agreement shall contain the following:**

- i. A lawyer's certification that the petitioner has either a legal or equitable interest in the property.**
- ii. The names of all parties having an equitable or legal interest in the property, including lien holders;**
- iii. A legal description of the property subject to the agreement;**
- iv. The duration of the agreement;**
- v. The permissible uses of the real property;**
- vi. The density or intensity of use;**
- vii. The maximum height and size of structures;**

- viii. **Description of the permits required or already approved for the development of the property;**
  - ix. **A statement that the proposed development is consistent with applicable development regulations, the Comprehensive Plan;**
  - x. **A description of the conditions, terms, restrictions, or other requirements determined by the County Council, or their designees, to be necessary to ensure public health, safety and welfare;**
  - xi. **To the extent applicable, provisions for:**
    - 1. **Dedication of a portion of the real property for public use;**
    - 2. **Protection of sensitive areas;**
    - 3. **Preservation and restoration of historic structures;**
    - 4. **Construction or financing of public facilities;**
    - 5. **Responsibility for attorney's fees, costs and expenses incurred by the County Council in the event and agreement is abandoned or breached by the petitioner.**
2. **An agreement may fix the period in and terms by which development and construction may commence and be completed, as well as provide for other matters consistent with this title.**

**E. Referral to Planning Commission.**

**Upon receipt of a petition, the County Council shall refer the petition to the Planning Commission for a determination whether the proposed agreement is consistent with the Comprehensive Plan and, where applicable, the Growth Area Plan. The County Council may not enter into an agreement unless the Planning Commission determines whether the proposed agreement is consistent with the Comprehensive Plan.**

**F. Public hearing**

**Before an agreement may be executed by the County Council, the County Council shall hold a public hearing on the agreement. Notice of the hearing shall be published in a county newspaper of general circulation once each week for two consecutive weeks, with the first such publication of notice appearing at least 14 days prior to the hearing. The notice shall contain the name of the petitioner, a brief description sufficient to identify the property involved, a fair summary of the contents of the petition and the date, time, and place of the public hearing.**

**G. Amendment of agreements.**

1. **Subject to paragraph (2) of this subsection and after a public hearing, the parties to an agreement may amend the agreement by mutual consent.**
2. **The parties may not amend an agreement unless the Planning Commission determines whether the proposed amendment is consistent with the Comprehensive Plan.**

**H. Termination of agreements; suspension.**

1. **The parties to an agreement may terminate the agreement by mutual consent.**
2. **After a public hearing, the County Council may suspend or terminate an agreement if the County Council determine that termination or suspension is essential to ensure the public health, safety or welfare.**

**I. Applicable laws, regulations and policies.**

1. **Except as provided in paragraph (2) of this subsection, the laws, rules, regulations and policies governing the use, density or intensity of the real property subject to the agreement shall be the laws, rules, regulations and policies in force at the time the County Council and the petitioner execute the agreement.**
2. **An agreement may not prevent compliance with the laws, rules, regulations and policies enacted after the date of the agreement, if the County Council determine that imposition and compliance with these laws and regulations is essential to ensure the public health, safety or welfare of residents of all or part of Dorchester County.**

**J. Recording.**

1. **An agreement shall be void if not recorded in the land records of Dorchester County within 20 days after the day on which the County Council and the petitioner execute the agreement.**
2. **When an agreement is recorded, the County Council and the petitioner, and their successors in interest, are bound to the agreement.**

**K. Enforcement by interested parties.**

**Unless terminated under “Termination of agreements; suspension” of this subtitle, the County Council or the petitioner, and their successors in interest, may enforce the agreement.**

SECTION TWO: Acting under Article 25A, Section 5(x) of the Annotated Code of Maryland (the “Act”), be it ENACTED and ORDAINED by the County Council of

Dorchester County, Maryland that new term "agreement" be adopted and defined in Section 155-13 of the Dorchester County Code to read as follows:

**AGREEMENT** – Means a development rights and responsibilities agreement.

**SECTION THREE:** BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF DORCHESTER COUNTY that General Code Publishers is directed to codify amended Section 155- 13 to add term "agreement" and new Article XIV and new Section 155-71 to Chapter 155 of the Dorchester Code accordingly.

**SECTION FOUR:** BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF DORCHESTER COUNTY, that this bill shall be known as Bill No. 2004- \_\_\_ of Dorchester County, Maryland and shall take effect sixty (60) days after its final passage.

PASSED this 28th day of September, 2004.

ATTEST:

COUNTY COUNCIL OF DORCHESTER COUNTY:

BY: Jane Baynard  
Jane Baynard, County Manager

David Yockey  
David Yockey, Vice President

Bramble –  
Yockey- *aye*  
Elzey - *aye*  
Flowers- *aye*  
Nichols-

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