

**Ordinance No. 858-26**

An Ordinance Amending Bel Air Town Code Chapter 165. Comprehensive Plan and Development Regulations Part 2. Zoning Article IX. Special Provisions and Modifications § 165-64. Special provisions to add Section F. Development Rights and Responsibilities Agreement.

**WHEREAS**, the Board of Town Commissioners is required, under the Land Use Article of the Annotated Code of Maryland, to maintain consistency between the Development Regulations and the Town of Bel Air Comprehensive Plan; and

**WHEREAS**, The Land Use Article of the Annotated Code of Maryland provides the authority for the Board of Town Commissioners to adopt planning and zoning controls; and

**WHEREAS**, The Board of Town Commissioners is authorized to adopt planning and zoning controls designed to protect the health, safety and well-being of its citizens which includes the review and interpretation of new developments which may seek vesting as provided in Md. Code Ann., Land Use Art. §7-301, *et seq.*; and

**WHEREAS**, The Bel Air Board of Town Commissioners wish to update the Development Regulations to adopt Development Rights and Responsibilities language from Md. Code Ann., Land Use Art. §7-301, *et seq.*, as appropriately amended that provides for developer exactions in exchange for specific project vesting of development approvals; and

**WHEREAS**, the changes to Article IX allow for multi-phased projects to proceed with the understanding that entitlement has been achieved provided certain provisions are met; and

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Town Commissioners that amendments to the Town of Bel Air Development Regulations, Chapter 165, Ordinance No. 858-26, provided for below is hereby adopted:

Article IX  
**Special Provisions and Modifications**

**§ 165-62 Purpose.**

This article specifies zoning provisions which are general to all developments and establishes the basis for identifying, continuing and eliminating nonconforming uses, structures and site improvements. Also, in certain cases, usually as a result of the age or use of a property or building, it may not be possible to apply current zoning requirements. For this reason, special provisions and modifications outlined in this article are provided and may be used, if applicable and necessary, to modify existing conditions.

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§ 165-64 **Special Provisions**

- A. Use of existing lots of record. In any district where dwellings are permitted, single-family dwellings may be constructed or altered on any lot or plot of official record which does not meet minimum district lot size or width as of the date the Town of Bel Air Development Regulations are adopted, subject to the following requirements:

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F. Development Rights and Responsibilities Agreement

Applicant may petition the Town to enter into an agreement which specifies certain exactions in exchange for certainty and stability in the Development Regulations for a specified period of time.

- (1) Agreement means a development rights and responsibilities agreement.
- (2) Applicant means any individual, firm, corporation, partnership, association, society, syndicate, trust or other legal entity that files a petition to enter into an agreement related to a proposed development.
- (3) Development rights and responsibilities agreement means an agreement between the Bel Air Board of Town Commissioners and a person having a legal or equitable interest in real property to establish conditions under which development may proceed for a specified time.
- (4) Enhanced Public Benefit means a public infrastructure or other public improvement to be provided at the applicant's expense that is in excess of an improvement that would otherwise be required under the applicable code during the course of development.
- (5) The Town Administrator is the public principal that has been granted the authority to enter agreements under this Section that have been approved by the Board of Town Commissioners.
- (6) Powers. Subject to this subtitle, the Board of Town Commissioners may:
  - (a) Establish criteria, procedures and requirements for the consideration and execution of agreements; and

- (b) Delegate all or part of the authority established under this section to the Town Administrator or designee.

(7) The Town Administrator may:

- (a) Execute agreements for real property within the Town of Bel Air with a person having a legal or equitable interest in the real property, including property that is the subject of annexation of land; and
- (b) Include a federal, State, or local government or other entities as an additional party to the agreement.
- (c) Negotiate with the applicant for the Enhanced Public Benefit to be provided.

(8) Contents of Agreement. A development rights and responsibilities agreement shall include:

- (a) A legal description of the real property subject to the agreement.
- (b) The names of people having a legal or equitable interest in real property subject to the agreement.
- (c) A legal certification that the applicant has either a legal or equitable interest in the property.
- (d) The duration of the agreement.
- (e) The permissible uses of real property.
- (f) The density or intensity of use of the real property.
- (g) The maximum height and size of structures to be located on real property.
- (h) A description of the permits required or already approved for the development of the real property.
- (i) A statement that the proposed development is consistent with the comprehensive plan and development regulations of the Town of Bel Air.

- (j) A description of the conditions, terms, restrictions, or other requirements determined by the Board of Town Commissioners to be necessary to ensure public health, safety, or welfare.
- (k) To the extent applicable, Enhanced Public Benefit provisions may include one or more of the following:
  - [1] dedication of a portion of the real property for public use
  - [2] protection or restoration of sensitive areas
  - [3] preservation and restoration of historic structures
  - [4] construction or financing of public facilities
  - [5] traffic safety and capacity improvements
  - [6] provision of open space for active or passive use
  - [7] provision of affordable housing
  - [8] facilities or equipment for public safety
  - [9] sustainable green construction
- (l) Any Enhanced Public Benefit that includes utilization of real property shall be located within the corporate limits of the Town of Bel Air.
- (9) An agreement may:
  - (a) set the time frame and terms for development and construction.
  - (b) provide for other matters consistent with this section.
- (10) Applicable local laws and development regulations. Except as provided in paragraph (2), the local laws and development regulations governing the use, density, or intensity of the real property subject to an agreement shall be in force at the time the parties execute the agreement.
- (11) If the Town determines that compliance with local laws and development regulations enacted or adopted after the effective date of an agreement is essential to ensure the public health, safety, or welfare, an agreement may not prevent the Board of Town Commissioners from requiring a person to comply with those local laws and development regulations.
- (12) Procedures
  - a) Before entering into an agreement, a person having a legal or equitable interest in

real property or the person's representative shall petition the Zoning Administrator of the Town.

- b) After receiving a petition and before entering into an agreement, the Town Administrator or his or her designee shall prepare a report and submit the application to the Planning Commission who shall conduct a public hearing.
- c) The public hearing shall have the same review fees and be advertised in the same manner as a Special Development pursuant to Section 165-94.
- d) A public hearing that is required for review of the proposed development satisfies the public hearing requirement.
- e) If the Planning Commission finds that the proposed agreement is consistent with the comprehensive plan, then the proposed agreement shall be presented to the Board of Town Commissioners for a final vote and approval by Resolution. If approved, the Board of Town Commissioners may authorize the Town Administrator to execute the agreement. Upon execution, the original agreement shall be delivered to the Town Attorney for Recordation pursuant to this Section.

(13) Recordation

- a) If an agreement is not recorded in the land records of Harford County within 20 days after the date on which the parties execute the agreement, the agreement is void.
- b) The parties to an agreement and their successors in interest are bound to the agreement after the agreement is recorded.
- c) All costs associated with the recordation of the agreement shall be borne by the applicant.

(14) Duration of Agreement

- a) An agreement shall be void five (5) years after the date on which the parties execute the agreement unless extended by amendment under paragraph H of this section.

(15) Amendment

- a) Subject to paragraph (2) of this subsection and after a public hearing, the parties to an agreement may amend the agreement by mutual consent.
- b) Unless the planning commission determines whether the proposed amendment is consistent with the comprehensive plan, the parties may not amend an agreement.
- c) Any Amendment sought pursuant to this Section shall not be executed without the approval of the Board of Town Commissioners.

(16) Termination

- a) The parties to an agreement may terminate the agreement by mutual consent.
- b) If the Town Administrator or the Board of Town Commissioners determines that suspension or termination is essential to ensure the public health, safety, or welfare, the Town Administrator or the Board of Town Commissioners may unilaterally suspend or terminate an agreement after proper notice pursuant to the Agreement and a public hearing.

(17) Enforcement

- a) Unless the agreement is terminated under paragraph I of this section, the parties to an agreement or their successors in interest may enforce the agreement.

**BE IT ORDAINED** If any provision of this Ordinance shall be held violative of any applicable law or unenforceable for any reason or *ultra vires*, the invalidity or unenforceability of any such provision shall not invalidate or render unenforceable any other provision hereof, which shall remain in full force and effect.

**BE IT FURTHER ORDAINED** that this Ordinance shall become effective on the twenty-first (21st) day after passage unless petitioned to referendum.

INTRODUCTION:

PUBLIC HEARING:

ENACTMENT:

EFFECTIVE:

AYES:

NAYS:

ABSENT:

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Paula Etting, Chair  
Board of Town Commissioners

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Michael L. Krantz, Town Clerk