

PREFACE



Originally Published in 1972

Published in 2008 by Order of County Council

municode



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HOWARD COUNTY OFFICIALS (2015)

COUNTY COUNCIL

Calvin Ball <i>Chairperson</i>	Jon Weinstein <i>Vice Chairperson</i>
Greg Fox <i>Councilmember</i>	Mary Kay Sigaty <i>Councilmember</i>

Jennifer Terrasa <i>Councilmember</i>	Jessica Feldmark <i>Administrator to the County Council</i>
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EXECUTIVE

Allan H. Kittleman <i>County Executive</i>	Lonnie R. Robbins <i>Chief Administrative Officer</i>
James M. Irvin <i>Director of Public Works</i>	Stanley J. Milesky <i>Director of Finance</i>
John R. Byrd <i>Director of Recreation and Parks</i>	Gary W. Kuc <i>County Solicitor</i>
John Butler <i>Acting Director of Fire and Rescue Services</i>	Valdis Lazdins <i>Director of Planning and Zoning</i>
Gary L. Gardner <i>Chief of Police</i>	

PREFACE

This Code is a republication of the 1995 Edition of the Howard County Code to change format to double column and include Council Bills adopted through 2008.

The 1995 Edition of the Howard County Code was published by the Municipal Code Corporation, Tallahassee, Florida. It constitutes a republication of the 1977 Edition, with the provisions of the 1972-1973 Cumulative Supplement being added thereto. In addition, Council Bills adopted subsequent to the 1972-1973 Supplement have been added. The initial publication contains all such Bills adopted as of March 1, 1976.

No changes in the arrangement of Titles and Subtitles or the numbering system have been made. The section numbers are the same as used in the 1995 Edition, the 1977 Edition, the 1972-1973 Supplement and subsequent amendatory Council Bills. In some instances, the editors have added words in brackets [] for clarity.

Attention is directed to the comparative tables, for Public Local Laws and Council Bills, which appear at the end of the Code. These tables are new with this Edition and they will enable the user to locate, within the Code, all Public Local Laws and Council Bills included herein.

The Charter is included in the front of the volume for the convenience of the user of the Code. A comprehensive index has been prepared for the Charter and it appears immediately preceding the Code index. The Code, itself, has been completely reindexed.

A special feature of this Code to which the attention of the user is directed is the innovation of the looseleaf form of binding and supplemental servicing for the Code. With this new looseleaf system, the Code will be kept up-to-date periodically. Upon the final passage of amendatory bills, they will be properly edited and the page or pages affected will be reprinted. These new pages will be distributed to the holders of the Code with instructions for inserting the new pages and deleting the obsolete pages.

The publishers are most grateful to all County officials for their assistance and cooperation in the publication of this Edition of the Howard County Code.

MUNICIPAL CODE CORPORATION
Tallahassee, Florida

County Council Of Howard County, Maryland

2009 Legislative Session Legislative Day No. 3

Bill No. 18-2009

Introduced by: The Chairperson at the request of the County Executive

AN ACT to legalize the 2008 Edition of the Howard County Code, as approved by Margaret Ann Nolan, County Solicitor, and published by Municipal Code Corporation; to provide for the Code's periodic supplement; and to declare that the Code shall be the evidence of the public local laws of Howard County.

Introduced and read first time March 2, 2009. Ordered posted and hearing scheduled.

By order /s/ _____
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on March 16, 2009.

By order /s/ _____
Stephen LeGendre, Administrator

This Bill was read the third time on April 6, 2009 and Passed X Passed with amendments _____,
Failed _____.

By order /s/ _____
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 7th day of April, 2009 at 11 a.m. /p.m.

By order /s/ _____
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive April 8, 2009

By order /s/ _____
Ken Ulman, County Executive

WHEREAS, Section 210(c) of the Howard County Charter requires the Howard County Council to provide for a compilation and codification of all public local laws of the County; and

WHEREAS, by passage of Council Bill No. 15-1977, the Council last adopted a codification of the public local laws, enacted by the Council pursuant to the Home Rule Amendment to the State Constitution and operating within Howard County; and

WHEREAS, substantial changes have occurred in the local laws of Howard County since the last codification; and

WHEREAS, the Council wishes to adopt a new format for the publication of the Howard County Code in order to update and make current the local laws of Howard County.

NOW, THEREFORE,

Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the 2008 Edition of the Howard County Code, as approved by Margaret Ann Nolan, County Solicitor, and published by Municipal Code Corporation, a copy of which is attached hereto and incorporated herein, is hereby legalized and is declared to be evidence of the local laws of Howard County, including all laws enacted prior to August 1, 2008, which are public local laws operating within Howard County.

Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland, that all laws of a general and permanent nature enacted by the Council after August 1, 2008 shall periodically be incorporated into this Code, as a supplement thereto, so that any reference to the Howard County Code, 2008 Edition, shall be understood and intended to include such additions and amendments caused by said enactments subsequent to August 1, 2008.

Section 3. And Be It Further Enacted by the County Council of Howard County, Maryland, that this Act shall become effective 61 days after its enactment.

SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code Book and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omitted."

In addition, by adding to this table with each supplement, users of this County Code will be able to gain a more complete picture of the Code's historical evolution.

Bill/Res. No.	Date Adopted	Included/Omitted	Supp. No.
3-2011	2-11-2011	Included	Supp. No. 12
56-2010	3-15-2010	Included	Supp. No. 13
5-2011	3-10-2011	Included	Supp. No. 13

6-2011	4- 8-2011	Included	Supp. No. 13
10-2011	4- 8-2011	Included	Supp. No. 13
11-2011(Res.)	3- 7-2011	Included	Supp. No. 13
13-2011	5- 4-2011	Included	Supp. No. 14
16-2011	6- 8-2011	Included	Supp. No. 14
20-2011	5-26-2011	Included	Supp. No. 14
21-2011	5-26-2011	Included	Supp. No. 14
22-2011	5-26-2011	Included	Supp. No. 14
25-2011	5-26-2011	Included	Supp. No. 14
41-2011	8- 1-2011	Included	Supp. No. 14
46-2011	8- 1-2011	Included	Supp. No. 14
47-2011	8- 1-2011	Included	Supp. No. 14
50-2011	11-11-2011	Included	Supp. No. 15
51-2011	12- 7-2011	Included	Supp. No. 15
54-2011	12- 6-2011	Included	Supp. No. 15
55-2011	12- 6-2011	Included	Supp. No. 15
9-2012	4- 2-2012	Included	Supp. No. 16
10-2012	5-12-2012	Included	Supp. No. 17
12-2012	5- 9-2012	Included	Supp. No. 17
13-2012	5- 9-2012	Included	Supp. No. 17

Official's Page	8-2012	Included	Supp. No. 17
14-2012	6- 6-2012	Included	Supp. No. 18
15-2012	6- 6-2012	Included	Supp. No. 18
16-2012	6- 1-2012	Included	Supp. No. 18
24-2012	7- 4-2012	Included	Supp. No. 18
25-2012	7- 6-2012	Included	Supp. No. 18
100-2012(Res.)	7-26-2012	Included	Supp. No. 19
101-2012(Res.)	7-26-2012	Included	Supp. No. 19
103-2012(Res.)	7-26-2012	Included	Supp. No. 19
104-2012(Res.)	7-26-2012	Included	Supp. No. 19
106-2012(Res.)	7-26-2012	Included	Supp. No. 19
28-2012	10- 5-2012	Included	Supp. No. 19
30-2012	10- 5-2012	Included	Supp. No. 19
Official's Page	12-2012	Included	Supp. No. 19
40-2012	12- 5-2012	Included	Supp. No. 20
41-2012	1-12-2013	Included	Supp. No. 20
2-2013	2- 8-2013	Included	Supp. No. 20
3-2013	2- 8-2013	Included	Supp. No. 20
7-2013	3- 5-2013	Included	Supp. No. 21
8-2013	4- 3-2013	Included	Supp. No. 21

9-2013	3- 5-2013	Included	Supp. No. 21
10-2013	3- 5-2013	Included	Supp. No. 21
12-2013	5- 8-2013	Included	Supp. No. 21
13-2013	5- 8-2013	Included	Supp. No. 21
14-2013	5- 8-2013	Included	Supp. No. 21
15-2013	5- 8-2013	Included	Supp. No. 21
22-2013	6- 6-2013	Included	Supp. No. 21
34-2013	7- 2-2013	Included	Supp. No. 22
35-2013	7-30-2013	Included	Supp. No. 22
36-2013	7- 2-2013	Included	Supp. No. 22
38-2013	7-30-2013	Included	Supp. No. 22
41-2013	7-30-2013	Included	Supp. No. 22
43-2013	10- 7-2013	Included	Supp. No. 23
45-2013	10- 7-2013	Included	Supp. No. 23
55-2013	1- 6-2014	Included	Supp. No. 24
2014, ch. 420 (Public Local Laws of Maryland)	4-12-2011	Included	Supp. No. 25
2-2014	2- 3-2014	Included	Supp. No. 25
5-2014	3- 5-2014	Included	Supp. No. 25
6-2014	3- 5-2014	Included	Supp. No. 25
7-2014	3- 5-2014	Included	Supp. No. 25

13-2014	5- 8-2014	Included	Supp. No. 26
14-2014	5- 5-2014	Included	Supp. No. 26
16-2014	6- 4-2014	Included	Supp. No. 26
32-2014	7- 9-2014	Included	Supp. No. 26
33-2014	7- 9-2014	Included	Supp. No. 26
34-2014	7- 9-2014	Included	Supp. No. 26
35-2014	7- 9-2014	Included	Supp. No. 26
8-2014	4- 9-2014	Included	Supp. No. 27
11-2014	4- 9-2014	Included	Supp. No. 27
36-2014	7-30-2014	Included	Supp. No. 27
39-2014	7-30-2014	Included	Supp. No. 27
Official's Page	11-2014	Included	Supp. No. 28
88-2014(Res.)	Election of 11- 4-2014	Included	Supp. No. 28
3-2015	3- 4-2015	Included	Supp. No. 29
5-2015	3- 4-2015	Included	Supp. No. 29
6-2015	3- 4-2015	Included	Supp. No. 29
51-2014	10-15-2015	Included	Supp. No. 30
4-2015	5- 7-2015	Included	Supp. No. 30
8-2015	5-12-2015	Included	Supp. No. 30
9-2015	4- 9-2015	Included	Supp. No. 30

10-2015	4- 9-2015	Included	Supp. No. 30
15-2015	5- 7-2015	Included	Supp. No. 30
9-2014	4- 9-2014	Included	Supp. No. 31
10-2014	4- 9-2014	Included	Supp. No. 31
18-2014	6- 4-2014	Included	Supp. No. 31
113-2014(Res.)	10- 6-2014	Included	Supp. No. 31
28-2015	8-10-2015	Included	Supp. No. 31
41-2015	10- 5-2015	Included	Supp. No. 32
140-2015(Res.)	10- 5-2015	Included	Supp. No. 32
17-2015	7-31-2015	Included	Supp. No. 33
2013, Ch. 510(L.L.)	5-16-2013	Included	Supp. No. 34
2016, Ch. 1(L.L.)	7- 1-2015	Included	Supp. No. 34
54-2015	1- 6-2016	Included	Supp. No. 34
51-2015	2-10-2016	Included	Supp. No. 35
1-2016	2-10-2016	Included	Supp. No. 35
3-2016	2-10-2016	Included	Supp. No. 35
4-2016	2-10-2016	Included	Supp. No. 35
5-2016	2-10-2016	Included	Supp. No. 35
8-2016	4-14-2016	Included	Supp. No. 36
12-2016	4-14-2016	Included	Supp. No. 36

13-2016	4-14-2016	Included	Supp. No. 36
14-2016	4-14-2016	Included	Supp. No. 36
15-2016	4-14-2016	Included	Supp. No. 36
17-2016	4-14-2016	Included	Supp. No. 36
20-2016	4-14-2016	Included	Supp. No. 36
27-2016	5-26-2016	Included	Supp. No. 37
35-2016	7- 8-2016	Included	Supp. No. 37
36-2016	7- 8-2016	Included	Supp. No. 37
42-2016	7- 8-2016	Included	Supp. No. 37
51-2016	8-5-2016	Included	Supp. No. 38
111-2016(Res.)	10-15-2016	Included	Supp. No. 38
7-2016	3-11-2016	Included	Supp. No. 39
55-2016	11-14-2016	Included	Supp. No. 39
66-2016	12- 9-2016	Included	Supp. No. 39
67-2016	11-14-2016	Included	Supp. No. 39
68-2016	11-14-2016	Included	Supp. No. 39
69-2016	11-14-2016	Included	Supp. No. 39
70-2016	12- 9-2016	Included	Supp. No. 39
74-2016	12- 9-2016	Included	Supp. No. 39
75-2016	12- 9-2016	Included	Supp. No. 39

79-2016	12- 9-2016	Included	Supp. No. 39
80-2016	12- 9-2016	Included	Supp. No. 39
160-2016(Res.)	11-9-2016	Omitted	Supp. No. 39
27-2016(Res.)	4- 4-2016	Included	Supp. No. 40
101-2016(Res.)	7-29-2016	Included	Supp. No. 40
1-2017	2- 9-2017	Included	Supp. No. 40
4-2017	2- 9-2017	Included	Supp. No. 40
6-2017	2- 9-2017	Included	Supp. No. 40
15-2017	3- 8-2017	Included	Supp. No. 40
17-2017	2-22-2017	Included	Supp. No. 40
50-2014	10-15-2014	Included	Supp. No. 41
5-2017	2-19-2017	Included	Supp. No. 41
21-2017	4- 7-2017	Included	Supp. No. 41
23-2017	4- 6-2017	Included	Supp. No. 41
26-2017	5- 5-2017	Included	Supp. No. 41
39-2017	6- 1-2017	Included	Supp. No. 41
20-2017	7-10-2017	Included	Supp. No. 42
30-2017	6-13-2017	Included	Supp. No. 42
34-2017	6- 9-2017	Included	Supp. No. 42
56-2017	7-27-2017	Included	Supp. No. 42

70-2017	10- 5-2017	Included	Supp. No. 43
71-2017	10- 5-2017	Included	Supp. No. 43
72-2017	10- 5-2017	Included	Supp. No. 43
73-2017	10- 5-2017	Included	Supp. No. 43
77-2017	11- 8-2017	Included	Supp. No. 44
78-2017	11- 8-2017	Included	Supp. No. 44
149-2017(Res.)	1- 2-2018	Included	Supp. No. 45
1-2018	2-14-2018	Included	Supp. No. 45
3-2018	2-17-2018	Included	Supp. No. 45
4-2018	2-17-2018	Included	Supp. No. 45
7-2018	2- 8-2018	Included	Supp. No. 45
8-2018	2- 8-2018	Included	Supp. No. 45
9-2018	3-12-2018	Included	Supp. No. 45
10-2018	3-12-2018	Included	Supp. No. 45
12-2018	3-12-2018	Included	Supp. No. 45
10-2018(Res.)	4- 2-2018	Included	Supp. No. 46
13-2018	4- 5-2018	Included	Supp. No. 46
15-2018	4- 5-2018	Included	Supp. No. 46
16-2018	4- 5-2018	Included	Supp. No. 46
2017, Ch. 148(L.L.)	4-11-2017	Included	Supp. No. 46

2018, Ch. 138(L.L.)	4-10-2018	Included	Supp. No. 46
7-2017	2- 9-2017	Included	Supp. No. 47
14-2018	6- 8-2018	Included	Supp. No. 47
20-2018	6-12-2018	Included	Supp. No. 47
22-2018	6- 8-2018	Included	Supp. No. 48
39-2018	8- 6-2018	Included	Supp. No. 48
40-2018	7- 9-2018	Included	Supp. No. 48
41-2018	7- 9-2018	Included	Supp. No. 48
42-2018	7- 9-2018	Included	Supp. No. 48
43-2018	7- 9-2018	Included	Supp. No. 48
44-2018	7-30-2018	Included	Supp. No. 48
46-2018	7- 9-2018	Included	Supp. No. 48
49-2018	8- 6-2018	Included	Supp. No. 48
57-2018	8- 6-2018	Included	Supp. No. 48
60-2018	10-10-2018	Included	Supp. No. 49
63-2018	10- 9-2018	Included	Supp. No. 49
69-2018	11-11-2018	Included	Supp. No. 49
75-2018	11- 8-2018	Included	Supp. No. 49
76-2018	11-11-2018	Included	Supp. No. 49
8-2018(Res.)	2- 5-2018	Included	Supp. No. 50

4-2019	2- 7-2019	Included	Supp. No. 51
5-2019	3- 8-2019	Included	Supp. No. 51
6-2019	3- 8-2019	Included	Supp. No. 51
7-2019	3- 8-2019	Included	Supp. No. 51
8-2019	4- 8-2019	Included	Supp. No. 52
9-2019	4- 5-2019	Included	Supp. No. 52
10-2019	4- 5-2019	Included	Supp. No. 52
2019, ch. 744(L.L.)	3-25-2019	Included	Supp. No. 53
12-2019	5-13-2019	Included	Supp. No. 53
13-2019	5-14-2019	Included	Supp. No. 53
14-2019	5-14-2019	Included	Supp. No. 53
15-2019	5-14-2019	Included	Supp. No. 53
16-2019	5-14-2019	Included	Supp. No. 53
18-2019	6- 6-2019	Included	Supp. No. 53
19-2019	6- 6-2019	Included	Supp. No. 53
100-2019(Res.)	7- 1-2019	Included	Supp. No. 53

HOWARD COUNTY CHARTER^[1]

PREAMBLE

We, the People of Howard County, in the State of Maryland, in order to obtain the benefits of home rule and to separate the legislative, executive and judicial functions of government, do, in accordance with the Constitution and laws of the State of Maryland, adopt, ordain and establish as our Charter and form of government, this

CHARTER OF HOWARD COUNTY

Footnotes:

--- (1) ---

Editor's note— The Charter is included herein as adopted on November 5, 1968, and as amended. Amendatory provisions are explained in editor's notes following the amended section. Article XI, entitled "Transitional Provisions" and consisting of §§ 1101—1115, has been omitted pursuant to § 1115, which read: "After the quadrennial election in November, 1970, this Article shall cease to be part of this Charter."

ARTICLE I. - NAME AND RIGHTS OF THE COUNTY

Section 101. - Body corporate and politic.

Howard County as it now exists constitutes a body corporate and politic. Under this Charter it shall have all rights and powers of local self-government and home rule as are now or may hereafter be provided or necessarily implied by this Charter and by the Constitution and laws of the State of Maryland.

Section 102. - Exercise of powers.

The powers mentioned in the preceding section shall be exercised only by the County Council of Howard County, the County Executive and other agents, officers and employees of the County acting under their respective authorities or under such other authority as may be provided by this Charter or the laws of this State. In the exercise of such powers, the citizens of Howard County shall be accorded equal treatment in all matters under the jurisdiction of the County government.

Section 103. - Name and boundaries.

The corporate name shall be "Howard County, Maryland, " and it shall thus be designated in all actions and proceedings touching its rights, powers, properties, liabilities and duties. Its boundaries and county seat shall be and remain as they are at the time this Charter takes effect unless otherwise changed in accordance with law.

ARTICLE II. - THE LEGISLATIVE BRANCH

Section 201. - Composition.

The legislative branch of the County government shall consist of the County Council and the officers and employees thereof.

Section 202. - The County Council.

The legislative power of the County is vested in the County Council of Howard County which shall consist of five members who shall be elected from the Councilmanic Districts.

- (a) *Mode of election.* Each of the members of the Council shall be nominated and elected by the qualified voters of the Councilmanic District in which he or she resides. Each Councilmanic District shall elect one Council member.
- (b) *Qualifications.*

1. In General. Each candidate for the council shall have resided in the County for a period of not less than two years immediately prior to nomination; shall be a registered voter; and shall be a resident of the Council District which the candidate seeks to represent at the time of filing for candidacy and during the full term of office; and shall not be less than twenty-five years of age at the time of election.

2. Other Offices or Employment. No person shall qualify or serve as a member of the council: while holding any other office of profit or trust of or under the State or County government; while employed by the County; or while employed by any agency, board, commission, unit or other entity which receives funds through the County budget. No member of the Council shall, during the whole term for which he or she was elected, be eligible for appointment to any County office or position or be eligible for employment by the County.

3. Forfeiture of Office. If a member of the Council ceases to be a qualified and registered voter of the County, moves his or her residence from the councilmanic district he or she was elected to represent, accepts any other office of profit or trust of or under the state or county government, becomes employed by the County or any other entity which receives funds through the County budget, or is convicted of any crime involving moral turpitude, he or she shall immediately forfeit his or her office.

- (c) *Term of office.* Members of the Council shall qualify for office on the first Monday in December following their election, or as soon thereafter as practicable and shall enter upon the duties of their office immediately upon their qualification. They shall hold office for a term of four years commencing at the time of their qualification and continuing until their successors shall qualify. A person who has been elected to the County Council three times or who has been elected to the County Council twice and has been appointed to fill a Council vacancy and served two or more years of that term shall be ineligible to be a candidate for the County Council. In determining eligibility of a candidate pursuant to this subsection, no term or part of any term served prior to the election of November 6, 1990, shall be used in calculating the limitation on number of terms a Council member may serve.
- (d) *Compensation and allowances.* Each member of the Council shall receive as compensation and allowances for the performance of public duties under this Charter the sum of not less than Seventy-eight Hundred Dollars (\$7,800.00) per annum and shall not accrue annual leave or be entitled to any payment in lieu thereof. The compensation and allowances shall be in full compensation for all services required by this Charter to be performed by the members of the Council, but shall not preclude reasonable and necessary expenses as may be provided in the budget. The County Council shall establish a Compensation Review Commission every four years to review the Council's compensation and allowances in accordance with the provisions of Article 25A Subsection 5(AA) of the Annotated Code of Maryland.
- (e) *Vacancies.* Unless provision for filling a vacancy by special election has been established by ordinance, a vacancy occurring in the office of the Council member prior to the expiration of his or her term shall be filled by the Council within thirty days after the vacancy occurs by the appointment of a person whose name is to be submitted in writing to the Council by the State Central Committee of Howard County representing the political party to which the previous member belonged at the time of the member's most recent election. If a name is not submitted by the appropriate State Central Committee within twenty-five days after the vacancy occurs or if the previous incumbent was not a member of a political party at the time of the member's most recent election, then the vacancy shall be filled by a majority vote of the remaining members of the Council. The member so appointed shall reside in the same Councilmanic District as his or her predecessor and shall possess and maintain the same qualifications as an elected Council member. The member so appointed shall serve the unexpired term of his or her predecessor.
- (f) *Redistricting.*

1. Boundaries.

The Council shall appoint, by resolution, not later than April 1 of the year after each decennial census date, a Councilmanic Redistricting Commission. The Central Committee of each political party which polled at least twenty-five per centum of the total vote cast for all the candidates for the Office of County Executive in the last preceding general election shall nominate three persons to serve on the Commission. The Council shall appoint all such nominees as members of the Commission as well as one additional member of the Commission. The Council shall appoint the Chairperson of the Commission from among the

Commission members. No person shall be eligible for appointment to the Commission who holds elective office.

By October 15 of the year in which the Commission is appointed, the Commission shall prepare a plan of Councilmanic Districts and shall present that plan to the Council. Within thirty days after receiving the plan of the Commission, the Council shall hold a public hearing on the plan. If by March 15 of the year following submission of the plan, no ordinance re-establishing the boundaries of the Councilmanic Districts has been enacted, then the plan as submitted by the Commission shall become law. Any Councilmanic District established in accordance with this Article shall be compact, contiguous, substantially equal in population, and have common interest as a result of geography, history, or existing political boundaries. Any ordinance establishing Councilmanic Districts shall be exempt from referendum.

The Board of Supervisors of Elections shall take any necessary steps to implement any such revisions of the Councilmanic District Boundaries so adopted.

(g) *Planning and zoning.*

1. Any amendment, restatement or revision to the Howard County General Plan, the Howard County Zoning Regulations or Howard County Zoning Maps, other than a reclassification map amendment established under the "change and mistake" principle set out by the Maryland Court of Appeals, is declared to be a legislative act and may be passed only by the Howard County Council by original bill in accordance with the legislative procedure set forth in Section 209 of the Howard County Charter. Such an act shall be subject to executive veto and may be petitioned to referendum by the people of the county pursuant to Section 211 of the Charter.

Editor's note— An amendment to § 202 proposed by C.B. 5, 1974 was approved at an election held Nov. 7, 1974. An amendment proposed by C.B. 55, 1980 was approved at an election held Nov. 4, 1980, and became effective Dec. 4, 1980. The amendment proposed by Res. No. 119, 1982 was approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982. A further amendment proposed by petition was approved at an election held Nov. 6, 1984, and became effective Dec. 6, 1984. Amendments proposed by Res. Nos. 109—112, 1988 were approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988. An amendment to § 202(d) proposed by Res. No. 2, 1990 was approved at an election held Nov. 6, 1990, and became effective Dec. 6, 1990. An amendment to § 202(c), limiting the terms of the council, was proposed by petition and was approved at an election held Nov. 3, 1992, and became effective Dec. 3, 1992. An amendment to § 202(g), to provide that certain zoning plans, regulations, and maps be adopted as council bills, was proposed by petition of registered voters and was approved at an election held on Nov. 8, 1994, and became effective Dec. 8, 1994. An amendment to § 202(b) proposed by Res. No. 111, 1996 was approved at an election held on Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to § 202(f)1. proposed by Res. No. 112, 1996 was approved at an election held on Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to § 202(b)2., 3. proposed by Res. No. 126, 1996 was approved at an election held on Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to § 202(e) proposed by Res. No. 74-2004 was approved at an election held on Nov. 2, 2004 and became effective on Dec. 2, 2004. An amendment to § 202(f) proposed by Res. No. 100, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012.

Section 203. - Officers.

(a) *Presiding officer.* The Council at its first meeting in December of each year shall elect from its membership a Chairperson and Vice Chairperson. The Chairperson, or in his or her absence the Vice Chairperson, shall preside at all meetings. On all questions before the Council, the Chairperson

and Vice Chairperson shall have and may exercise the vote to which each is entitled as a Council member.

- (b) *Other officers and duties.* The Council shall employ an Administrator, who shall keep minutes of all meetings and maintain its Journal. There may be such other officers of the Council as may be provided in its Rules of Procedure. Officers of the Council shall perform duties and functions not inconsistent with those assigned to the legislative branch by this Charter or the Rules of Procedure of the Council.

Editor's note— An amendment to § 203(b) proposed by Res. No. 125, 1996 was approved at an election held on Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to § 203(a) proposed by Res. No. 126, 1996 was approved at an election held on Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 204. - Action by Council.

In all of its functions and deliberations, the Council shall act as a body and shall have no power to create standing committees or to delegate any of its functions and duties to a smaller number of its members than the whole.

Section 205. - Enumerated powers not to be exclusive.

The enumeration of powers in this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof, the Council shall have and may exercise all legislative powers which, under the Constitution and laws of this State, it would be competent for this Charter specifically to enumerate.

Section 206. - Limitation on exercise of Council's powers.

In the exercise of all its powers, the Council shall be subject to the express limitations imposed by this Charter and by all applicable provisions of the Constitution and laws of this State.

Section 207. - Legislative powers of Council.

The Council is vested with the law-making power of the County, including all such powers as heretofore have been exercised by the General Assembly of Maryland and transferred to the people of the County by the adoption of this Charter. The Council shall also have and may exercise such legislative powers as may be bestowed upon counties by the Constitution and laws of this State from time to time. The Council shall provide for the punishment of violations of any provisions of this Charter and may provide for punishment of violations of ordinances, resolutions, rules and regulations. Maximum penalties shall be as provided in State law.

Editor's note— An amendment to § 207 proposed by Res. No. 136, 1982 was approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982.

Section 208. - Sessions of the County Council; quorum; rules of procedure.

- (a) *Total session days.* The Council may sit up to forty-five days in each year for the purpose of enacting legislation.
- (b) *Legislative sessions.* The Council shall meet for the purpose of enacting legislation on the first Monday of each month and on such additional days as it may provide by resolution from time to time, provided, however:
 - (1) In the event that a legislative session should fall on a holiday, the said session-day shall be held on the next succeeding day which is not a holiday.

- (2) There shall be no legislative session in August, except for an emergency legislative session, unless the council provides by resolution for a session in August.
 - (3) At a session prior to any scheduled session, the council may determine by a two-thirds (2/3) vote not to sit at any regularly scheduled session.
 - (4) During a councilmanic election year, no legislative session, except for an emergency legislative session, shall be held during the month of November nor during the month of December until majority of members of the council has qualified.
- (c) *Non-legislative sessions.* The Council may sit in non-legislative sessions at such other times and places as it may determine. In such sessions the Council may review the County budget as proposed by the County Executive, conduct public hearings and perform such additional functions as by charter or law are properly exercisable by it, other than enacting legislation.
 - (d) *Emergency sessions.* The Council may be called into emergency session for the purpose of introducing and enacting emergency legislation either by the County Executive or by a majority of members of the Council.
 - (e) *Quorum.* A majority of the members of the Council shall constitute a quorum for the transaction of business, except that for emergency sessions two-thirds of the members of the Council shall be required.
 - (f) *Rules of procedure.* The Council shall adopt and publish such rules of procedure as it determines are desirable for its efficient operation.
 - (g) *Public meetings.* Unless otherwise provided by law, all sessions and meetings of the Council shall be open to the public.
 - (h) *Journal.* The Council shall provide for the keeping of a Journal which shall be available to the public in electronic form at any time.

Editor's note— An amendment to § 208 proposed by C.B. 56, 1980 was approved at an election held Nov. 4, 1980, and became effective Dec. 4, 1980. An amendment proposed by Res. No. 120, 1982 was approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982. An amendment to § 208(b)(1)—(4) proposed by Res. No. 129, 1994 was approved at an election held Nov. 8, 1994, and became effective Dec. 8, 1994. An amendment to § 208(h) proposed by Res. No. 101, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012.

Section 209. - Legislative procedure.

- (a) *Enacting clause.* The style of the enacting clause for all laws of the Council shall be: "Be it enacted by the County Council of Howard County, Maryland." All laws shall be passed by original bill.
- (b) *Titles.* Each law enacted by the Council shall embrace but one subject and that subject shall be described in its title; and no law or section of law shall be revised or amended by reference to its title or section only.
- (c) *Procedure for passage of laws.* A proposed law may be introduced by bill by any member of the Council during any legislative session of the Council; provided, however, that the Council may reject any proposed law on its introduction by a vote of two-thirds of its members. Every copy of each bill shall bear the name of the member or members of the Council introducing and co-sponsoring it and the date it was introduced for the consideration of the Council.

Not later than the next calendar day following the introduction of a bill, the Chairperson of the Council shall schedule a public hearing thereon.

Within twenty-four hours after the introduction of any bill, a copy thereof and notice of the time and place of the hearing shall be posted by the Administrator of the Council on an official bulletin board to be

maintained in a public place by the Council. Such public hearing shall commence not less than ten calendar days after its introduction. The hearing may, but need not be, held during a legislative session and may be recessed from time to time.

The title of each bill and the time and place of the hearing thereon shall be published once a week for two successive weeks in at least one newspaper of general circulation in the County, and in at least one electronic medium readily available to the public.

After the public hearing, as herein provided, a bill shall be finally passed during a legislative session, with or without amendment. If a bill is amended before it is passed and the amendment constitutes a change of substance, as determined by the affirmative vote of a majority of the Council, the bill shall not be passed until the title of the bill has been rewritten to reflect the substance of the amendment, a date for a public hearing is scheduled thereon and the revised title published in at least one newspaper of general circulation in the County, and in at least one electronic medium readily available to the public, setting forth the time and place of the hearing to be held thereon.

The title of each enacted bill shall be published once in at least one newspaper of general circulation in the County, and in at least one electronic medium readily available to the public.

A public hearing shall be held on all resolutions of confirmation of executive and Council appointments to all boards and commissions and in no event shall such resolution of confirmation be adopted less than twenty-five days after its introduction.

(d) *Procedure for passage of emergency laws.* To meet an immediate emergency affecting the public health, safety, or welfare, the Council may pass emergency bills. Every emergency bill shall be plainly designated as such, and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the claimed emergency in clear and specific terms. The term "emergency bill" shall not include any measure creating or abolishing any office; changing the compensation, term, or duty of any officer; granting any franchise or special privilege; or creating any vested right or interest.

Upon the introduction of an emergency bill, the Chairperson of the Council shall schedule a public hearing which shall take place not less than thirty-six hours after its introduction. The Administrator of the Council shall, within twelve hours after its introduction, post a copy thereof and notice of time and place of the hearing upon an official bulletin board to be maintained by the Council in a public place, and in at least one electronic medium readily available to the public.

In accordance with State law, the validity of emergency legislation shall not be affected if passed prior to the completion of advertising thereof. An emergency bill may be passed during any legislative session by an affirmative vote of two-thirds of the members of the Council. The effective date of all emergency bills shall be the date of their enactment.

(e) *Votes required.* No bill shall become law unless it be passed by the affirmative vote of a majority of the members of the Council, or such greater number as may elsewhere be required in this Charter, and on its final passage the yeas and nays and the names of members voting for and against the bill shall be recorded in the Journal.

(f) *Effective date of laws.* Except as otherwise provided in this Charter, all laws shall take effect sixty-one days after their enactment. The County Council may, by the affirmative vote of two-thirds of its members, pass legislation to be effective at a later date.

(g) *Executive veto.* Upon the passage of any legislation by the Council, with the exception of such measures as may in this Charter be made expressly exempt from the executive veto, the same shall be presented within three calendar days to the County Executive for his or her approval or disapproval, and within ten calendar days after such presentation the County Executive shall return any such legislation to the Council with his or her approval endorsed thereon or with a statement in writing of his or her reasons for not approving the same. Upon approval by the County Executive, any such legislation shall stand enacted. Any such legislation presented to the County Executive and returned with his or her veto may be reconsidered by the Council. The County Executive's objections shall be entered upon the Journal of the Council, and not later than at its next legislative session, the Council may reconsider the enactment thereof; and if two-thirds of the members of the Council vote

in the affirmative, the legislation shall stand enacted. Whenever the County Executive shall fail to return any such legislation within ten days after the date of its presentation to him or her, the Administrator of the Council shall forthwith record the fact of such failure in the Journal and such legislative act shall thereupon stand enacted. The County Executive may strike out or reduce any item in a supplementary appropriation bill and the procedure in such a case shall be the same as in the case of the veto of a bill by the County Executive.

(h) *Failure of bills.*

- (1) Subject to paragraph (2) of this subsection, any bill not passed within seventy calendar days after its introduction shall fail, unless, by affirmative vote of two-thirds of the members, the Council shall extend the deadline for another thirty-five days. The Council may approve a maximum of two such extensions for each bill.
- (2) (i) The deadline provided under paragraph (1) of this subsection is extended:
 1. To the next business day if the deadline falls on a Saturday, Sunday, or holiday on which the Council does not meet; and
 2. To the end of a rescheduled legislative session if a legislative session that was scheduled to occur on or before the deadline is postponed because of inclement weather or emergency conditions.
- (ii) The deadline is the end of a legislative session that begins on the last day of the period specified in paragraph (1) of this subsection or any extension of the period.

Editor's note— An amendment to § 209 proposed by C.B. 57, 1980 was approved at an election held Nov. 4, 1980, and became effective Dec. 4, 1980. Amendments proposed by Res. Nos. 121, 122 were approved at an election held Nov. 4, 1980, and became effective Dec. 2, 1982. An amendment proposed by Res. No. 114, 1988 was approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988. An amendment to subsection (f) proposed by Res. No. 114, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to subsections (c), (d), and (g) proposed by Res. No. 125, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to subsections (c), (d), and (g) proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to § 209(c), (d) proposed by Res. No. 101, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012. An amendment to subsection (h) proposed by Res. No. 88, 2014 was approved at an election held Nov. 4, 2014, and became effective Dec. 4, 2014. An amendment to subsection (h) proposed by [Res. No. 8, 2018](#) was approved at an election held Nov. 6, 2018, and became effective Dec. 6, 2018.

Section 210. - Recording, printing and compilation of laws.

- (a) *Recording of laws.* All laws enacted shall be authenticated by the signature of the Administrator of the Council and shall be recorded in full in a properly indexed book kept for the purpose.
- (b) *Printing and publication of laws.* The Council shall cause each ordinance, resolution, rule and regulation having the force and effect of law and each amendment to this Charter to be printed promptly following its enactment and they shall receive such publication as may from time to time be required by law. The rules, regulations, ordinances, resolutions and Charter amendments shall be made available to the public at reasonable prices to be fixed by the Council, and in at least one electronic medium readily available to the public.
- (c) *Compilation of laws.* At intervals not greater than every ten years, the Council shall provide for a compilation and codification of all public local laws of the County; all rules, regulations, resolutions

and ordinances having the force and effect of law theretofore issued or approved by the County Commissioners; and all rules, regulations, resolutions and ordinances of the Council in effect at such times other than those of a temporary or special character. Each such codification shall be submitted to the Council, and if legalized by law, shall be known as "The Howard County Code." It shall be published, together with an index and such appropriate notes, citations, annotations and appendices as may be determined by the Council and the Office of Law.

- (d) *Cumulative supplement.* The County Solicitor shall cause to be prepared and published a cumulative supplement to The Howard County Code, with an index and such appropriate notes, citations, annotations and appendices as he or she may deem desirable or as may be required by the Council.

Editor's note— An amendment to § 210 proposed by Res. No. 135, 1982, was approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982. An amendment to § 210(a) proposed by Res. No. 125, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to § 210(d) proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to § 210(b) proposed by Res. No. 101, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012.

Section 211. - The referendum.

- (a) *Scope of the referendum.* The people of Howard County reserve to themselves the power known as "The Referendum," by petition to have submitted to the registered voters of the County to approve or reject at the polls, any law or a part of any law of the Council. The referendum petition against any such law shall be sufficient if signed by five per centum of the qualified voters of the County calculated upon the whole number of votes cast in the County for Governor at the last preceding gubernatorial election. Such petition shall be filed with the Board of Supervisors of Elections of Howard County within sixty days after the law is enacted. If such a petition is filed as aforesaid, the law or part thereof to be referred shall not take effect until thirty days after its approval by a majority of the qualified voters of the County voting thereon at the next ensuing election held for members of the House of Representatives of the United States; provided, however, that if more than one-half but less than the full number of signatures required to complete any referendum petition against such law be filed within sixty days from the date it is enacted, the time for the law to take effect and the time for filing the remainder of signatures to complete the petition shall be extended for an additional thirty days. Any emergency measure shall remain in force from the date it becomes law notwithstanding the filing of such petition, but shall stand repealed thirty days after having been rejected by a majority of the qualified voters voting thereon. No law making any appropriation for current expenses shall be subject to rejection or repeal under this section.
- (b) *Form of petition.* A petition may consist of several papers, but each paper shall contain a fair summary of the Act or the part of the Act petitioned upon; and there shall be attached to each such paper an affidavit of the person procuring the signatures thereon that, to the said person's own personal knowledge, each signature thereon is genuine and bona fide, and that to the best of his or her knowledge, information and belief the signers are registered voters of the State of Maryland and Howard County, as set opposite their names. The Board of Supervisors of Elections shall verify the registration of said petitioners.

Editor's note— An amendment to § 211(b) proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to § 211(a) proposed by Res. No. 103, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012.

Section 212. - County Auditor.

The Council shall, by resolution, appoint a County Auditor who shall hold office for an indefinite term at the pleasure of the Council and shall receive such compensation as the Council may determine. The County Auditor shall be a certified public accountant licensed for the practice of his or her profession under the laws of this State, and shall be appointed on the basis of his or her knowledge of governmental accounting and auditing and his or her experience pertaining to the duties of his or her office. The County Auditor shall, not later than November 30 of each year, prepare and submit to the Council and to the County Executive, a complete financial audit for the preceding fiscal year of all offices, departments, institutions, boards, commissions, corporations, courts and other agencies of the County government. The Council may in its discretion except those agencies whose entire records, accounts and affairs are completely audited each year with the approval of or by the State government. Such audit shall include a report thereon together with such explanatory comments as the Auditor may deem appropriate. Notice of the availability of the report shall be published in at least one newspaper of general circulation in the County, and copies of the complete audit shall be available to the public and the press in the County Auditor's office and at the public libraries. In addition to any financial audit required by this section, the County Auditor shall have the authority to conduct other financial or management audits. All records and files maintained by all officers, agents and employees of the County and all offices, departments, institutions, boards, commissions, courts and corporations and other agencies thereof, shall at all times be open to the inspection of the County Auditor where necessary for the conduct of his or her office. The County Auditor shall promptly call to the attention of the Council and the County Executive any irregularity or improper procedure which he or she may, from time to time, discover. The Council shall have the power to implement the provisions of this section and to assign additional functions, duties and personnel to the County Auditor not inconsistent with those provided herein. All actions of the Council pursuant to this section shall be exempt from the executive veto.

Editor's note— An amendment to § 212 proposed by Res. No. 123, 1982 was approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982. An amendment proposed by Res. No. 115, 1988 was approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988. An amendment proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment proposed by Res. No. 123, 2005 was approved at an election held on Nov. 7, 2006, and became effective Dec. 7, 2006.

Section 213. - Special audits.

Either the Council or the County Executive may at any time order the examination or audit of the accounts of any department, office or agency receiving funds from the County government. Upon the death, resignation, removal or expiration of the term of any County administrative officers, the County Auditor shall cause an audit and investigation of the accounts maintained by the officer, and by his or her department, office or agency, to be made. The County Auditor shall report the results of his audit to the County Executive and the Council, and copies shall be made available to the public and press no later than four months after the ordering of the audit. If, as a result of any such audit, an officer shall be found to be indebted to the County, the County Executive shall proceed forthwith to collect the indebtedness. All actions of the Council pursuant to this section shall be exempt from the executive veto.

Editor's note— An amendment proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 214. - Investigation by the Council.

The Council may make, or cause to be made, investigations into the affairs of the County and the conduct of any County department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. It shall be deemed a

misdemeanor for any person to fail or refuse to obey a lawful order issued in the exercise of these powers by the Council and upon conviction thereof shall be punishable by fine of not more than \$1,000.00, or by imprisonment for not more than thirty days, or both.

Editor's note— An amendment proposed by Res. No. 115, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 215. - Noninterference with executive branch.

Neither the Council nor any of its members shall attempt to influence the head of any department, office or agency of the County government concerning the appointment of any person to, or his or her removal from, any office or employment, nor in any way take part in the appointment of or removal of officers and employees of the County except as specifically provided in this Charter. Formal communications from the Council to the executive branch shall be addressed to the Executive, and neither the Council nor any member thereof shall give orders either publicly or privately to any subordinate of the County Executive.

Editor's note— An amendment proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 216. - Special assistance.

The Council may at its discretion, and subject to the provisions in its budget or supplementary appropriation, by resolution employ such legal, financial or other technical advisors as it may from time to time deem necessary for the performance of any of its functions.

Section 217. - [Arbitration legislation authorized.]

The County Council is authorized to adopt legislation providing for a system of arbitration to resolve negotiation disputes between unions, who are the exclusive representative of police and firefighters, and the County Executive on all matters concerning wages, hours and other terms and conditions of employment which are subject to collective bargaining negotiation in accordance with the Howard County Code. Any law so enacted shall prohibit strikes or work stoppages by police officers and firefighters. Any award made pursuant to arbitration legislation adopted by the Council shall be binding on the County Executive, provided that the award is final no later than three weeks prior to submission of the current expense budget in accordance with Section 603 of this Charter.

Editor's note— The addition of Section 217 to the Charter was approved by the voters at an election held on Nov. 7, 2006.

ARTICLE III. - THE EXECUTIVE BRANCH

Section 301. - Composition.

The Executive Branch of the County government shall consist of the County Executive and all officers, agents and employees under his supervision and authority.

Section 302. - The County Executive.

The executive power of the County shall be vested in the County Executive who shall be the chief executive officer of the County and the official head of the County government. In such capacity he or she shall be the elected executive officer mentioned in Section 3 of Article XIA of the Constitution of this State. The County Executive shall devote full time to the duties of his or her office.

- (a) *Mode of election.* The Executive shall be nominated and elected by the qualified voters of the County as provided by law.
- (b) *Qualifications.*
1. In General. The Executive shall be a resident of the County for a period of not less than five years immediately prior to election and a registered voter at the time of filing for candidacy and shall be not less than thirty years of age at the time of his or her election.
 2. Other Offices. No person shall qualify or serve as Executive while holding any other office of profit or trust of or under State, County or Federal government; while employed by the County; or while employed by any agency, board, commission, unit or other entity which receives funds through the County budget. No Executive shall, during the whole term for which he or she was elected, be eligible for appointment to any County office or position or be eligible for employment by the County.
 3. Forfeiture of office. If an Executive ceases to be a registered voter of the County or is convicted of any crime involving moral turpitude, he or she shall immediately forfeit his or her office.
- (c) *Term of office.* The Executive shall qualify for the office on the first Monday in December following his or her election, or as soon thereafter as practicable and shall enter upon the duties of his or her office immediately. The County Executive shall hold office for a term of four years commencing at the time of his or her qualification and continuing until his or her successor shall qualify. No person shall be eligible to succeed himself or herself in office if he or she has served as Executive for two consecutive four-year terms.
- (d) *Compensation and allowances.* Subject to the provisions of Section 302(e) of this Article, the Executive shall receive Eighteen Thousand Dollars (\$18,000.00) annually as compensation and allowances and shall not accrue annual leave or be entitled to any payment in lieu thereof.
- (e) *Change in compensation and allowances.* The Compensation Review Commission established pursuant to Section 202(d) of this Charter shall review the Executive's compensation and allowances and make recommendations to the Council. The Council shall have the power to increase the compensation and allowances provided in this Charter for the Executive by the affirmative vote of not less than a majority of its members. To reduce the Executive's compensation and allowances the affirmative vote of not less than two-thirds of the Council members is required. In no event shall such compensation be reduced by a figure lower than that provided in this Charter except by amendment thereto. The compensation and allowances of the Executive shall not be increased or reduced during his or her current term.
- (f) *Vacancy.* Whenever for any cause the office of the Executive shall become vacant, the Chief Administrative Officer shall serve as acting Executive until a new Executive shall be appointed. The office of County Executive shall be filled by resolution within thirty days by the affirmative vote of a majority of the members of the Council. The person so elected by the Council shall possess the same qualifications for the office as provided in Section 302(b), shall belong to the same political party as his or her predecessor at the time of the Executive's most recent election (unless his or her predecessor was not a member of a political party) and shall serve the unexpired term of his or her predecessor and until his or her successor shall qualify.
- (g) *Temporary absence or disability.* The Executive shall within thirty days upon taking office, designate in writing the Chief Administrative Officer or other appointive officer to perform the duties of the Executive during the latter's temporary inability to perform by reason of absence from the County or disability. Such designation shall be filed with the Administrator of the Council. Any such designation may be revoked by the Executive at any time by filing a new designation with the Administrator of the Council. An Acting Executive shall have the same rights, duties, powers and obligations as an elected incumbent in said office except the power of veto.
- (h) *Inability to perform duties.* If an Executive is unable to perform the duties and responsibilities of his or her office as set forth in Section 302(i) of this Article for a continuous period of six months, his or her office may be declared vacant by the affirmative vote of not less than two-thirds of the members of the Council and such vacancy shall thereupon be filled in the manner above provided in Section 302(f) of this Article.

- (i) *Powers and duties.* The Executive shall be responsible for the proper and efficient administration of such affairs of the County as are placed in his charge or under his jurisdiction and control under this Charter or by law. His express responsibilities, duties and powers shall include, but not be limited to, the following:
1. To supervise, direct and control the offices and departments of the County Government, subject to law and the provisions of this Charter;
 2. To present to the Council the annual County budget in the manner and form hereinafter in this Charter provided;
 3. To report to the Council and the public at least once a year a general statement of finances, government and affairs of the County, with a summary statement of the activities of the several departments and offices thereof;
 4. To present to the Council from time to time such other information concerning the business and affairs of the County as he or she may deem necessary, or as the Council by resolution may request, and to recommend such measures for legislative action as he or she may deem to be in the best interest of the County;
 5. To see that the County officers, boards, agencies, commissions, departments and employees faithfully perform their duties;
 6. To see that the laws of the State pertaining to the affairs, good order and government of the County, and the acts, resolutions, ordinances and public local laws of the County are duly executed and enforced within the County;
 7. To make or cause to be made any study or investigation which in his or her opinion may be in the best interests of the County, including but not limited to investigations of the affairs, functions, acts, methods, personnel or efficiency of any department, office or officer under his or her jurisdiction;
 8. To veto, in his or her discretion, legislative acts of the Council, in the manner, at the times and subject to the limitations provided in Article II, Section 209(g) of this Charter;
 9. To appoint, subject to confirmation by the affirmative vote of a majority of the members of the Council, the County Solicitor;
 10. To appoint the Chief Administrative Officer and the heads of all offices and departments which are subject to his or her supervision and control under this Charter or by law;
 11. Unless otherwise specified in this Charter, to appoint the members of all boards, commissions, authorities and corporations created in or pursuant to this Charter or by law;
 12. To sign or cause to be signed on the County's behalf all deeds, contracts and other instruments, including those which prior to the adoption of this Charter required the signature of the Chairperson or any member of the Board of County Commissioners, and to affix the County Seal thereto;
 13. Except as otherwise expressly provided in this Charter, to issue, or cause to be issued, all executive orders, directives, licenses and permits, including those which prior to the adoption of this Charter, were issued or granted by the County Commissioners;
 14. To prepare and issue, or cause to be prepared and issued, rules and regulations of the character which prior to the adoption of this Charter were prepared or issued by the County Commissioners, provided that before taking effect, all such rules and regulations, other than those concerned exclusively with the internal operating procedure of the executive branch of the County government, shall be approved by the Council;
 15. To perform such other executive duties as may be prescribed by this Charter or required by ordinance or resolution of the Council or as may be necessarily implied from the powers and duties herein specified.

Editor's note— Amendments to § 302 proposed by Res. Nos. 119, 1982 and 135, 1982 were approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982. Amendments proposed by Res. Nos. 111, 116—118, 1988 were approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988. An amendment to subsections (d) and (e) proposed by Res. No. 2, 1990 was approved at an election held Nov. 6, 1990, and became effective Dec. 6, 1990. An amendment to subsections (f), (g), and (i) 10., proposed by Res. No. 125, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to subsections (b), (c), (f), (h), (i) 4., 7., 8., 10., and 12. proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 303. - Term and compensation of officers and employees in the executive branch.

Subject to the applicable merit system provisions of this Charter and other laws, all officers, agents and employees in the executive branch of the County shall hold such terms and receive such compensation as may from time to time be provided by this Charter or by law not inconsistent therewith. Officers and employees in the exempt service as defined in Article VII, Section 702 of this Charter, shall have their compensation fixed by an executive pay plan adopted by the Council upon recommendation of the Executive. The executive pay plan shall exclude the Executive and other elective officials whose salaries may not be changed during their term of office.

Section 304. - Temporary appointments.

- (a) *Chief Administrative Officer.* During the temporary absence of the Chief Administrative Officer, or if the office of Chief Administrative Officer shall become vacant, the Executive shall appoint an Acting Chief Administrative Officer pending, in the case of a vacancy, the appointment of a successor. In his or her capacity as Acting Chief Administrative Officer, the appointee need not possess, but the successor shall possess, all those qualifications hereinabove in this Article specified for an original appointee.
- (b) *Other officers.* The Executive, in the case of a vacancy or temporary absence, may designate any person to serve as acting head of any office or department in the executive branch until the appointment of a successor. Unless at the time of such appointment the temporary appointee is a subordinate officer in the office or department to which he or she is designated as acting head, he or she shall possess all the qualifications for the office specified in Article IV of this Charter for an original appointee.
- (c) *Limitation on term of temporary appointees.* No person shall serve as Acting Chief Administrative Officer or acting head of any office or department for a period longer than sixty days, provided, however, such limit may be extended an additional four months by resolution of the Council.

Editor's note— An amendment to subsections (a) and (c) proposed by Res. No. 125, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to subsections (a) and (b) proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 305. - Organization staffing.

Subject to the provisions of Article VII of this Charter, other law, and the provisions of the annual budget, the head of each office or department may appoint staff and clerical personnel to positions authorized by the Executive, but no such appointment shall be made if the cost thereof exceeds the budgetary allotment therefor.

ARTICLE IV. - OFFICES, DEPARTMENTS, AND BOARDS²

Footnotes:

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Editor's note— Article IV was extensively revised by amendments proposed by C.B. 62, 1980 and C.B. 64, 1980, which were approved at an election held Nov. 4, 1980, and became effective Dec. 4, 1980. These changes have been described in editor's notes following each section.

Section 401. - General supervision.

Except as otherwise provided by law, the offices and departments of the County government shall be subject to the supervision and control of the Executive, who shall be responsible for their efficient operation and management.

Editor's note— Section 401 reflects an amendment proposed by C.B. 62, 1980, approved at an election held Nov. 4, 1980, and effective Dec. 4, 1980.

Section 402. - Executive Branch departments and additional offices and departments.

- (a) *Departments of the Executive Branch.* In the Executive Branch there shall be a Chief Administrative Officer and such other officers and departments, agencies, offices, boards or other bodies as prescribed by this Charter or by law. The Chief Administrative Officer shall perform such duties as the County Executive may direct, or as may be prescribed by law.
- (b) *Other officers and departments, agencies, offices and boards.* All other officers and departments, agencies, offices, boards or other bodies shall be created, or existing officers and departments, agencies, offices, boards or other bodies deleted, by legislative act of the Council, or by an executive reorganization plan adopted pursuant to Sections 403 and 404 of this Charter. The Office of Law is not subject to executive reorganization.

Editor's note— Section 402 reflects an amendment proposed by C.B. 62, 1980, approved at an election held Nov. 4, 1980, and effective Dec. 4, 1980. An amendment to subsection (a) proposed by Res. No. 125, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 403. - Reorganization of the Executive Branch.

- (a) The County Executive may deem reorganization within the Executive Branch to be in the best interest of efficient government. In that event, the County Executive shall prepare a reorganization plan. Accompanying each reorganization plan shall be a detailed explanation of the reasons for reorganization and an evaluation of the financial impacts. For purposes of this Section, "reorganization" shall mean any change which prescribes, alters or defines functions and responsibilities and allocates, reallocates, expands or deletes powers of various departments, agencies, boards and other bodies of the Executive Branch.
- (b) The Executive Reorganization Plan shall be submitted to the Council at least one hundred and twenty (120) days prior to the submission of the current expense budget within which the reorganization is proposed for funding. Within sixty (60) days of such submission the Council shall introduce the plan in the form of a bill.
- (c) *Reorganization of departments under State law.* If the General Assembly shall at any time transfer to the voters of the County or to the Council jurisdiction or control over the affairs of any of the

departments of the County government by law or by this Charter, then to the extent of such transfer, the Council may by legislative act provide for the reorganization of such departments and the administration of their affairs within the Executive Branch under County law.

Editor's note— Section 403 reflects an amendment, proposed by C.B. 62, 1980, approved at an election held Nov. 4, 1980, and effective Dec. 4, 1980, which repealed § 421 and reenacted it with amendment as § 403. Former § 403 is now included as § 1103. An amendment proposed by Res. No. 119, 1988 was approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988.

Section 404. - Citizen boards.

- (a) Citizen boards appropriate to the functions of the Executive and the Legislative branches of government shall be established by law, and the members shall be appointed by the County Executive with confirmation by the County Council. The boards may conduct studies and reviews, advise and recommend, and assume other functions as defined by law. Each board, other than those boards provided by Sections 501, 703 and 902 hereof, shall consist of at least five residents of Howard County who shall serve for overlapping terms of five years, or until a successor is confirmed. Board members shall receive no compensation for their services except reasonable and necessary expenses as may be provided in the budget. No member shall be reappointed after having served eight consecutive years immediately before reappointment.
- (b) Vacancies shall be filled in the same manner as the original appointment or for the unexpired term.

Editor's note— An amendment to § 404, proposed by C.B. 62, 1980, approved at an election held Nov. 4, 1980, and effective Dec. 4, 1980, enacted a new § 404. An amendment proposed by C.B. 64, 1980 amended § 404 and renumbered the section as § 405. An amendment proposed by Res. No. 120, 1988 was approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988.

Section 405. - The Office of Law.

- (a) *The County Solicitor.* The Office of Law shall be administered by the County Solicitor, who shall be a member in good standing of the Bar of the Maryland Court of Appeals for five years and shall have been actively engaged in the general practice of his or her profession in the State of Maryland for at least five years immediately prior to his or her appointment. The County Solicitor shall have been a resident of Howard County for at least the two years immediately preceding his or her appointment and shall continue to reside in the County for the duration of his or her term of office.
- (b) *Powers and duties.* The County Solicitor shall be the legal advisor of the County and of its several offices, departments, boards, commissions and other agencies. Except as otherwise provided in this Charter, no office, department, board, commission, agency or branch of the County government which receives County funds shall have any authority or power to employ or retain any legal counsel other than the County Solicitor. The County Solicitor shall also be the legal advisor and legislative drafter for the Council, unless the Council shall specify otherwise by resolution. The County Solicitor shall give advice and opinions upon any legal questions affecting the interests of the County which are submitted to him or her:
 - (1) By written request of a County Council member;
 - (2) By written request of the Executive;
 - (3) By written request, approved by the Executive, of the head of any office or department in the executive branch; or

- (4) By written request of any board, commission or agency.

All deeds, bonds, contracts, releases, agreements, advertisement bids, and other legal papers, documents and instructions involving the interests of the County to be executed and approved by any officer of the County shall be submitted to the County Solicitor and shall be approved by him or her as to their form and legal sufficiency in compliance with the laws and conditions under which executed. The County Solicitor shall have the right of access at all times to the official records of any office, department, board, commission or agency of the County. The County solicitor shall have such additional legal duties as may be prescribed by directive of the Executive or by legislative act of the Council not inconsistent with this Charter.

- (c) *Assistants to the County Solicitor.* The County Solicitor with the approval of the Executive may appoint, subject to the provisions of Article VII of this Charter, such assistants to serve as members of the legal staff as may be required for proper performance of the duties of the Office of Law.
- (d) *Other legal assistance.* Nothing in this Charter shall be construed as preventing the Executive from engaging the services for a temporary period of any attorney or attorneys for legal work of an extraordinary nature when the work to be done is of such character or magnitude as to require legal services in addition to those provided by the Office of Law.
- (e) *Prohibitions.* Neither the County Solicitor nor any assistant in the Solicitor's office may at any time, while holding such office, practice as an attorney before the Council or any office, department, board, commission or agency of the County in any capacity other than representing the County's interests.
- (f) *Term of office for the County Solicitor.* The County Solicitor shall serve at the pleasure of the Executive and the Council for a term concurrent with the term of the Executive. The County Solicitor may be removed from office during his or her term by either:
- (i) The Executive with the consent of a majority of the Council; or
 - (ii) A two-thirds vote of the entire Council.

If the County Solicitor ceases to meet the qualifications set forth in Section 405(a) of this Charter, or is convicted of any crime involving moral turpitude, he or she shall immediately forfeit his or her office.

Editor's note— An amendment proposed by C.B. 64, 1980, approved at an election held Nov. 4, 1980, and effective Dec. 4, 1980, amended § 404 and redesignated it as § 405. An amendment proposed by C.B. 62, 1980, approved at the same election, redesignated § 405 as § 1104. An amendment to subsections (a), (b), and (f) proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 406. - Reserved.

Editor's note— An amendment proposed by C.B. 62, 1980, approved at an election held Nov. 4, 1980, and effective Dec. 4, 1980, repealed § 406 and reenacted it with amendment as § 1105.

Section 407. - Reserved.

Editor's note— An amendment proposed by C.B. 62, 1980, approved at an election held Nov. 4, 1980, and effective Dec. 4, 1980, repealed § 407 and reenacted it with amendment as § 1106.

Section 408. - Reserved.

Editor's note— An amendment proposed by C.B. 62, 1980, approved at an election held Nov. 4, 1980, and effective Dec. 4, 1980, repealed § 408, relating to the Office of Civil Defense.

Section 409. - Reserved.

Editor's note— An amendment proposed by C.B. 62, 1980, approved at an election held Nov. 4, 1980, and effective Dec. 4, 1980, repealed § 409, relating to the Assessment Office.

Sections 410—421. - Reserved.

Editor's note— An amendment proposed by C.B. 62, 1980, approved at an election held Nov. 4, 1980, and effective Dec. 4, 1980, effected the following changes in §§ 410—421:

Section 410 was repealed and reenacted as § 1107; § 411 was repealed and reenacted with amendment as § 1108; § 412 was repealed and reenacted as § 1109; § 413 was repealed and reenacted with amendment as § 1110; § 414 was repealed and reenacted with amendment as § 1111; § 415 was repealed and reenacted with amendment as § 1112; § 416 was repealed and reenacted as § 1113; § 417, relating to the Board of Education, was repealed; § 418, relating to the Department of Libraries, was repealed; § 419, relating to the Department of Health, was repealed; § 420, relating to the Department of Welfare, was repealed; and § 421 was repealed and reenacted as § 403.

ARTICLE V. - BOARD OF APPEALS^[3]

Footnotes:

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Editor's note— An amendment to art. V proposed by Res. No. 116, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 501. - The County Board of Appeals.

- (a) *Appointment; term; compensation.* The County Board of Appeals shall consist of five registered voters and residents of the County appointed by the Council. Appointees shall serve overlapping terms of five years from the first day of January of the year of their appointments, or until their successors are appointed. Vacancies, except those at the expiration of a term, shall be filled in the same manner as the original appointment and for the unexpired term. No member shall be reappointed after having served eight consecutive years immediately prior to reappointment. No more than three members shall be registered with the same political party. The members of the Board shall be paid at the rate of Twelve Hundred Dollars (\$1,200.00) per year unless such compensation be changed as provided in Section 501(f) of this article. Members of the Board shall receive reasonable and necessary expenses as may be provided in the budget.
- (b) *Powers and functions.* The Board of Appeals may exercise the functions and powers relating to the hearing and deciding, either originally or on appeal or review, of such matters as are or may be set forth in Article 25A, Section 5(u) of the Annotated Code of Maryland, excluding those matters affecting the adopting of or change in the general plan, zoning map, rules, regulations or ordinances.
- (c) *Rules of practice and procedure.* The Board of Appeals shall have authority to adopt and amend rules of practice governing its proceedings which shall have the force and effect of law when approved by legislative act of the Council. Such rules of practice and procedures shall not be inconsistent with the Administrative Procedure Act of the Annotated Code of Maryland. The rules may relate to filing fees, meetings and hearings of the Board, the manner in which its Chairperson

shall be selected and the terms which he shall serve as Chairperson and other pertinent matters deemed appropriate and necessary for the Board. Three members of the Board shall constitute a quorum of the Board, and its hearings shall receive public notice as required by law. All hearings held by the Board shall be open to the public, and provision shall be made for all interested citizens and citizens groups to be heard. The Board shall cause to be maintained complete public records of its proceedings, with a suitable index.

- (d) *Appeals from decisions of the Board.* Within thirty days after any decision of the Board of Appeals is entered, any person, officer, department, board or bureau of the County, jointly or severally aggrieved by any such decision, may appeal to the Circuit Court for Howard County, in accordance with the Maryland Rules of Procedure. The Board of Appeals shall be a party to all appeals and shall be represented at any such hearing by the Office of Law.
- (e) *Employees of the Board.* The Board may appoint, within budgetary limitations, such employees, and the Executive shall make available to the Board such services and facilities of the County, as are necessary or appropriate for the proper performance of its duties.
- (f) *Implementing legislation.* The powers and functions of the Board of Appeals as herein provided for shall be defined by implementing legislation heretofore or hereafter enacted by the Council, subject to and to the extent required by applicable State law. The Council may by legislative act increase the compensation of the members of the Board of Appeals as provided in Section 501(a) of this Article and thereafter decrease such compensation; provided, however, that no reduction shall affect the compensation of a member of the Board of Appeals during his or her current term, and in no event shall the council have the power to decrease the compensation of members of the Board below the figure provided in this Charter. To the extent permitted by State law, the Council shall also have the power, by legislative act, to prescribe other appeals to be heard by, or to limit the jurisdiction of, the Board of Appeals in addition to those specified in this Article.

Editor's note— An amendment to § 501 proposed by C.B. 89, 1980 was approved at an election held Nov. 4, 1980, and became effective Dec. 4, 1980. An amendment proposed by Res. No. 124, 1982, was approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982. An amendment to subsections (c) and (f) proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to subsection (c) proposed by Res. No. 103, 2000 was approved at an election held November 7, 2000, and became effective December 7, 2000. An amendment to § 501(b) proposed by Res. No. 100, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012.

Section 502. - Board of Appeals hearing examiner.

The County Council may appoint hearing examiners to conduct hearings and make decisions concerning matters within the jurisdiction of the Board of Appeals. Decisions of an examiner may be appealed to the Board of Appeals as provided by law. The Council shall establish by legislative act the duties, powers, authority and jurisdiction of any examiner appointed under this section. An examiner shall be a member in good standing of the Bar of the Maryland Court of Appeals and at the time of appointment shall have knowledge of administrative and zoning law, practice, and procedure. An examiner may be removed from office by vote of two-thirds of the members of the Council.

Editor's note— An amendment repealing § 502, proposed by C.B. 66, 1980, was approved at an election held Nov. 4, 1980, and became effective Dec. 4, 1980.

Subsequently, an amendment proposed by Res. No. 103, 2000, approved at election November 7, 2000 and effective December 7, 2000, added a new § 502 as set out herein.

ARTICLE VI. - BUDGETARY AND FISCAL PROCEDURES⁴

Footnotes:

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Editor's note— The following amendments to §§ 601—607, proposed by C.B. 67, 1980, were approved at an election held Nov. 4, 1980, and became effective Dec. 4, 1980: Section 601 was reenacted without change, § 602, definitions, was repealed; §§ 603—607 were repealed and reenacted with amendment as §§ 602—606; and, in order to retain numerical sequence, the editor has reserved the section number 607.

Section 601. - Fiscal year and tax year and definitions.

- (a) *Fiscal year and tax year:* Unless and until changed in accordance with the provisions of law, the fiscal or budget year and the tax year of the County shall begin on the first day of July and shall end on the thirtieth day of June of the succeeding year.
- (b) *Definitions.*
 - (1) The term "budget" when used herein shall be used to denote that package of materials consisting of the current expense budget, operating expense program, the capital budget and capital program, and the budget message. It is to be distinguished from the term "budget ordinance" which shall consist of the current expense budget and the capital budget.
 - (2) The term "budget ordinance" when used herein shall consist of the current expense budget and the capital budget.
 - (3) The term "capital budget" shall mean the plan of the County to receive and expend funds for capital projects during the first fiscal year of their inclusion in the capital program and shall include a narrative description of each capital project.
 - (4) The term "capital program" shall mean the plan of the County to receive and expend funds for capital projects during the first fiscal year covered by the capital budget and the next succeeding five fiscal years.
 - (5) The term "capital project" shall mean each of the following:
 - (i) Any physical public betterment or improvement and any preliminary studies and surveys relative thereto;
 - (ii) The acquisition of property of a permanent nature for public use;
 - (iii) The purchase of equipment for any public betterment or improvement when first constructed;
 - (iv) The purchase of equipment having a probable useful life exceeding three years, provided that the term of any bonds issued to fund the purchase shall not exceed the probable useful life of the equipment.
 - (6) The term "current expense budget" shall mean the plan of the County to receive and expend funds for charges incurred for operation, maintenance, interest and other charges for the ensuing fiscal year.
 - (7) The term "estimated surplus" shall mean the amount included as surplus revenue in the current expense budget for the ensuing fiscal year.

- (8) The term "excess surplus" shall mean the amount by which the sum of the estimated surplus and the unbudgeted surplus exceeds the amount which is required to be appropriated to the budget stabilization account under Section 615A of this Charter.
- (9) The term "operating expense program" shall mean a summary projection of receipts and operating expenses for the fiscal year covered by the current expense budget and the next succeeding five fiscal years.
- (10) The term "total general fund expenditures" shall mean the total of all expenditures from the general fund, including operating transfers to the Board of Education, the Howard Community College, and other funds, but not including the amount of any excess surplus used for the restricted purposes listed in Section 615B of this Charter.
- (11) The term "unbudgeted surplus" means the amount, determined by audit for the last complete fiscal year, by which the actual general fund surplus exceeds the amount of estimated surplus for that same fiscal year.

Editor's note— An amendment proposed by Res. No. 117, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to § 601(b) proposed by Res. No. 100, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012.

Section 602. - Comprehensive scope of budget; public hearing.

- (a) The County budget shall consist of the current expense budget and operating expense program, the capital budget and capital program, and the budget message. It shall represent a complete financial plan for the County reflecting receipts and disbursements from all sources, including all revenues, all expenditures and the surplus or deficit in the general fund and all special funds of the County government, and it shall also include the budgets as submitted by the County Council and the Board of Appeals.
- (b) During preparation of the budget the County Executive shall hold at least two public hearings to receive public comment. One hearing shall be held in December to receive proposals for inclusion in the budget. The other shall be held in March to receive comments on budget requests. Notice of the time and place of the hearings shall be published once a week for two successive weeks in at least one newspaper of general circulation in the County.

Editor's note— An amendment to § 602 proposed by Res. No. 125, 1982 was approved at an election held Nov. 2, 1982, and took effect Dec. 2, 1982. An amendment proposed by Res. No. 121, 1988 was approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988.

Section 603. - Submission and contents of the County budget.

Not later than seventy days prior to the end of the fiscal year, the Executive shall submit to the Council the proposed current expense budget for the ensuing fiscal year, the operating expense program for the fiscal year covered by the current expense budget and the next succeeding five fiscal years, and that part of the budget message pertaining to the current expense budget. And not later than ninety days prior to the end of the fiscal year, the Executive shall submit to the Council the proposed capital budget, the capital program for the fiscal year covered by the capital budget and the next succeeding five fiscal years, and that part of the budget message pertaining to the capital budget program.

- (a) *Contents of the current expense budget.* The proposed current expense budget shall contain not less than the following:
 - (1) A statement of all revenue estimated to be received by the County during the ensuing fiscal year, classified so as to show the receipts by funds and sources of income;

- (2) A statement of debt service requirements for the ensuing fiscal year;
 - (3) A statement of the estimated cash surplus, if any, available for expenditure during the ensuing fiscal year, and any estimated deficit in any fund required to be made up in the ensuing fiscal year;
 - (4) An estimate of the several amounts, including any arbitrator's award made pursuant to section 217, which the executive deems necessary for conducting the business of the County to be financed from and not to exceed estimated revenue for the ensuing fiscal year;
 - (5) A statement of the bonded and other indebtedness of the County government and its agencies, including self-liquidating and special taxing district debt;
 - (6) A statement of the proposed contingency reserves which shall not exceed three per centum of the general fund and of any other fund;
 - (7) A comparative statement of the receipts and expenditures for the last completed fiscal year, a comparative statement of authorized expenditures and revenues and estimated expenditures and revenues for the currently ending fiscal year, and the expenditures recommended by the Executive for the ensuing fiscal year for each program or project which shall be classified by agency, character and object;
 - (8) A contingency reserve, which shall not exceed three per centum of the general fund; and
 - (9) Any other material which the Executive may deem advisable or the Council may require.
- (b) *Contents of the capital budget and capital program.* The proposed capital budget and capital program shall be so arranged as to set forth clearly the plan of proposed capital projects to be undertaken in the ensuing fiscal year and in each of the next five fiscal years, and also the proposed means of financing the same. The capital budget shall include a statement of the revenues anticipated during the ensuing fiscal year from all borrowing and from other sources for capital projects. The capital budget shall include a description of each proposed capital project to be undertaken in the ensuing fiscal year, including those previously authorized. The capital budget shall include a general County contingency reserve capital project.
- (c) *Contents of the budget message.* The budget message shall contain supporting summary tables and shall explain the proposed current expense budget and capital program both in fiscal terms and in terms of work to be done. It shall outline the proposed financial policies of the County for the ensuing fiscal year and describe the important features of the current expense budget. It shall indicate any major changes in fiscal policies and in expenditures, appropriations and revenues as compared with the fiscal year currently ending, and shall set forth the reasons for such changes. As to the capital program, the message shall include an explanation of changes made by the Executive in the program presented by the Office of Planning and Zoning. The message shall also include such other material as the Executive may deem necessary.

Editor's note— At an election held on Nov. 7, 2006, the voters approved an amendment to subsection (a)(4) of section 603. An amendment to subsections (a) and (b) of section 603 proposed by Res. No. 101, 2016 was approved at an election held on Nov. 8, 2016, and became effective on Dec. 8, 2016.

Section 604. - Filing of proposed budget; copies.

The proposed County budget shall be filed with the Administrator of the Council and a copy shall be delivered to each member of the Council. At least three complete copies shall be on file in the office of the Council and shall be available for inspection by the public during regular business hours. One copy shall be supplied to each newspaper of general circulation in the County and to each County library. The budget message and supporting summary tables shall be reproduced in multiple copies, and a copy shall be made available to any interested person on request. All of the documents required by this section shall be made available in at least one electronic medium that is readily available to the public.

Editor's note— An amendment to § 604 proposed by Res. No. 125, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to § 604 proposed by Res. No. 101, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012.

Section 605. - Public hearing.

Upon receipt of the proposed County budget; the Administrator of the Council shall cause to be published in at least two newspapers of general circulation in the County a notice of the place and time of a public hearing on the budget by the Council. Such hearing shall be held not less than fifteen nor more than twenty days after the date of the filing of the proposed budget by the Executive. The Council may hold such other preliminary public hearings on the budget for the purpose of obtaining information as it may determine but no action shall be taken by the Council on the budget except in public meeting and after the public hearing specified above.

Editor's note— An amendment to § 605 proposed by Res. No. 125, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 606. - Action on the annual budget and appropriation ordinance by the County Council.

After the public hearing specified in the preceding section, the Council may decrease or delete any items in the budget ordinance except those required by the public general laws of this State and except any provisions for debt service on obligations then outstanding or for estimated cash deficits. The Council shall have no power to change the form of the budget as submitted by the Executive, to alter the revenue estimates or to increase any expenditure recommended by the Executive for current or capital purposes except: 1) as expressly provided in State law; 2) to appropriate funds to the retiree obligations trust, the contingency reserve, or the contingency reserve capital project; and 3) to correct arithmetic errors. The adoption of the budget ordinance, which shall include only the current expense budget and the capital budget, shall be by the affirmative vote of not less than a majority of the Council on an ordinance to be known as the Annual Budget and Appropriation Ordinance of Howard County. The capital program, as defined in this Charter, shall be adopted by the Council by its separate resolution. Any borrowing to finance capital projects must be authorized by an existing law of the General Assembly of Maryland or by a law of the Council adopted in accordance with the Charter. The Council may adopt from time to time bond issue authorization ordinances pursuant to an enabling law or laws then in force and effect to provide the means of financing such capital projects as are to be financed from borrowing. Such bond issue authorization ordinances are not subject to referendum and shall take effect from the date of their enactment. All of said ordinances referred to in this section shall be exempt from the executive veto. The Annual Budget and Appropriation Ordinance shall be adopted by the Council on or before the first day of the last month of the fiscal year currently ending, and if the Council fails to do so, the proposed current expense budget submitted by the Executive shall stand adopted, and funds for the expenditures proposed in the current expense budget shall stand appropriated as fully and to the same extent as if favorable action thereon had been taken by the Council.

Editor's note— Prior to its being renumbered from § 607 to § 606, this section had been amended by an amendment proposed by C.B. 7, 1973, approved at an election held Nov. 7, 1974. An amendment to § 606 proposed by Res. No. 100, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012. An amendment to § 606 proposed by Res. No. 101, 2016 was approved at an election held on Nov. 8, 2016, and became effective on Dec. 8, 2016.

Section 607. - Reproduction of budget; effective date; tax levy and balanced budget.

- (a) *Reproduction of budget.* The budget as adopted shall be reproduced in sufficient copies for distribution, free of charge, to the press and the head of each office, department or agency of the County government. Copies of the budget shall likewise be given to any interested person on request; provided, however, that in order to discourage waste the Council may prescribe a charge for each copy of the adopted budget not to exceed the actual cost of its reproduction.
- (b) *Effective date.* The adopted budget shall take effect on the first day of the fiscal year to which it applies.
- (c) *Tax levy and balanced budget.* When the County budget shall have been finally adopted in the Annual Budget and Appropriation Ordinance, the Council shall thereupon levy and cause to be raised the amount of taxes required by the budget in the manner provided by law so that the budget shall be balanced as to proposed income and expenditures.

Editor's note— As stated in the editor's note at the beginning of this article, former § 607 had been amended and renumbered as § 606. By an amendment proposed by Res. No. 135, 1982, approved at an election held Nov. 2, 1982, effective Dec. 2, 1982, former § 608 was renumbered § 607.

Section 608. - Supplemental legislation by Council.

The Council may adopt budget and fiscal laws not inconsistent herewith or with the applicable provisions of the Constitution and State law to implement the objects and purposes of this Article. Any such laws may include, but shall not be limited to, the definition of the various funds included in the County budget, their reorganization and consolidation to the extent permitted by law, a requirement of down-payments on capital projects from current funds, the establishment of a reserve for permanent public improvements as authorized in this Charter, the procedure for the sale of bonds, notes and other evidences of indebtedness of the County and all such other matters as may in the judgment of the Council promote the orderly administration of the fiscal affairs of the County and protect its credit.

Editor's note— By an amendment proposed by Res. No. 135, 1982, approved at an election held Nov. 2, 1982, effective Dec. 2, 1982, former § 619 was redesignated § 608.

Section 609. - Transfer of appropriations.

- (a) Transfer of appropriations between general classifications of expenditures in the current expense budget within the same office or department and within the same fund may be authorized by the Executive. Transfers between offices, departments, institutions, boards, commissions or other agencies of the County government and within the same fund of the current expense budget may be made during the last quarter of the fiscal year and then only on the recommendation of the Executive and with the approval of the Council.
- (b) Interproject transfers of appropriations between capital projects in the capital budget may be authorized by legislative act of the Council upon request of the Executive, but no new project shall be created nor any abandoned except in accordance with Section 613 of this Article.
- (c) Nothing contained herein shall be construed to prevent the Council upon request of the Executive from providing by ordinance for inter-fund cash borrowings to meet temporary cash requirements nor to prevent reimbursements among funds for services rendered.

Section 610. - Supplementary and emergency appropriations.

- (a) *Supplementary.* During any fiscal year, the Council, upon the recommendation of the Executive, may make additional or supplementary appropriations from unexpended and unencumbered funds set aside for contingencies in the County budget, provided that the Director of Finance shall first

certify in writing that such funds are available for such appropriation. No supplemental appropriation shall exceed the amount of the funds so certified.

- (b) *Emergency.* To meet a public emergency affecting life, health or property, the Council may, by ordinance, upon recommendation of the Executive, make emergency appropriations from contingent funds, from revenues received from anticipated sources but in excess of the budget estimates therefor, or from revenues received from sources not anticipated in the budget for the current fiscal year. To the extent that there may be no available unappropriated revenues to meet such emergency appropriations, the Council may, by ordinance, authorize the issuance of emergency notes which may be renewed from time to time; provided, however, that such notes and renewals shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made. The total of emergency appropriations in any fiscal year shall not exceed five per centum of all appropriations made in the budget for such year.

Section 611. - Lapsed appropriations.

Unless otherwise provided by public general law, all unexpended and unencumbered appropriations in the current expense budget remaining at the end of the fiscal year shall lapse into the County treasury, except that appropriations to the risk management and grants funds and to the Citizens' Election Fund shall be non-reverting. No appropriation for a capital project in the capital budget shall lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned; provided, however, that any capital project shall stand abandoned if three fiscal years elapse without any expenditure from or encumbrance of the appropriation made therefor. The balances remaining to the credit of the completed or abandoned capital project shall be available for appropriation in subsequent capital budgets.

Editor's note— An amendment to § 611 proposed by Res. No. 122, 1988 was approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988. An amendment to § 611 proposed by Res. No. 104, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012. An amendment to § 611 proposed by Res. No. 27, 2016 was approved at an election held on Nov. 8, 2016, and became effective on Dec. 8, 2016.

Section 612. - Appropriation control and certification of funds.

- (a) No office, department, institution, board, commission or other agency of the County government shall during any fiscal year expend, or contract to expend, any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose in excess of the amounts appropriated or allotted for the same general classification of expenditure in the budget for such fiscal year, or in any supplemental appropriation as hereinabove provided; and no such payment shall be made nor any obligation or liability incurred, except for small purchases in an amount to be established from time to time by ordinance unless the Director of Finance shall first certify that the funds for the designated purpose are available. Any contract, verbal or written, made in violation of this Section shall be null and void; and if any officer, agent or employee of the County shall knowingly violate this provision, he or she shall be personally liable and such action shall be cause, after public hearing, for his or her removal from office by the Executive or by majority vote of the Council, notwithstanding the provisions of Article VII of this Charter. Nothing in this Section or elsewhere in this Charter contained shall prevent the making of contracts of lease or for services providing for the payment of funds at a time beyond the fiscal year in which such contracts are made, provided the nature of such transactions reasonably requires the making of such contracts. But any contract, lease or other obligation requiring the payment of funds from appropriations of a later fiscal year shall be made or approved by ordinance which shall be effective immediately upon enactment. No contract for the purchase of real or leasehold property shall be made unless the funds therefor are included in the capital budget.

- (b) In exercising his or her powers as the custodian of the monies of the County, the Director of Finance may advance funds in his or her custody for the discharge of obligations incurred in connection with capital projects for which a bond enabling law or laws of the County has or have been approved and money appropriated therefor prior to the issuance of such bonds; provided that repayment of any such advance shall be made out of the proceeds of the sale of the bond issue concerned or from any other monies subsequently made available for such purpose.

Editor's note— Amendments to § 612 promulgated by Res. No. 123—125, 1988 were approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988. An amendment proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 613. - Restrictions of capital projects; amendment to capital budget after adoption of budget.

No obligations of the County shall be authorized in any fiscal year for or on account of any capital project not included in the County budget as finally adopted for such year; provided, however, that upon receipt of a recommendation in writing from the Executive and the Planning Board, the Council may after public hearing and with the affirmative vote of two-thirds of its members, amend the County budget in accordance with such recommendation without increasing the total amount of appropriations therefor.

Section 614. - Enterprise accounting.

- (a) Separate budgets for each utility shall be included in the current expense and capital budgets prescribed in this Article which shall include statements of revenue and expense for the required fiscal years.
- (b) If for any two consecutive fiscal years any utility shall operate at a net loss as shown by its annual profit and loss statement, it shall be the duty of the Executive to recommend and the Council, by ordinance, to adopt for that utility a schedule of rates which in its judgment will produce revenue at least equal to expense.

Editor's note— An amendment to § 614 was proposed by Res. No. 125, 2005 and approved by the voters at an election held on Nov. 7, 2006 and became effective Dec. 7, 2006.

Section 615. - Composition and limitation upon County funds and levies; special taxes; bond obligation.

For the fiscal and tax year beginning July 1, 1969 and thereafter, the following provisions shall apply:

- (a) *Special funds; revenue and receipts; appropriations.* All revenues and receipts from utility assessments, from special services or benefit charges, from special taxes or assessments imposed upon special taxing areas for special or particular services, purposes or benefits, from funds held by the County as trustee or agent, or from bond proceeds, shall be paid into and appropriated from special funds created therefor.
- (b) *General revenue and receipts; appropriations.* All other revenues and receipts of the County from taxes, grants, State revenues and other receipts shall be paid into and appropriated from the general fund which shall be the primary fund for the financing of current expenses for the conduct of County business.
- (c) *Prohibitions.* No general fund revenues or receipts as defined in subsection (b) of this Section shall be dedicated to, expended for, or used to supplement, appropriations from the special funds referred to in subsection (a) of this Section, except as a loan to such special fund as authorized by Section 609(c) of this Article which authorizes inter-fund borrowing.

- (d) *Levy for roads.* No tax for the purpose of raising revenues for the construction and maintenance of public roads shall be levied upon any assessable property in the County except on a Countywide basis.
- (e) *Bond interest and redemption obligations.* Nothing in this section shall be construed to prevent the County from fulfilling any obligation to levy, if necessary, a tax upon all or a portion of the assessable property within the County to provide for the payment of the interest on and principal of any bonds issued upon the full faith and credit of the County.
- (f) *Working capital funds.* Upon request of the Executive, the Council may, by the annual budget and appropriation ordinance, or by other legislative act, provide for the establishment of working capital or revolving funds for the financing of central stores, equipment pools or other services common to the agencies of the County.
- (g) *Reserve Fund for Permanent Public Improvements.* Notwithstanding the provisions of Section 615(c) above, the Council may establish a Reserve Fund for Permanent Public Improvements, into which there may be paid by the annual budget and appropriation ordinance cash surpluses not otherwise appropriated or toward which taxes or other sources of revenue may be dedicated; provided that the annual amount paid into such fund shall not exceed three per centum of the annual expense budget.

Section 615A. - Budget stabilization.

- (a) *Creation and Purpose.* The Budget Stabilization Account is established to retain revenues for future use to be used to maintain a consistent level of service without requiring a substantial tax increase if estimated revenues decline substantially during the course of the budget year.
- (b) *Non-Lapse.* Appropriations to the Budget Stabilization Account are not subject to the lapse provisions of Section 611 of the Charter.
- (c) *Appropriations to the Budget Stabilization Account.* Except as provided in subsection (e), any estimated surplus and any unbudgeted surplus shall be appropriated to the Budget Stabilization Account. Other revenues may be appropriated to the Budget Stabilization Account if the Executive includes such an appropriation in the proposed budget and if it is approved by the County Council pursuant to Section 606 of the Charter.
- (d) *Conditions Under Which Appropriations Are Not Required To Be Made.* The appropriations otherwise required by subsection (d) are not required to be made if either of the following conditions exists:
 - (1) At the time the budget is adopted for the ensuing fiscal year, the amount of funds in the Budget Stabilization Account equals or exceeds 7% of the total general fund expenditures for the last completed fiscal year, as determined by audit; or
 - (2) During the current fiscal year, funds have been or are being transferred from the Budget Stabilization Account to the General fund revenues in the current expense budget pursuant to subsection (f).
- (e) *Use of Budget Stabilization Account.* Funds appropriated in the Budget Stabilization Account may be transferred from the Budget Stabilization Account to the general fund revenues in the current expense budget under the following conditions and pursuant to the following procedure:
 - (1) *Conditions.* Funds appropriated in the Budget Stabilization Account may be used only for:
 - (i) Emergencies, pursuant to 610(b) of the Charter; or
 - (ii) At such time as the County Executive determines that both the following conditions exist:
 - a. Revenues for the current fiscal year are anticipated to be substantially below the revenue included in the current fiscal year's budget; and
 - b. Reasonable reductions in expenditures will not be sufficient to offset the anticipated revenue shortfall.

- (2) *Procedure.* Provided that the conditions in paragraph (1) are met, the County Executive may transfer funds from the Budget Stabilization Account to the general fund revenues in the current expense budget by an ordinance enacted pursuant to this subsection which amends the Annual Budget and Appropriation Ordinance. A bill to amend the Budget Ordinance shall be introduced by the County Council at the request of the County Executive. The County Council may decrease the amount to be transferred from the Budget Stabilization Account but may not increase it. The ordinance amending the Budget Ordinance shall be adopted by the affirmative vote of a majority of the members of the County Council, shall be exempt from the Executive Veto, shall take effect from the date of enactment, and shall not be subject to referendum.
- (f) *Precedence.* The provisions of this section of the Charter concerning the Budget Stabilization Account shall supersede any inconsistent provisions of the Charter.

Editor's note— An amendment adding § 615A proposed by Res. No. 166, 1991 was approved at an election held Nov. 3, 1992, and became effective Dec. 3, 1992. An amendment to subsection (a)(3) and (4) proposed by Res. No. 119, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to § 615A proposed by Res. No. 100, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012.

Section 615B. - Restrictions on use of surplus revenues.

- (a) *Restrictions on Use of Excess Surplus Revenue.* Any excess surplus shall be used to:
 - (1) Fund capital projects;
 - (2) Reduce existing County debt; and/or
 - (3) Fund appropriations in the current expense budget for capital outlay and for non-recurring expenses.
- (b) *Modification of Restriction.* The restriction on the use of excess surplus imposed by this section may be modified by an ordinance passed by an affirmative vote of 2/3 of the members of the County Council. An ordinance enacted pursuant to this subsection (c) shall be exempt from the Executive Veto, but shall otherwise be subject to the provisions of Section 209 of the Charter and shall be subject to referendum, pursuant to Section 211 of the Charter.

Editor's note— An amendment adding § 615B proposed by Res. No. 167-1991 was approved at an election held Nov. 3, 1992, and became effective Dec. 3, 1992. An amendment to § 615B proposed by Res. No. 100, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012.

Section 616. - Borrowing limitations.

- (a) Unless and until otherwise provided by legislative act of the Council within the limitations provided by public general law, the aggregate amount of bonds and other evidences of indebtedness outstanding at any one time shall not exceed four and eight-tenths per centum upon the full cash value assessable base of the County, except that:
 - (1) Tax anticipation notes or other evidences of indebtedness having a maturity not in excess of twelve months;
 - (2) Bonds or other evidences of indebtedness issued or guaranteed by the County payable primarily or exclusively from taxes levied in or on, other revenues of, special taxing areas or districts heretofore or hereafter established by law; and

- (3) Bonds or other evidences of indebtedness issued for self liquidating and other projects payable primarily or exclusively from the proceeds of assessments or charges for special benefits or services;

shall not be subject to or be included as bonds or evidences of indebtedness in computing or applying the per centum limitation above provided.

- (b) All bonds and other evidences of indebtedness shall be sold at public sale; provided, however, that bonds or other evidences of indebtedness may be sold by private (negotiated) sale if the Council shall find and determine in the bond issue authorization ordinance providing for the sale of the bonds or other evidences of indebtedness that, for reasons specified in the bond issue authorization ordinance, either:
 - (1) It is not practical to sell such bonds or other evidences of indebtedness at public sale; or
 - (2) A private (negotiated) sale will provide significant benefits to the county which would not be achieved if the bonds or other evidences of indebtedness were sold at public sale.

Editor's note— An amendment to § 616 proposed by Res. No. 33, 1990 was approved at an election held Nov. 6, 1990, and became effective Dec. 6, 1990. An amendment proposed by Res. No. 125, 2005, was approved by the voters at an election held on Nov. 7, 2006 and became effective Dec. 7, 2006.

Section 617. - Form and term of bonds.

- (a) Each issue of bonds shall be in one, or a combination, of the following forms: serial bonds, installment bonds, or, if the bonds are subject to mandatory sinking fund redemptions or if the payment of principal at maturity is otherwise provided for, term bonds.
- (b) All bonds shall be made payable within the probable useful life of the improvement or undertaking with respect to which they are to be issued, or, if the bonds are to be issued for several improvements or undertakings, then within the average probable useful life of all such improvements or undertakings. In the case of a bond issue for several improvements or undertakings having different probable useful lives, the Council shall determine the average of said lives, taking into consideration the amount of bonds to be issued on account of each such improvement or undertaking, and the period so determined shall be the average period of useful life. The determination of the Council as to the probable useful life of any such improvement or undertaking shall be conclusive. No bonds shall mature and be payable more than thirty years after their date of issuance

Editor's note— An amendment to § 617 proposed by Res. No. 126, 1988 was approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988. An amendment proposed by Res. No. 34, 1990 was approved at an election held Nov. 6, 1990, and became effective Dec. 6, 1990. An amendment to subsection (b) proposed by Res. No. 125, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment proposed by Res. No. 125, 2005 was approved by the voters at an election held on Nov. 7, 2006 and became effective Dec. 7, 2006.

Section 618. - Contents of bond issue authorization ordinances.

Each Bond Issue Authorization Ordinance as referred to in Section 606 of this Article shall include a statement of the purpose or purposes of the issue, and if the purpose is to finance one or more capital projects, it shall describe each of them sufficiently for purposes of identification. The Ordinance shall

estimate the cost of the project or projects and the portion thereof to be defrayed from sources, specifically named, other than the proposed bond issue. The Ordinance shall also include:

- (a) The amount of the proposed issue;
- (b) A statement showing that the proposed issue is within the legal limitation of the indebtedness of the County;
- (c) The probable useful life of the project or average probable useful life of the projects to be financed;
- (d) The date of the issue;
- (e) The dates of the first and last maturities;
- (f) The dates on which the interest shall be paid;
- (g) A declaration that the principal of and the interest on the proposed issue are to be paid by ad valorem taxes on real and tangible personal property and intangible property subject to taxation by the County without limitation of rate of amount, and, in addition, upon such other intangible property as may be subject to taxation by the County within limitations prescribed by law; and that the full faith and credit of the County are pledged to such payments.

The Ordinance shall also recite either the procedure for the public sale of the proposed issue or the findings and determinations required for a private (negotiated) sale of the proposed issue, shall state whether the proposed issue, or any portion thereof, may be sold at a price of less than par, and shall contain such other matters relating to the authorization, issue or sale of the issuance as the Council shall deem desirable.

Editor's note— An amendment to § 618 proposed by Res. No. 135, 1982 was approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982. The section was further amended as proposed by Res. No. 33, 1990 and Res. No. 34, 1990, approved at an election held Nov. 6, 1990, with the provisions effective Dec. 6, 1990. Pursuant to instructions of the county, the language of both resolutions has been included.

Section 619. - [Reserved.]

Note— See the editor's note to § 608.

ARTICLE VII. - MERIT SYSTEM

Section 701. - Scope of the Merit System.

The Merit System of the County shall embrace all officers and employees of the County except the officers and employees of the Board of Education and all employees covered by the State Merit System.

Section 702. - Exempt and classified service.

Elected officials, committing magistrates attorneys, members of boards and commissions, the Chief Administrative Officer, a secretary to the Executive, the Administrator of the Council, the heads of departments and offices, and temporary or seasonal employees are in the exempt service. All other officers and employees are in the classified service, except that, upon recommendation of the Executive, the Council may, by legislative action, establish additional exempt positions.

Editor's note— An amendment to § 702 proposed by Res. No. 125, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 703. - The Personnel Board.

The Personnel Board shall consist of five members four of whom are members of the public and a fifth who is a member of the classified service. In addition, there shall be an alternate who is a member of the classified service and who shall serve on the board only in the absence of the employee member. Board members shall be appointed by the Executive, subject to confirmation by the Council. The employee member of the board and the alternate shall be selected for appointment from a list of three names nominated by secret ballot by the members of the classified service. Board members shall serve for overlapping terms of five years from the first day of January of the year of their appointments, or until their successors are appointed. Vacancies, except those at the expiration of a term, shall be filled in the same manner as the original appointment and for the unexpired term. Members of the Board shall receive no compensation for their services except reasonable and necessary expenses as may be provided in the budget. The Board shall annually select a Chairperson and a Vice Chairperson from its membership. The Personnel Officer shall serve as Executive Secretary to the Board and shall attend all meetings of the Board, except those meetings at which an appeal from an action of the Personnel Officer is to be heard. No member shall be reappointed after having served eight consecutive years immediately before reappointment.

Editor's note— An amendment to § 703 proposed by Res. No. 127, 1988 was approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988. An amendment proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 704. - Appointment, promotion and discipline.

- (a) *Personnel rules.* The Personnel Officer shall prepare and the Personnel Board shall adopt rules and regulations which provide for the appointment, promotion, demotion and separation of employees solely upon a basis of merit. To this end, it shall prescribe a system of examinations as a prerequisite for the filling of all positions in the classified service. The rules of the Board shall make provision for prescribing minimum qualifications for each class of positions in the classified service.
- (b) *Appointments.* Appointments to permanent positions in the classified service shall be on the basis of merit, as provided by law.
- (c) *Disciplinary actions.* The Personnel Board in its rules governing the classified service shall set forth the disciplinary actions, including demotion, suspension or dismissal, which may be taken by an appointing authority for employees in the classified service.
- (d) *Action by Council.* Personnel rules and regulations adopted by the Personnel Board shall be transmitted by the Personnel Officer to the Executive for submission to the Council for legislative action thereon.

Editor's note— An amendment to § 704 proposed by Res. No. 135, 1982 was approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982. An amendment proposed by Res. No. 128, 1988 was approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988. An amendment to § 704(b) proposed by Res. No. 27, 1994 was approved at an election held on Nov. 8, 1994, and became effective Dec. 8, 1994.

Section 705. - Appeals.

- (a) *Appeals to the Personnel Board.* Aggrieved applicants and employees may appeal the following actions to the Personnel Board:
 - (1) Actions of the Personnel Officer pertaining to eligibility lists for appointment or promotion;

- (2) Disciplinary actions involving a loss of job, suspension, demotion or reduction in pay;
 - (3) Actions of the appointing authority which result in denial of the minimum merit increase allowed by law;
 - (4) Personnel actions which allegedly violate federal, state, or county human rights law;
 - (5) Employee performance evaluations.
- (b) *Action of the Personnel Board.* After a hearing, which may be closed at the request of the aggrieved individual, the Personnel Board shall issue a decision and order consistent with the provisions of this Charter and Howard County law. The decision and order of the Personnel Board shall be final on all parties concerned.
 - (c) *Appeals to the appointing authority and Personnel Officer.* Aggrieved applicants and employees may appeal other personnel actions to the appointing authority or to the Personnel Officer as provided by law. Decisions of the appointing authority or Personnel Officer in these appeals shall be final on all parties concerned, except that, for good cause shown and with approval of at least 4 of its members, the Personnel Board may choose to hear appeals on the record from decisions of the appointing authority or the Personnel Officer.
 - (d) *Arbitration.* Employees may elect to appeal actions of the appointing authority or the Personnel Officer through utilization of binding arbitration as may be established by law or contained in a collective bargaining agreement.

Editor's note— An amendment to § 705 proposed by Res. No. 129, 1988 was approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988. An amendment proposed by Res. No. 1, 1990 was approved at an election held Nov. 6, 1990, and became effective Dec. 6, 1990.

Section 706. - Classification and pay plans.

- (a) *Preparation of classification plan.* The Personnel Officer shall present to the Personnel Board within four months of the effective date of this Charter, a classification plan which describes the qualifications, duties and general requirements for each class of position. The Personnel Board shall adopt the plan either in the form submitted or in such amended form as the Board may determine proper after opportunity for hearings thereupon by any interested person. After adoption of the classification plan by the Personnel Board, the Personnel Officer shall transmit it to the Executive for submission to the Council for legislative action thereon at its first annual legislative session.
- (b) *Allocation of positions to classes.* Within three months of legislative action by the Council on the classification plan, the Personnel Officer shall allocate each position in the classified service to the appropriate class. Employees shall have a right to appeal such allocations to the Personnel Board, whose action upon such appeals shall be final.
- (c) *Revision of classification plan.* The Personnel Officer shall maintain the classification plan on a current basis in order that it may properly reflect the qualifications, duties and general requirements of each position in the classified service. Each such proposed change shall be submitted to the Personnel Board for its approval and to the Council for legislative action thereon.
- (d) *Administration of pay plan.* The Personnel Officer shall prepare a pay plan and shall allocate each class of positions to the appropriate pay grade as shown in the pay plan. The pay plan and the allocations to grades therein shall be presented by the Personnel Officer to the Personnel Board not more than sixty days following legislative action on the classification plan by the Council. After hearing any appeals arising thereunder, the Board shall adopt a pay plan as submitted or amended by it. After adoption of the pay plan by the Board, the Personnel Officer shall transmit it to the Executive for submission to the Council for legislative action thereon.
- (e) *Revisions of pay plan.* Not later than the first day of January of each year, the Personnel Officer shall submit his or her recommendations to the Personnel Board for changes deemed necessary to

keep the pay plan on a current basis. The Personnel Board, not later than the first day of February, shall submit the pay plan with recommendations to the Executive. The Executive in the preparation of the annual expense budget shall consider for incorporation therein the pay plan recommendations of the Personnel Board. Prior to the adoption of the annual expense budget ordinance, the Council shall approve such of the proposed pay plan changes as it may deem proper. Should it approve less than the amounts contained in the annual expense budget, it shall adjust the appropriations sought for the various budget units in the light of such action. The law enacting the pay plan shall be effective on the first day of the ensuing fiscal year.

Editor's note— An amendment to § 706 proposed by Res. No. 126, 1982, was approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982. An amendment to subsection (e) proposed by Res. No. 126, 1996, was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 707. - Pay plan for exempt positions.

The Personnel Officer, not later than the first day of February of each year, shall prepare and transmit to the Executive a proposed pay plan for officers and employees in the exempt service of the County, excluding elected officials. The Executive in the preparation of the annual expense budget shall consider for incorporation therein the pay plan changes recommended by the Personnel Officer. Prior to adoption of the annual expense budget ordinance, the Council shall approve such of the proposed pay plan changes for exempt positions as it may deem proper. Should it approve less than the amounts contained in the annual expense budget, it shall adjust the appropriations sought for the various budget units in the light of such action. The law enacting the pay plan for exempt positions shall be effective on the first day of the ensuing fiscal year.

Editor's note— An amendment to § 707 proposed by Res. No. 126, 1982, was approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982.

Section 708. - Certification of pay.

The Personnel Officer shall approve and certify the payment of all payrolls for employees in the classified service and withhold authorization for payment for personal services to any person or position in the classified service unless the persons named therein have been appointed and employed in accordance with the provisions of this Charter, the laws of the State, and applicable personnel rules and regulations, and unless there has been a budgetary provision or supplemental appropriation therefor.

Section 709. - Prohibitions.

- (a) *Discrimination.* No person may be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified service because of his or her political or religious opinions or affiliations, race or sex.
- (b) *Political endorsements.* No person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the classified service.
- (c) *Influence.* No person may use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration. No person, directly or indirectly, shall give, render, pay, offer, solicit or accept any money, service or other valuable consideration for securing or providing any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the classified service.

- (d) *Political activity.* No officer or employee of the county shall be prohibited from participating in politics or political campaigns; however, no officer or employee shall engage in political activity while on the job during working hours; advocate the overthrow of the government by unconstitutional or violent means; or be obligated to contribute to an election campaign, political party or political club, or to render political service.
- (e) *Fraud.* No person may make any false statement, certificate, mark, rating or report with regard to any test, certification or appointment made under any provision of this Article or in any manner commit or attempt to commit any fraud preventing the impartial execution of this Article and the rules promulgated thereunder.
- (f) *Rendering personal services.* No officer or employee of the County, elected or appointed, shall detail or cause any officer or employee of the County to do or perform any service or work outside of his or her public office or employment.
- (g) *Improper administration.* No employee administering the merit system, examiner or other person may defeat, deceive or obstruct any person in his or her right to examination, eligibility, certification or appointment under this Article, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

Editor's note— An amendment to § 709 proposed by Res. No. 127, 1982 was approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982. An amendment to subsections (a), (f), and (g) proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to § 709(c) proposed by Res. No. 100, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012.

Section 710. - Penalties.

The Council shall, by ordinance, provide appropriate penalties for violations of Section 709 of this Article.

Editor's note— See amendment to § 710 proposed by Res. No. 135, 1982 was approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982.

ARTICLE VIII. - CENTRALIZED PURCHASING

Section 801. - Responsibility for purchasing.

The Chief Administrative Officer shall be responsible to the Executive for the execution of the County purchasing policies established in this Article.

Editor's note— An amendment to § 801 proposed by Res. No. 125, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 802. - County purchasing policies and practices.

The Chief Administrative Officer shall be the County Purchasing Agent and shall have the following purchasing functions which he or she may delegate to a Deputy Purchasing Agent in his or her office and under his or her supervision:

- (a) The making of all purchases, leases and contracts for all public works and services, and for all supplies, material and equipment for all offices, departments, institutions, boards, commissions

and other agencies of the County government for which payment is to be made out of County funds.

- (b) If recommended by the Executive and approved by legislative act of the Council, the establishment and operation of a County warehouse for County supplies, material and equipment and the maintenance of a sufficient stock of stable commodities to meet the requirements of the County government.
- (c) The development and operation of a uniform and modern system of property accounting and stores control based upon perpetual inventory.
- (d) The establishment, after consultation with the appropriate County officials, of suitable specifications and standards for all supplies, materials and equipment to be purchased and the inspection of all deliveries to determine compliance with such specifications and standards.
- (e) The establishment and maintenance of a system of requisitions and receipts covering the furnishing of supplies, materials and equipment to the various offices, department, institutions, boards, commissions and other agencies of the County.
- (f) The establishment, with the approval of the Executive and by legislative act of the Council, of reasonable rules and regulations governing emergency purchases and contracts and those involving material, equipment or services of an unusual or noncompetitive nature which shall not be subject to competitive bidding.
- (g) The sale of surplus, old and waste supplies, materials and equipment of the County, or the transfer of the same between offices, departments or other agencies of the County government.
- (h) The making of purchases for a stores revolving fund, which the Council is hereby authorized to establish, and of making sales from the stores to using agencies of the County.

Editor's note— An amendment § 802 proposed by Res. Nos. 125 and 126, 1996 was approved by an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 803. - Application of this article to departments and agencies under State law.

The provisions of this Article shall apply to the Department of Education and other departments and agencies created by or operating under State law to the extent requested by them or as permitted by law. In the interests, however, of promoting uniformity and of effecting maximum savings for all purchases out of County funds, the purchasing facilities of the County government shall always be available to such departments and agencies, and their use shall be encouraged.

Section 804. - Competitive bidding.

The Purchasing Agent shall employ competitive bidding in accordance with policies established by the Council.

Section 805. - Conformity with budget limitations and allotments.

No deliveries of supplies, materials or equipment shall be made to any officer, department, board, institution, commission or agency of the County government in excess of the available appropriation or allotment therefor, and except for small purchases in an amount to be established from time to time by ordinance, no payment shall be made out of County funds for the purchase of supplies, materials or equipment, unless the Director of Finance shall first certify that the funds for the designated purpose are available.

Editor's note— An amendment to § 805 proposed by Res. No. 123, 1988 was approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988.

Section 806. - Contract execution.

All contract bid forms and all contracts shall be approved by the County Solicitor as to form and legality. Following such approval, all contracts shall be signed in behalf of the County by the Executive or his or her designee. A complete file of all contract bid forms and all contracts shall be maintained in the office of the County Purchasing Agent. A copy of each signed contract shall be forwarded promptly to the Director of Finance.

Editor's note— An amendment to § 806 proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 807. - Cooperative purchasing.

As appropriate, the Purchasing Agent may undertake programs involving joint or cooperative purchases with other public jurisdictions within the State, or with the State of Maryland, and with other public entities.

Editor's note— An amendment to § 807 proposed by Res. No. 121, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 808. - Furthering legislation.

The Council, upon recommendations received from the Executive, or if he or she fails to do so, shall enact furthering legislation, not inconsistent with the provisions of this Charter or with the public general laws of this State, to implement the purchasing policies herein established. Such legislation shall provide for regulating the practices of the County Purchasing Agent and other officers, agents and employees of the County in regard to the issuance of inquiries, the receipt of bids; the placement of orders and other matters relating to the making of purchases and the award of contracts. Such legislation shall also prescribe procedures and establish minimum dollar amounts for competitive bidding.

Editor's note— An amendment to § 808 proposed by Res. No. 135, 1982 was approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982. An amendment proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

ARTICLE IX. - GENERAL PROVISIONS

Section 901. - Conflict of interest.

- (a) *Prohibitions.* No officer or employee of the County, whether elected or appointed, shall in any manner whatsoever be interested in or receive any benefit of the profits or emoluments of any contract, job, work, or service for the County. No such officer or employee shall accept any service or thing of more than nominal value, directly or indirectly, from any person, firm or corporation having dealings with the County, upon more favorable terms than those granted to the public generally, nor shall he or she receive, directly or indirectly, any part of any fee, commission or other compensation paid or payable by the County, or by any person in connection with any dealings with the County, or by any person in connection with any dealings with or proceedings before any branch, office, department, board, commission or other agency of the County. No such officer or employee shall directly or indirectly be the broker or agent who procures or receives any compensation in connection with the procurement of any type of bonds for County officers, employees or persons or firms doing business with the County. No such officer or employee shall solicit or accept any compensation or gratuity in the form of money or otherwise for any act or omission in the course of

his or her public work; provided, however, that the head of any department or board of the County may permit an employee to receive a reward publicly offered and paid for, for the accomplishment of a particular task.

- (b) *Rules of construction; exceptions by Council.* The provisions of this Section shall be broadly construed and strictly enforced for the purpose of preventing officers and employees from securing any pecuniary advantages, however indirect, from their public associations, other than their compensation provided by law.

In order, however, to guard against injustice, the Council may, by resolution, specifically authorize any County officer or employee to own stock in any corporation or to maintain a business in connection with any person, firm or corporation dealing with the County, if on full public disclosure of all pertinent facts to the County Council by such officer or employee, the Council shall determine that such stock ownership or connection does not violate the public interest.

The County Council may, by ordinance, delegate to the Howard County Ethics Commission the power to make such determinations and to authorize the ownership or connection. Any ordinance which delegates this power shall provide for procedures including a public hearing, and shall establish criteria for determining when the ownership or connection does not violate the public interest.

- (c) *Penalties.* Any officer or employee of the County who willfully violates any of the provisions of this Section shall forfeit his or her office, or shall suffer such other penalty as provided by law. If any person shall offer, pay, refund or rebate any part of any fee, commission, or other form of compensation to any officer or employee of the County in connection with any County business or proceeding, he or she shall, on conviction, be punishable by imprisonment for not less than one or more than six months or a fine of not less than \$100.00 or more than \$1,000.00, or both. Any contract made in violation of this Section may be declared void by the Executive or by resolution of the Council. The penalties in this Section shall be in addition to all other penalties provided by law.

Editor's note— An amendment to § 901(b) proposed by Res. No. 16, 1990 was approved at an election held Nov. 6, 1990, and became effective Dec. 6, 1990. Amendments proposed by Res. Nos. 122, 123, and 126, 1996 were approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 902. - Citizens advisory boards.

The Council or the Executive may appoint for designated periods one or more temporary advisory boards of citizens of the County who shall, without compensation other than necessary expenses as may be provided in the budget, assist in the consideration of County administrative policies and programs. It shall be the duty of each such advisory board to study conditions in its respective field, with particular reference to the policies and programs in Howard County, and to report its findings and recommendations to the Council or the Executive, as appropriate.

Section 903. - Removal of members of Boards and Commissions.

A member of any Board or Commission may be removed from office for cause by the appointing authority with the approval of a majority of the entire Council, but such member shall first be presented with a written statement of the reasons therefor, and shall have the privilege of a public hearing if he or she so requests within ten days. A member of any Board or Commission who shall be absent from three consecutive regular meetings of such Board or Commission, unless excused by resolution thereof, shall be deemed to have vacated his or her office. Vacancies occurring in such office otherwise than by expiration of the term shall be filled for the unexpired balance of the term.

Editor's note— An amendment to § 903 proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to § 903

proposed by Res. No. 85-2004 was approved at an election held on Nov. 2, 2004 and became effective Dec. 2, 2004.

Section 904. - Construction of powers.

The failure to mention a particular power or to enumerate similar powers in this Charter shall not be construed to exclude such powers or to restrict the authority that the County would have if the particular power were not mentioned or the similar powers not enumerated. The Charter shall be liberally construed to the end that, within the limits imposed by the Charter and by the Constitution and laws of the State, the County shall have all powers necessary and convenient for the conduct of its affairs including all powers that counties may assume under the Constitution and laws of the State concerning county home rule.

Section 905. - Additional compensation prohibited.

No County officer or employee who is compensated for his or her service by salary shall receive any additional salary for serving as an ex officio member of a County board, commission or agency.

Editor's note— An amendment to § 905 proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 906. - Right to inspect and copy public records.

Any person shall have the right to inspect any public record, in accordance with the Maryland Public Information Act, in the possession of any board, commission, office, or department of the County. A copy of any such document shall be furnished upon payment of a reasonable fee prescribed by the County Council.

Editor's note— An amendment to § 906 proposed by Res. No. 106, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012.

Section 907. - Citizens' election fund system.

- (a) The County Council shall, by ordinance, establish a Citizens' Election Fund system for candidates for County Council or County Executive, or both. The ordinance shall include, but not be limited to, Provisions that:
 - (1) Allow candidates to choose whether to participate in the Citizens' Election Fund System;
 - (2) Establish a Citizens' Election Fund Commission consisting of five County residents appointed by the council and two County residents appointed by the County Executive, and provide for the qualifications, terms, and officers of the commission; and
 - (3) Require the Commission to calculate, not later than 180 days prior to the end of the fiscal year, the total amount estimated for the full election cycle and the amount to be included in the current expense budget for the ensuing fiscal year to fully fund the Citizens' Election Fund System.
- (b)
 - (1) Except as provided in subsection (c) of this section, in each fiscal year the Executive shall include in the Annual Budget and Appropriation Ordinance required by Article VI of this Charter the amount necessary to fully fund the Citizens' Election Fund System for the ensuing fiscal year, as calculated by the Commission.
 - (2) Notwithstanding any provision of Article VI of this Charter to the contrary, if the Executive does not include the amount required by paragraph (1) of this subsection, the County Council may amend the Annual Budget and Appropriation Ordinance required by Article VI to include the required amount.

- (c) The Executive is not required to include in the Annual Budget and Appropriation Ordinance the amount required by subsection (b)(1) of this section if:
- (1) During the current fiscal year, funds have been or are being transferred from the Budget Stabilization Account to the General Fund Revenues in the current expense budget pursuant to Section 615A of this Charter; or
 - (2) Not later than 120 days prior to the end of the fiscal year, the Executive certifies to the Council that the County's fiscal condition makes it imprudent to include the amount, and the Council approves the certification by a vote of not less than two-thirds of its members.

Editor's note— An amendment adding § 907 proposed by Res. No. 27, 2016 was approved at an election held on Nov. 8, 2016, and shall take effect for the 2022 election cycle.

Section 908. - Bonding of officers.

The Director of Finance and such other officers and employees of the County as may be required by law shall post such bonds in such penalties, with such conditions and with such sureties as may be specified in such laws. Surety bond premiums shall be paid by the County.

Section 909. - County Seal and County Flag.

In accordance with the powers granted to chartered counties of this State by law, the Council shall, by ordinance enacted at or before its first annual legislative session, adopt a County Seal and County Flag; and thereafter it may use and alter the same at its pleasure. The Seal shall contain the corporate name of the County and such other information or insignia as the Council may determine. The Executive, the Administrator of the Council and such other officers as may be specified by ordinance of the Council shall have power to attest to the County Seal.

Editor's note— An amendment to § 909 proposed by Res. No. 125, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 910. - Subpoena power.

The Council, the Executive, the Personnel Board, the County Board of Appeals, the County Auditor and such other officers or agencies of the County as may be so empowered by ordinance of the Council or otherwise by law shall have the power to administer oaths, to compel the attendance of witnesses and to require the production of records and other materials in connection with any investigation, inquiry or hearing authorized by this Charter or by law.

Section 911. - Custody of papers and records.

The Council at its first legislative session shall provide for the custody and safekeeping of all deeds, bonds, contracts, releases and other papers and instruments involving the interests of the County.

Section 912. - Separability.

If any Article, section or provision of this Charter shall be held unconstitutional, invalid or inapplicable to any person or circumstance, then it is intended and declared by the people of the County that all other Articles, sections or provisions of this Charter and their application to all other persons and circumstances shall be separable and shall not be affected by any such decision.

Section 913. - Citation.

This Charter shall be known and may be cited as "The Howard County Charter."

Section 914. - Definitions and rules of construction.

As used in this Charter:

- (a) The word "bill" shall mean any measure introduced in the County Council for legislative action.
- (b) The words "act," "ordinance," "public local law" and "legislative act," when used in connection with any action by the Council, shall be synonymous, and shall mean any bill enacted in the manner and form provided in this Charter.
- (c) The word "resolution" shall mean a measure adopted by the Council having the force and effect of law but of a temporary or administrative character.
- (d) The word "law" shall be construed as including all acts, public local laws, resolutions and other legislative acts of the Council, all ordinances and resolutions of the County Commissioners not hereby or hereafter amended or repealed, and all public general laws and public local laws of the Maryland General Assembly in effect from time to time after the adoption of this Charter, whenever such construction would be reasonable.
- (e) The words "passage" and "adoption," when used in connection with the legislative acts of the Council, shall mean the action by the Council in approving any item of legislative business prior to its submission to the Executive for his or her approval or veto.
- (f) The word "enactment" shall mean the action or means whereby any bill after its passage attains the status of law.
- (g) The word "State" shall mean the State of Maryland.
- (h) The word "shall" shall be construed as mandatory and the word "may" shall be construed as permissive.
- (i) The word "person" shall include the words "individual," "corporation," "partnership" and "association," unless such a construction would be unreasonable.
- (j) The word "officer" shall include the words "member of the Council."
- (k) Whenever in this Charter the masculine gender is used such words shall be construed to include the feminine gender.
- (l) The words "hereafter" and "heretofore" shall refer to December 5, 1968, unless such a construction would be unreasonable.
- (m) The phrase "two-thirds of the members of the Council" shall mean at least two-thirds of all members and, in the case of a five-member Council, shall mean four members.
- (n) The term "County Government" shall include all offices, departments, institutions, boards, commissions, and agencies established under the Howard County Charter, law or resolution, and their officers, agents and employees.

Editor's note— An amendment to § 914 proposed by C.B. 67, 1980 was approved at an election held Nov. 4, 1980, and became effective Dec. 4, 1980. An amendment proposed by Res. No. 132, 1988 was approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988. An amendment to subsections (e), (j), and (n) proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment proposed by Res. No. 117, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to § 914(m)—(o) proposed by Res. No. 100, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012.

ARTICLE X. - MANNER OF AMENDING OR TERMINATING THIS CHARTER

Section 1001. - Amendment.

Amendments to this Charter may be proposed by a resolution of the Council approved by not less than two-thirds of its members. Amendments may also be proposed by petition filed with the Chairperson of the County Council and signed by not less than twenty per centum of the registered voters of the County, or 10,000 of such registered voters in case twenty per centum of the number of registered voters is greater than 10,000. When so proposed, whether by resolution of the Council or by petition, the Chairperson of the County Council shall make available to the press and public a reasonable number of copies of the question which shall be submitted to the voters of the County at the next general or Congressional election occurring after the adoption of said resolution or the filing of said petition; and if at said election the majority of votes cast on the question shall be in favor of the proposed amendment, such amendment shall stand adopted from and after the thirtieth day following said election. Any amendments to this Charter, proposed in the manner aforesaid, shall be published by the Chairperson of the County Council in at least one newspaper of general circulation published in the County for five successive weeks prior to the election at which the question shall be considered by the voters of the County.

Editor's note— An amendment to § 1001 proposed by C.B. 86, 1980 was approved at an election held Nov. 4, 1980, and became effective Dec. 4, 1980. An amendment proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 1002. - Charter Review Commission.

A Charter Review Commission shall be appointed by the Council no later than three months following the latter's installation beginning in the year 1987 and every eight years thereafter, and may also be appointed at such other times as the Council in its discretion may determine. The Commission shall be composed of fifteen residents of the County, five of whom shall be appointed from a list of not less than ten names submitted by the County Executive. No more than ten members shall be of the same political party.

The membership of the Commission shall constitute a broad representation of all citizen interests. The Chairperson of the Commission shall be appointed from among the Commission members by the Council.

The Commission shall make its report not later than May 1 of the following year. It shall receive from the County an appropriation sufficient to carry out its duties and responsibilities.

Editor's note— An amendment to § 1002 proposed by C.B. 76, 1980 was approved at an election held on Nov. 4, 1980, and became effective Dec. 4, 1980. An amendment proposed by Res. No. 133, 1988 was approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988. An amendment proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 1003. - Termination.

The Council may, by ordinance, approved by the affirmative vote of at least two-thirds of the members, propose the termination of this Charter and return of the County to the County Commissioners form of government in effect prior to the adoption of this Charter. The same proposal may be made by petition signed by twenty per centum or more of the registered voters of the County, or 10,000 of such registered voters in case twenty per centum is greater than 10,000. Such petition shall be filed with the Executive. The question so proposed by act of the Council or by petition shall be published by the Executive in at least two newspapers of general circulation published in the County once each month for five successive months prior to the next general election or Congressional election occurring [after] the passage of such act or the filing of such petition. At such election, such question shall be submitted to the

voters of the County, and if the majority of votes cast on the question shall be in favor of repealing this Charter, then, at the next quadrennial election, County Commissioners shall be elected under the public general laws of the State of Maryland. When the County Commissioners so elected have qualified for office, this Charter shall terminate. All laws, regulations and ordinances in effect at the termination of this Charter shall remain in force until changed by action of the General Assembly of Maryland, or the Board of County Commissioners, as provided by the Constitution and public general laws of this State.

ARTICLE XI. - TRANSITIONAL PROVISIONS⁵¹

Footnotes:

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Editor's note— Amendments to §§ 1101—1114 proposed by C.B. 62, 1980 were approved at an election held Nov. 4, 1980, and became effective Dec. 4, 1980. Those sections included for the first time contain no editorial comment; however those sections which are derived essentially from previous sections of this Charter are accompanied by editor's notes identifying the previous sections.

Section 1101. - Nature of this Article.

The provisions of this Article relate to the offices, departments and boards in the Executive Branch.

Section 1102. - Existing offices, departments and boards.

Offices, departments and boards of this Charter shall remain in effect and law until such time as they are modified, altered or abolished under the provisions of Sections 402, 403 or 404.

Sections 1103—1113. - Reserved.

Editor's note— C.B. 62, 1988, made major changes in titles and duties of certain offices in the Code, effective July 1, 1989. Therefore, § 100 of the bill deleted § 1103, "Office of County Administrator"; § 1104, "Office of Finance"; § 1105, "Office of Planning and Zoning"; § 1106, "Planning Board"; § 1107, "Department of Public Works"; § 1108, "Public Works Board"; § 1109, "Police Department"; § 1110, "Fire Department"; § 1111, "Fire Board"; § 1112, "Department of Recreation and Parks"; and § 1113, "Recreation and Parks Board."

Section 1114. - Appendix to this Charter.

At such time as reorganization plans are enacted as provided in Article IV, Sections 403 and 404, those offices, departments, and boards affected shall be codified pursuant to Article II, Section 210(c) and deleted from this Article.

ARTICLE XII. - TRANSITIONAL PROVISIONS⁶¹

Footnotes:

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Editor's note— Article XII, §§ 1201—1204, was proposed by petition and was approved at an election held Nov. 6, 1984, and became effective Dec. 6, 1984.

Section 1201. - Nature of the Article.

The provisions of this Article relate to the Councilmanic District method of election and establishment of district boundaries for Councilmanic Districts.

Section 1202. - Establishment of District boundaries for Councilmanic Districts.

The Councilmanic Districts for Primary and General Elections of 1986 shall be established by the County Council, based on the 1980 decennial census of the population of the United States, on or before March 15, 1986. Any Councilmanic District established in accordance with this Article shall be compact, contiguous, substantially equal in population, and have common interest as a result of geography, occupation, history, or existing political boundaries. The Board of Supervisors of Elections shall take any necessary steps to implement the election of the County Council by Councilmanic Districts so established.

Section 1203. - Termination of this Article.

After the quadrennial election in November 1990, this article shall cease to be part of this Charter.

Section 1204. - Separability.

If any provision of this Charter Amendment shall be held unconstitutional, invalid, or inapplicable, then it is intended and declared by the people of the County that all other provisions of the Charter Amendment and their application shall be separate and shall not be affected by any such decision.

CHARTER COMPARATIVE TABLE

The original charter, §§ 101 through 1003, is set out as adopted on November 5, 1968. The following table shows the disposition of amendments.

Year	Election Date	Council Bill Number	Section this Charter
1973	11- 7-74	7	607
1974	11- 7-74	5	202
1980	11- 4-80	55	202(d)
	11- 4-80	56	208
	11- 4-80	57	209(c), (d),
			(f)—(h)
	11- 4-80	62	Art. IV(note),
			§§ 401—421,

			1101—1114
	11- 4-80	64	405
	11- 4-80	66 Rpld	502
	11- 4-80	67	601—607, 914
	11- 4-80	76	1002
	11- 4-80	86	1001
	11- 4-80	89	501
		Resolution Number	
1982	11- 2-82	119	202(b), 302(b)
	11- 2-82	120	208(d)
	11- 2-82	121	209(c)
	11- 2-82	122	209(h)
	11- 2-82	123	212
	11 2-82	124	501(a)
	11- 2-82	125	602
	11- 2-82	126	704(e), 707
	11- 2-82	127	709
	11- 2-82	135	210, 302(i), 607,

			608, 618, 619,
			704, 710, 808
	11- 2-82	136	207
1984	11- 6-84		202(a), (b), 1, 4, (e),
			(f), 1201—1204
1988		C.B. 62, 1988 Rpld	1103-1113
	11- 8-88	109, 110	202(b)(1), (2)
		111	202(d), 302(d)
		112	202(e)
		113	208(b)
		114	209(c)
		115	212
		116	302(b)
		117, 118	302(e), (f)
		119, 120	403, 404
		121	602
		122	611
		123	612, 805
		124, 125	612(a), (b)
		126	617

		127	703
		128	704(b)
		129	705
		132	914(o)
		133	1002
1990	11- 6-90	1	705
	11- 6-90	2	202(d), 302(d), (e)
	11- 6-90	16	901(b)
	11- 6-90	33	616, 618
	11- 6-90	34	617, 618
1992	11- 3-92	166, 167	615A, 615B
	11- 3-92		202(c)
1994	11- 8-94	27	704(b)
	11- 8-94	129	208(b)(1)—(4)
	11- 8-94		702(g)
1996	11- 5-96	111	202(b)
		112	202(f)1.
		114	209(f)
		115	214
		116	Art. V(title)

		117	601
			914
		119	615(a)(3), (4)
		121	807
		122	901(a)
		123	901(c)
		125	203(b), 209(c), (d), (g),
			210(a), 302(g),
			302(f), (g), (i)10.,
			304(a), (c), 402(a),
			604, 605,
			617(b), 702,
			801, 802
			909
		126	202(b) 2., 3.,
			203(a), 209(c), (d), (g),
			210(d), 211(b),
			212, 213,
			215, 301,
			302(b), (c), (f), (h),

			(i)4., 7., 8., 10., 12.,
			304(a), (b),
			405(a), (b), (f),
			501(c), (f),
			612, 703,
			706(e), 709(a), (f), (g),
			802, 806,
			807, 808,
			901, 903,
			905, 914(e), (j), (n),
			1001, 1002
		Resolution Number	
2000	11- 7-00	103	501(c), 502
2004	11- 2-04	74	202(e)
	11- 2-04	85	903
2006	11- 7-06	123, 2005	212
	11- 7-06	125, 2005	614, 616
			617

	11- 7-06		217, 604
2012	11- 6-12	100, 2012	202(f)
			501(b)
		Rnbd	601(b)(7)
		as	601(b)(9)
		Added	601(b)(7), (b)(8), (b)(10), (b)(11)
			606
			615A, 615B
			709(c)
		Rpld	914(m)
		Rltd	914(n), (o)
		as	914(m), (n)
	11- 6-12	101, 2012	208(h)
			209(c), (d)
			210(b)
			604
	11- 6-12	103, 2012	211(a)
	11- 6-12	104, 2012	611
	11- 6-12	106, 2012 Rpld	906, 907
		Added	906

2014	11- 4-14	88, 2014(Res.)	209(h)
2016	11- 8-16	27, 2016	611
		Added	907
	11- 8-16	101, 2016 (Res.)	603(a), (b)
			606
2018	11- 6-18	8, 2018(Res.)	209(h)

TITLE 1 - HUMAN RESOURCES^[1]

Footnotes:

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Editor's note— C.B. 52, 1997 changed the title of tit. 1 from "Personnel Administration" to "Human Resources," effective Sept. 24, 1997. The existing pages which reflect the previous title "Personnel Administration," will be changed to "Human Resources" in future supplementation.

State Law reference— General power relative to personnel, Ann. Code of Md. art. 25A, § 5(Q)(1).

SUBTITLE 1. - HUMAN RESOURCES ADMINISTRATION^[2]

Footnotes:

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Editor's note— C.B. 52, 1997, replaced former subtit. 1 of tit. 1 in its entirety, and enacted a new subtit. 1 to read as herein set out. Former subtit. 1 pertained to similar subject matter. For a detailed history of the provisions of former subtit. 1, see the Code Comparative Table.

PART I. - DEFINITIONS; HUMAN RESOURCES SYSTEM

Sec. 1.100. - Definitions.

- (a) *In General.* In this title, the following terms have the meanings indicated:
- (b) *Classified employee* means an employee who:
- (1) Is appointed to a position in the merit system that is not in the exempt service; and
 - (2) Has successfully completed the employee's probationary period.

- (c) *Position* means a combination of duties and responsibilities, which are currently assigned, and which require the full-time or part-time employment of one person. A "position" may be occupied or vacant.
- (d) *Position classification* means a group of positions or one position that:
 - (1) Have similar duties and responsibilities;
 - (2) Require similar qualifications; and
 - (3) Based on rules adopted for administration of the pay plan, are compensated within the same salary grade.

(C.B. 52, 1997)

Sec. 1.101. - Personnel officer.

- (a) *Personnel Officer.* The Chief Administrative Officer is the Personnel Officer of the County.
- (b) *Duties of Personnel Officer.* The Personnel Officer or the Personnel Officer's designee shall:
 - (1) Perform such duties as the County Executive may direct, or as may be prescribed by law;
 - (2) Prepare a classification plan to be submitted to the Personnel Board for its approval;
 - (3) Maintain the classification plan on a current basis, and submit proposed changes to the Personnel Board for its approval and to the County Council for legislative action;
 - (4) Prepare a pay plan and allocate each class of positions to the appropriate pay grade, as shown in the pay plan, to be submitted to the Personnel Board for its approval;
 - (5) In accordance with subsection 706(e) of the Charter, submit to the Personnel Board and the County Council, recommendations for changes in the pay plan;
 - (6) Prepare and submit to the County Executive annually, a proposed pay plan for the officers and employees in the exempt service of the County;
 - (7) In accordance with subsection 704(a) of the Howard County Charter, prepare and maintain on a current basis, to be submitted to the Personnel Board for its approval, rules that provide for the appointment, promotion, demotion and separation of employees solely on the basis of merit;
 - (8) In accordance with section 1.103 of this subtitle, prepare and maintain on a current basis, to be submitted to the Personnel Board for its review and comment, an employee manual;
 - (9) In accordance with section 708 of the Howard County Charter:
 - (i) Approve and certify the payment of all payrolls for employees in the classified service; and
 - (ii) Withhold authorization for payment for personnel services to any person or position in the classified service unless:
 - a. The persons named therein have been appointed and employed in accordance with the provisions of the Charter, the Laws of Maryland, and applicable personnel rules and regulations; and
 - b. There has been a budgetary provision or supplemental appropriation for the payment;
 - (10) Serve as Executive Secretary to the Personnel Board;
 - (11) Deal with certified employee organizations, including negotiating matters related to wages, hours, working conditions and other terms and conditions of employment;
 - (12) Counsel, advise, and consult with other offices and Departments on personnel matters;
 - (13) Provide training programs for employees;

- (14) Administer all provisions of this title and the personnel rules not specifically reserved to the Personnel Board or to other agencies of County Government;
- (15) Recruit new employees, and develop and implement programs for the retention of qualified, existing employees;
- (16) Subject to section 22.1000 of the County Code, submit to the County Council on or before May 1, an annual report on any positions filled by current County employees during the previous year; and
- (17) Subject to section 22.1000 of the County Code, submit to the County Council on or before May 1, an annual report on new positions created by the Personnel Officer during the previous year.

(C.B. 52, 1997; C.B. 43, 2018, § 1)

Sec. 1.102. - Office of Human Resources.

- (a) *General Provisions.* There is an Office of Human Resources within the Department of County Administration. General provisions applicable to the Office of Human Resources are set forth in subtitle 2, "Administrative Departments and Offices" of title 6, "County Executive and the Executive Branch" of the Howard County Code.
- (b) *Human Resources Administrator.* The Human Resources Administrator is the head [of] the Office of Human Resources. The Chief Administrative Officer shall exercise general supervision over the Office of Human Resources.
- (c) *Qualifications of Human Resources Administrator.* The Human Resources Administrator shall have comprehensive knowledge of the principles and practices of public human resources management, including familiarity with classification and pay plans, employee benefits packages, and employee recruitment, selection, and employee training. The Human Resources Administrator shall have had increasingly responsible experience in human resources management, including supervisory or administrative experience.
- (d) *Duties and Responsibilities of Human Resources Administrator.* The Human Resources Administrator shall perform the functions as assigned by the Personnel Officer or as prescribed by law.

(C.B. 52, 1997)

Sec. 1.103. - Employee manual.

- (a) *Personnel Officer to Prepare.* In accordance with subsection 1.101(b)(8) of this subtitle, the Personnel Officer shall prepare and maintain on a current basis, an employee manual, which shall include rules established under subsection 1.101(b)(7) of this subtitle, and which shall establish County policy and procedure concerning matters the Personnel Officer deems necessary for the proper administration of the classified service.
- (b) *Updates to the Employee Manual.* The Personnel Officer shall update the employee manual as necessary for the proper administration of the classified service. The Personnel Officer shall submit to the Personnel Board for its approval, and to the Council for legislative action thereon, an update to a rule in the employee manual that provides for the appointment, promotion, demotion, or separation of employees in the classified service.
- (c) *Annual Submission to the Personnel Board.* No later than the first day of October of each year, the Personnel Officer shall submit to the Personnel Board for its review and comment the current version of the employee personnel manual.

(C.B. 52, 1997)

Secs. 1.104—1.109. - Reserved.

PART II. - MERIT SYSTEM

Sec. 1.110. - Merit system established; administration.

- (a) *Merit System Established.* The Howard County Merit System is established by article VII of the Howard County Charter and by ordinance enacted by the County Council of Howard County.
- (b) *Administration of the Merit System.* The merit system shall be administered by the Personnel Officer.

(C.B. 52, 1997)

Sec. 1.111. - Scope of merit system.

- (a) *In General.*
 - (1) The merit system shall include all officers and employees of the County.
 - (2) The merit system does not include:
 - (i) The Officers and employees of the Board of Education;
 - (ii) Employees covered by the State merit system; or
 - (iii) Employees in State-authorized exempt positions, as defined in section 1.305 of this title.
 - (3) A position in the merit system shall be in the exempt service or the classified service.
- (b) *Exempt Service.* The exempt service includes positions:
 - (1) Designated as exempt in the Howard County Charter;
 - (2) Designated as Executive exempt in section 1.306 of this title;
 - (3) Designated as grant-funded in section 1.307 of this title; or
 - (4) Designated as part-time benefited positions in section 1.308 of this title; or
 - (5) That are contingent employees as provided in section 1.309 of this title.
- (c) *Classified Service.* All positions in the merit system that are not in the exempt service are in the classified service.
- (d) *Probationary employee.*
 - (1) Unless otherwise indicated in a position classification description, and unless terminated earlier, upon initial appointment to a position in the classified service, an employee shall serve a probationary period of six months.
 - (2) An employee serving a probationary period is not a member of the classified service and no rights under the classified service accrue to the employee until the appointing authority recommends and the Personnel Officer approves that the employee be placed in the classified service.
- (e) *Employees Governed by Collective Bargaining Agreements.*
 - (1) The provisions of this title and the employee manual apply to employees governed by a collective bargaining agreement approved under subtitle 6 of this title, except that where

provisions of a collective bargaining agreement are in conflict with provisions of this title or the employee manual, the collective bargaining agreement applies.

- (2) The County Executive shall submit to the County Council for legislative action the provisions in ratified and signed collective bargaining agreements which are in conflict with provisions of this title or the employee manual. A record of these provisions and a copy of each collective bargaining agreement in effect shall be maintained by the Office of Human Resources.

(C.B. 52, 1997)

Sec. 1.112. - Filling positions in the classified service.

- (a) *Appointments Made on the Basis of Merit.* Appointments to positions in the classified service shall be made on the basis of merit from an eligibility list that shall include internal applicants or a combination of both external and internal applicants. For purposes of this section, an internal applicant is an applicant who is employed by Howard County Government at the time of application and an external applicant is an applicant who is not employed by Howard County Government at the time of application.
- (b) *Vacancies.* An appointing authority who wishes to fill a budgeted vacant position in the classified service shall submit an employee requisition form to the Personnel Officer.
- (c) *Job Announcements.*
 - (1) The Human Resources Administrator shall give public notice of the intent to:
 - (i) Fill one or more positions; or
 - (ii) Accept applications for future vacancies.
 - (2) When an application deadline is established, the notice under paragraph (1) of this subsection shall be given at least two weeks in advance of the application filing deadline.
 - (3) Notice may be given by means of announcements posted on official County bulletin boards in County facilities, in police and fire stations, in any courthouse, and any other place the Human Resources Administrator deems proper. When deemed appropriate by the Human Resources Administrator, a notice may be advertised in local newspapers or other media.
 - (4) A job announcement shall state:
 - (i) The title, grade, and the range for pay for the position for which applications are sought;
 - (ii) The nature of the work to be performed;
 - (iii) The education and work experience requirements of the position;
 - (iv) The examination requirement, if any;
 - (v) Any prerequisites for eligibility; and
 - (vi) Any limitations on criteria for the position, including any criteria that limit consideration to current employees of Howard County Government.
 - (5) Applications shall be made on forms prescribed by the Human Resources Administrator, and shall contain information relating to the education, work experience, training, and residence of the applicant, and shall contain a certification by the applicant of the accuracy of the statements made therein.
- (d) *Duration of Active Application.* If an applicant meets the minimum qualifications of the position classification, the Human Resources Administrator shall maintain the application until the vacancy is filled.
- (e) *Eligibility List.*

- (1) If the Personnel Officer approves an employee requisition request, the Human Resources Administrator shall provide the appointing authority with an alphabetical eligibility list based on:
 - (i) The results of open, competitive examinations;
 - (ii) The results of an internal promotion exam; or
 - (iii) An examination of an application, resume, or other information provided by the applicant.
 - (2) Except as provided in paragraph (10) of this subsection, the eligibility list shall consist of at least three and up to ten names of applicants who are most qualified for the position plus up to an additional five names of applicants who:
 - (i) Were among the next five most highly qualified applicants; and
 - (ii) Qualified for a preference under section 1.122A of this subtitle.
 - (3) Unless extended, an eligibility list shall expire one year after it is established. The expiration date for an eligibility list may be extended at the request of the appointing authority and upon approval of the Personnel Officer.
 - (4) If multiple vacancies occur in the same position classification, the Human Resources Administrator may place the name of one additional candidate on the eligibility list for each additional vacancy authorized to be filed.
 - (5) A current employee in the same position classification as the vacant position who applies shall be considered eligible for the position, and the Human Resources Administrator shall add the employee's name to the eligibility list regardless of the number of other names on the list.
 - (6) After conducting an interview of all available applicants, the appointing authority shall select a candidate from the eligibility list. The appointing authority shall forward justification for the selection to the Human Resources Administrator.
 - (7) If the appointing authority does not select a candidate from an eligibility list, the appointing authority shall provide a written justification for the rejection of the list to the Human Resources Administrator.
 - (8) An appointing authority may fill a position by transferring an employee from one position to another in the same position classification within the Department, or from one position to another in a different position classification in the same or lower grade within the Department if:
 - (i) The Personnel Officer determines that the individual is qualified for the position; and
 - (ii) Except as provided in subsection 1.115(c)(2) of this subtitle, the employee agrees to the transfer.
 - (9) An appointing authority may fill a position by transferring an employee from a position in one Department to a position in another Department in the same position classification or in a different position classification in the same or lower grade if:
 - (i) The Personnel Officer determines that the individual is qualified for the position; and
 - (ii) The appointing authorities of both Departments and the employee agree to the transfer.
 - (10) An eligibility list may have fewer than three applicants if the Office of Human Resources has determined that a reasonable search has been conducted.
- (f) *Offer of Employment.*
- (1) After receipt of the name of an individual selected under subsection (e)(6) of this section, the Human Resources Administrator shall forward the name to the Personnel Officer, who shall extend an offer of employment to the individual.
 - (2) An offer of employment may be subject to the selected individual passing a physical examination as specified by the Personnel Officer.

(g) *Probationary Period.*

- (1) Upon initial appointment to a position in the classified service, an employee is a probationary employee. Time spent in a designated trainee class is considered a probationary period.
- (2) An appointing authority may terminate a probationary employee:
 - (i) Upon giving up to two weeks' notice of termination; or
 - (ii) Upon payment of up to two weeks' severance pay in-lieu-of notice of termination.
- (3) At the end of the probationary period, the appointing authority shall notify the Human Resources Administrator that the appointing authority recommends:
 - (i) That the employee be placed in the classified service;
 - (ii) That the employee's probationary period be extended for a period not to exceed six months; or
 - (iii) That the employee be terminated because the employee's performance does not meet the required performance standards for the position or job assignment.
- (4) A termination under paragraph (2) or under paragraph (3)(iii) of this section is not appealable.
- (5)
 - (i) A classified employee who is promoted shall serve a probationary period equal to the length of the probationary period for that position.
 - (ii) If a classified employee is promoted and, during the probationary period, the appointing authority determines that the employee's performance does not meet the required performance standards for the new position, the appointing authority may dismiss the employee.
 - (iii) If a classified employee is dismissed under this paragraph, the appointing authority shall make a good faith effort to place the employee in a vacant position before the employee is terminated.
 - (iv) Movement from a designated trainee class to a full performance class is not a promotion.

(C.B. 52, 1997; C.B. 43, 2010, § 1; C.B. 40, 2012, § 1; C.B. 9, 2018, § 1)

Sec. 1.113. - Work hours for employees.

(a) *Work Hours for Employees.*

- (1) Unless the Personnel Officer approves, in writing, a different schedule, the regularly scheduled hours of work for County employees are 40 hours per week exclusive of a lunch period.
- (2) Each Department Head shall establish and distribute to employees of the Department a written policy governing work hours, lunch periods, flexible scheduling, and any other issue relating to work hours for employees. Each Department Head shall forward to the Human Resources Administrator a copy of the policy under this paragraph.
- (3) If justified in writing by the appointing authority, the Personnel Officer may approve a work schedule of 35 hours per week for an employee who was appointed to the classified service before September 29, 1997. In such case, the employee shall receive fringe benefits as if the employee worked the standard work week, except that accrual of leave shall be on the basis of 35 hours per week.

- (b) *Work Schedules for Fire and Rescue Services Employees.* The Chief of Fire and Rescue Services shall establish the work schedule of the career firefighter personnel and shall provide adequate supervision for career personnel when they are on duty.

(C.B. 52, 1997; C.B. 10, 2018, § 1)

Sec. 1.114. - Performance appraisal of employees.

- (a) *Appraisal of Probationary employee.* A probationary employee shall receive a performance appraisal by the employee's immediate supervisor during the probationary period.
- (b) *Appraisal of Classified employee.* An employee in the classified service shall receive a performance appraisal at least once a year by the employee's immediate supervisor, and the results of the appraisal shall be discussed with and signed by the employee being appraised. The purpose of the appraisal is to encourage employee growth and development and to implement the employee performance award program.
- (c) *Included in Personnel File.* The appraisal by the supervisor and any comments of the employee being appraised shall be forwarded to the Personnel Officer by the Department Head for inclusion in the employee's personnel file.
- (d) *Appraisal Forms.* The Personnel Officer shall develop appropriate appraisal forms to accomplish employee performance appraisals.

(C.B. 52, 1997)

Sec. 1.115. - Performance-related dismissal, dismissal for cause, and discipline of employees in the classified service.

- (a) *Dismissal from the Classified Service for Unsatisfactory Performance.* An appointing authority may dismiss a classified employee if:
 - (1) The employee's work performance is unsatisfactory;
 - (2) In accordance with procedures in the employee manual, the appointing authority has issued a written warning to the employee;
 - (3) After receiving the warning, the employee has an opportunity to meet the performance standards for the position; and
 - (4) The employee's performance continues to be unsatisfactory.
- (b) *Immediate Dismissal for Cause.* An appointing authority may immediately dismiss a classified employee if the employee engages in conduct within the following categories:
 - (1) Dishonesty, including misuse of money or property, theft, or making false statements;
 - (2) Insubordination, including failure or refusal to follow legitimate or lawful directions or orders;
 - (3) Violation of County policy, including any policy to which an employee is made subject as a corollary of employment;
 - (4) Misconduct, including negligence, tardiness, unauthorized absence, illegal activities, conviction of a felony or crime of moral turpitude, or any behavior which endangers other employees or County property; or
 - (5) Accepting for personal use any fee, gift, or other thing of value in connection with or during the course of County employment if given to the employee by any person with the hope or expectation of receiving a favor or better treatment than that accorded to other persons, and other conduct that violates the County's ethics law.
- (c) *Discipline in Lieu of Dismissal.* In lieu of dismissal, an appointing authority may take any or all of the following disciplinary actions against a classified employee:
 - (1) Give the employee a written reprimand;
 - (2) With the approval of the Personnel Officer, demote the employee to a lower pay grade or to a reduced level of pay in the same grade;

- (3) Direct the suspension of the employee's accrual of annual or personal leave for a period not to exceed one year; or
- (4) Suspend the employee without pay.

(C.B. 52, 1997; C.B. 14, 2018, § 1)

Sec. 1.116. - Written warnings, counseling, counseling memorandum.

If, under subsection 1.115(a) of this subtitle, an appointing authority issues a written warning or counseling memorandum, or engages in counseling concerning the means through which an employee may improve the employee's job performance, the warning, counseling memorandum, or counseling is an instructional communication and is not a disciplinary action for any purpose under this title or the Howard County Charter.

(C.B. 52, 1997)

Sec. 1.117. - Procedures for dismissal from the classified service.

- (a) *Charges for Dismissal.* An action for dismissal from the classified service may be initiated by an appointing authority or the Personnel Officer by filing charges for dismissal.
- (b) *Charges Signed and Delivered.* Charges for dismissal shall be in writing, signed by the person initiating the action for dismissal, and filed with the Personnel Officer, who shall, after review, deliver one copy to the employee in person or by certified mail.
- (c) *Contents of Charges.* Charges for dismissal shall contain:
 - (1) Reasonable notice of the proposed action;
 - (2) The reasons or charges leading to the proposed dismissal;
 - (3) Specific information as to why the dismissal is proposed; and
 - (4) A citation to the applicable rule under which the dismissal is sought.
- (d) *Reply to Charges.* The person initiating the action for dismissal shall give fair and objective consideration to an employee's reply to any charges for dismissal, and the employee shall have the right to appear before the person initiating the action for dismissal in person to answer the charges after first making [an] answer in writing.
- (e) *Removal From Job; Notice of Right to Appeal.* If, after any meeting with the employee and considering any written answer, the person initiating the dismissal determines that dismissal is appropriate, the Personnel Officer shall notify the employee, in writing, of the effective date of the dismissal. The notification of dismissal shall include notice that the employee may appeal the dismissal to the Personnel Board by filing an appeal with the Executive Secretary of the Personnel Board in writing within 15 calendar days of the day the dismissal takes effect. After an employee is dismissed, the person initiating the action shall forward the employee's personnel file to the Personnel Officer.

(C.B. 52, 1997)

Sec. 1.118. - Appeal to Personnel Board.

An employee who is dismissed from the classified service under section 1.117 of this subtitle may appeal the dismissal to the Personnel Board under the procedures in section 1.500 of this title.

(C.B. 52, 1997)

Sec. 1.119. - Non-disciplinary separations.

(a) *Resignation.*

- (1) An employee who plans to resign from the classified service shall notify his or her immediate supervisor at least ten working days prior to the employee's last day of work. The appointing authority may deduct the equivalent in hours of one day from the employee's accrued annual leave for each day that the notice given is less than required under this section.
- (2) Except as provided in paragraph (1) of this subsection, an employee who resigns shall be paid for all leave credit for which the employee is eligible under procedures contained in the employee manual.
- (3) The Personnel Officer shall note in the employee's employment record, a failure to comply with a condition in this subsection.

(b) *Layoff.*

- (1) An appointing authority may lay off an employee in the classified service when the position to which the employee has been assigned is abolished. A classified employee may not be laid off if there is a contingent employee in the same Department performing duties for which the classified employee is qualified.
- (2) The appointing authority shall determine the order of lay off of employees on the basis of their relative proficiency and length of service to the County.
- (3) The appointing authority shall, when practicable, give a classified employee at least ten working days' notice of a layoff or ten days' pay in lieu of notice.

(c) *Furlough.*

- (1) An employee in the classified or exempt service who is entitled to accrue annual leave may be furloughed if:
 - (i) The County Executive determines that an ascertained shortfall in revenue, based upon available projections during any fiscal year, requires a reduction in the amount approved for salaries, wages, and fringe benefits for a Department, Agency or Office;
 - (ii) A reduction is made in the amount approved for salaries, wages, and fringe benefits for a Department, Agency, or Office in the County's adopted current expense budget; or
 - (iii) An appointing authority requests, and the County Executive approves, furloughs for employees under the appointing authority's jurisdiction in order to meet the amount approved for salaries, wages, and fringe benefits for the Department, Agency or Office in the County's adopted current expense budget.
- (2) When a furlough is required under any of the circumstances described in paragraph (1) of this subsection, the County Executive shall submit a furlough plan to the County Council for its approval by resolution. The furlough plan shall contain:
 - (i) The circumstances requiring the furlough;
 - (ii) The number of employees to be affected by the furlough, identified by agency, salary, grade, and salary schedule;
 - (iii) The number of furlough days and hours the affected employees will be required to take;
 - (iv) The period of time over which furlough days and hours will be required; and
 - (v) The dollar amount of savings expected from the furlough plan.

- (3) Except as provided in paragraph (4) of this subsection, the furlough plan shall not require an employee to take more than one furlough day or eight furlough hours of regularly scheduled work time, whichever is greater, in any given two-week period.
 - (4) The furlough plan may provide that an employee be required to take more than one furlough day or more than eight furlough hours in a two-week period if:
 - (i) The County Executive determines that closing County Government Offices for a specified period of time, not to exceed five consecutive business days, will be the most efficient method of realizing the needed salary savings, and
 - (ii) The furlough plan provides that, unless the employee requests otherwise, no more than one of these furlough days may be charged to an employee during any two-week period.
 - (5) While on furlough an employee continues to accrue leave as though not on furlough. Being furloughed does not affect an employee's health insurance coverage.
- (d) *Dismissal for Inability to Perform Essential Functions.* Except as provided in subsection (e) of this section, an appointing authority may dismiss a classified employee if:
- (1) A health care provider has determined that the employee is not physically or mentally able of performing the essential duties of the employee's position. For the purposes of this section, health care provider means a licensed doctor of medicine or osteopathy who is authorized to practice medicine or surgery as well as licensed podiatrists, dentists, clinical psychologists, clinical social workers and optometrists;
 - (2) The County has determined that there are no reasonable accommodations, including other available vacant positions for which the employee would qualify; and
 - (3) The employee has been given the opportunity to pursue retirement or disability options which may be available to the employee.
- (e) *Option for Second Evaluation of Inability to Perform Essential Functions.*
- (1) Before an employee is dismissed under subsection (d) of this section, the employee may obtain a second evaluation by a health care provider of the employee's ability to perform the essential duties of the employee's position. If the second evaluation finds that the employee has the ability to perform the essential duties, the County may accept the second evaluation or the County may seek a third evaluation in accordance with subsection (f) of this section.
 - (2) The County shall pay for all costs incurred for the second evaluation if:
 - (i) The cost of the second evaluation is not covered by the employee's health insurance; and
 - (ii) The employee demonstrates that the employee cannot afford the cost of the second evaluation.
- (f) *Third Evaluation.* If the County determines that a third evaluation is necessary, the County shall obtain a third evaluation from an independent, board certified health care provider:
- (1) Who shall be mutually agreed to by the employee and the County;
 - (2) Whose costs shall be paid by the County; and
 - (3) Whose opinion shall be binding on the parties.
- (g) *Employees Covered by Collective Bargaining Agreements.* A dismissal under this section is subject to the grievance procedure for a termination under an applicable Collective Bargaining Agreement or the appeal process provided in section 1.500 of the Howard County Code and the appeals section of the Howard County Employee Manual, as applicable.
- (h) *Employees Not Covered by Collective Bargaining Agreements.* A dismissal under this section is subject to the appeal process provided in section 1.500 of the Howard County Code and the appeals section of the Howard County Employee Manual, as applicable.

(C.B. 52, 1997; C.B. 14, 2018, § 1)

PART III. - GENERAL PROVISIONS

Sec. 1.120. - Personnel Board.

- (a) *In General.* As provided in section 703 of the Howard County Charter, there is a Personnel Board. The Personnel Board annually shall select a Chairperson and a Vice-Chairperson from its membership. The Board shall establish procedures for the conduct of its meetings, and shall meet at such times as specified in the Charter.
- (b) *Duties of Personnel Board.* The Personnel Board shall:
 - (1) Advise and consult, as appropriate, with the County Executive, the Personnel Officer, and other County Officials and employees, on matters concerning the administration of the merit system, the Charter, this title and the personnel rules and procedures;
 - (2) As directed by the Personnel Officer, conduct investigations or inquiries concerned with administration of the merit system and, in this capacity, the Board is authorized to administer oaths, to compel the attendance of witnesses and to require the production of records and other materials in connection with said investigation or inquiry, and to advise the County Officials concerned with the Board's findings and recommendations;
 - (3) Subject to the provisions of article VII of the County Charter and procedures set forth in this title, hear and decide appeals filed by classified employees and applicants. In this capacity the Board may administer oaths, compel the attendance of witnesses, and require the production of records and other material;
 - (4) Render a written report to the County Executive and, subject to section 22.1000 of the County Code, forwarding a copy of such report to the County Council on or before January 31 of each year, discussing administration of the merit system for the preceding year and summarizing developments and progress made in meeting the objectives and purposes of article VII of the Charter and of this title;
 - (5) Except for the duty to hear and decide appeals taken under this title, delegate any of its duties to the Personnel Officer; and
 - (6) Perform such other duties as may be requested by the County Executive.

(C.B. 52, 1997; C.B. 43, 2018, § 1)

Sec. 1.121. - General prohibitions.

- (a) *Discrimination.* No person may be appointed or promoted to, or demoted or dismissed from any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified service in violation of any County, State, or Federal law.
- (b) *Political Endorsements.* No person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the classified service.
- (c) *Influence.* No person may use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration. No person, directly or indirectly, may give, render, pay, offer, solicit or accept any money, service or other valuable consideration for securing or providing any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in a position in the classified service.

- (d) *Political Activity.* An Officer or employee of the County may not be prohibited from participating in politics or political campaigns. No Officer or employee may engage in political activity while on the job during working hours, or advocate the overthrow of the government by unconstitutional or violent means. No Officer or employee may be obligated to contribute to an election campaign, political party, or political club, or to render political service.
- (e) *Fraud.* No person may make any false statement, certificate, mark, rating or report with regard to any test, certification or appointment made under any provision of this subtitle or in any manner commit or attempt to commit any fraud preventing the impartial execution of this subtitle and the rules promulgated thereunder.
- (f) *Rendering Personal Services.* No Officer or employee of the County, elected or appointed, shall detail or cause any Officer or employee of the County to do or perform any service or work outside of his public office or employment.
- (g) *Improper Administration.* No employee administering the merit system, examiner or other person may defeat, deceive or obstruct any person in his right to examination, eligibility, certification or appointment under this subtitle, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

(C.B. 52, 1997)

Sec. 1.122. - Gain sharing.

- (a) *Program Established.* In any fiscal year, the County may pay an employee a share of productivity gains if:
 - (1) The Personnel Officer establishes a productivity gain sharing program in the fiscal year for all eligible employees; and
 - (2) The gains are documented, measurable improvements in performance or level of service in accordance with the procedures established under subsection (b) of this section.
- (b) *Procedures.* The Personnel Officer shall establish procedures for the implementation of the gain sharing program.

(C.B. 52, 1997)

Sec. 1.122A. - Hiring preference for individuals with disabilities.

- (a) *In General.*
 - (1) The Personnel Officer shall issue policies to establish a preference for the initial appointment of a qualified individual with a disability into a classified service position.
 - (2) The policies shall define "individual with a disability" as:
 - (i) An individual with a developmental disability, a severe physical disability, or a psychiatric disability, that has been medically proven in accordance with 5 C.F.R. 213.3102(U)(2); and
 - (ii) A veteran rated by the Department of Veterans Affairs with compensable service-connected disability of 30 percent or more.
 - (3) The policies shall include measures to educate appointing authorities about the preference required by this section.
- (b) *Preference.*
 - (1) The preference shall only be applied when establishing an eligibility list.

- (2) The policies shall give a higher preference to a veteran described under subsection (a)(2)(ii) of this section.

(C.B. 40, 2012, § 1)

Sec. 1.123. - Disability leave bank.

The employees of Howard County may establish a disability leave bank to which they may donate accumulated disability leave and from which they may receive disability leave upon exhaustion of their accumulated disability, personal, and annual leave. If a disability leave bank is established, the employees participating shall establish procedures to operate the disability leave bank, and shall send the procedures to the Personnel Board for its review and comment.

(C.B. 52, 1997)

SUBTITLE 2. - CLASSIFICATION PLAN^[3]

Footnotes:

--- (3) ---

Editor's note— C.B. 52, 1997, replaced former subtit. 2 of tit. 1 in its entirety, and enacted a new subtit. 2 to read as herein set out. Former subtit. 2 pertained to similar subject matter. For a detailed history of the provisions of former subtit. 2, see the Code Comparative Table.

Sec. 1.200. - Scope and administration of classification plan.

(a) *Scope.*

- (1) The classification plan for Howard County shall consist of the occupational groups, class families, and the qualifications, duties, and general requirements for each position classification contained in the plan.
- (2) If a position incumbent is a member of a collective bargaining unit on September 28, 1997, the position classification specification for that employee's position shall be the specification in effect on September 28, 1997, until amended as agreed to under collective bargaining. Such position classification specifications are adopted as part of the classification plan.

(b) *Administration.* The Human Resources Administrator, under the general supervision of the Personnel Officer, shall administer the classification plan.

(C.B. 52, 1997)

Sec. 1.201. - Administration, adoption, and incorporation of classification plan.

(a) *Classification Plan to Personnel Board.* The classification plan and any amendments thereto, shall be submitted to the Personnel Board for approval. After approval by the Personnel Board, the Personnel Officer shall transmit the classification plan to the County Executive for submission to the County Council for legislative action thereon.

(b) *Classification Plan Adopted.* The classification plan is hereby adopted as the classification plan for Howard County.

- (c) *Classification Plan Incorporated by Reference.* The classification plan adopted under subsection (b) of this section is enacted as an attachment to the Council bill through which the County Council exercises its legislative action thereon. Any amendment to the classification plan shall be legislatively adopted by the County Council as an attachment to the Council bill through which the Council exercises its legislative action thereon. The classification plan is not reprinted in this Code, but is maintained in the Office of Human Resources for inspection by an employee or a member of the public under reasonable conditions during business hours.

(C.B. 52, 1997)

Sec. 1.202. - Official copy of classification plan; general review of classification plan; position reclassifications.

- (a) *Official Copy.* The Personnel Officer shall maintain the official copy of the classification plan on a current basis in order that it may properly reflect the minimum qualifications required for each position classification in the classified service.
- (b) *General Review.* The Personnel Officer shall establish procedures under which a general review of the classification plan shall be accomplished every five years.
- (c) *Position Reclassifications.* The Personnel Officer shall establish procedures under which a position may be reviewed for allocation to a different position classification within the classification plan.

(C.B. 52, 1997)

Sec. 1.203. - Interpretation of position classification descriptions.

- (a) *Determination of Equivalency.* Position classification descriptions are intended to be descriptive and not restrictive. Position classification descriptions are subject to final interpretation by the Personnel Officer and shall be interpreted and administered in a manner consistent with the requirements of applicable State and Federal law, including the Americans With Disabilities Act. In those cases where "any equivalent combination of education and experience" is specified with the minimum qualifications, or in defining the area of a class family, the determination of equivalency will be made by the Human Resources Administrator.
- (b) *G.E.D. Equivalent.* In all cases where completion of the 12th school grade or high school graduation is required, possession of a G.E.D. as approved or recognized by the Maryland Department of Education will be accepted as equivalent.
- (c) *Driver's License.*
- (1) If a position classification requires an employee to possess a driver's license, the employee's Maryland driver's license, or, for employees living out-of-State, an equivalent license issued by the employee's State of residence, must be valid at all times during the employee's tenure of employment.
 - (2) If a position classification requires an employee to possess a Maryland Class A or Class B license, the employee shall obtain and maintain commercial driver's license (CDL) validation as required by Maryland law in order to operate assigned equipment.

(C.B. 52, 1997)

SUBTITLE 3. - PAY PLAN^[4]

Footnotes:

--- (4) ---

Editor's note— C.B. 52, 1997, replaced former subtit. 3 of tit. 1 in its entirety, and enacted a new subtit. 3 to read as herein set out. Former subtit. 3 pertained to similar subject matter. For a detailed history of the provisions of former subtit. 3, see the Code Comparative Table.

Sec. 1.300. - Scope of pay plan.

The pay plan for Howard County includes:

- (1) Pay grades, expressed as a minimum rate, a maximum rate, and intermediate rates of pay;
- (2) The allocation of each position classification in the classification plan to a pay grade; and
- (3) Rules for the administration of the pay plan, including:
 - (i) The payment of an employee performance award;
 - (ii) The payment of a step increment;
 - (iii) The payment of specialty pays;
 - (iv) The payment of acting duty pay;
 - (v) The payment of involuntary separation pay;
 - (vi) The payment of overtime and compensatory time; and
 - (vii) The process for conducting an annual market review to establish the minimum and maximum rates of pay in the pay plan.
- (4) If a position incumbent is a member of a collective bargaining unit on September 28, 1997, the rate of pay for that employee's position shall be the rate of pay in effect on September 28, 1997, until amended as agreed to under collective bargaining. Salary schedules for such employees are adopted as part of the pay plan.

(C.B. 52, 1997)

Sec. 1.301. - Administration, adoption, and incorporation of pay plan.

- (a) *Pay Plan to Personnel Board.* The pay plan and the allocation of position classifications to pay grades, and any amendments thereto, shall be submitted to the Personnel Board for approval. After approval by the Personnel Board, the Personnel Officer shall transmit the pay plan to the County Executive for submission to the County Council for legislative action thereon.
- (b) *Pay Plan Adopted.* The salary schedules and grade allocations for position classifications are hereby adopted as the pay plan for Howard County.
- (c) *Pay Plan Incorporated by Reference.* The pay plan adopted under subsection (a) of this section is enacted as an attachment to the Council bill through which the County Council exercises its legislative action thereon. Any amendment to the pay plan shall be legislatively adopted by the County Council as an attachment to the Council bill through which the Council exercises its legislative action thereon. The pay plan is not reprinted in this Code, but is maintained in the Office of Human Resources for inspection by an employee or a member of the public under reasonable conditions during business hours.

(C.B. 52, 1997; C.B. 40, 1998)

Sec. 1.302. - Starting rate of pay; promotion, demotion, and reclassification rates.

(a) *Starting Rate of Pay.*

- (1) Except as provided in paragraphs (2) and (3) of this subsection, upon initial appointment to the classified service, an employee shall receive the minimum rate of pay for the position classification to which the employee is appointed.
- (2) Upon appointment to the classified service, a new employee may receive a rate of pay at step 2, 3, or 4, if such pay is recommended and justified in writing by the appointing authority and approved in writing by the Human Resources Administrator.
- (3) Upon appointment to the classified service, a new employee may receive a rate of pay at step 5 up to and including step 14, if such pay is recommended and justified in writing by the appointing authority and approved in writing by the Personnel Officer.
- (4) Upon appointment to the classified service, a new employee may receive a rate of pay at step 15 or above (not to exceed the maximum rate for the grade), if such pay is recommended and justified in writing by the appointing authority and approved in writing by the Personnel Officer and the County Executive.

(b) *Recruiting Bonus.* The Personnel Officer may authorize the payment of a recruiting bonus of a flat dollar amount, not to exceed 20 percent of the approved annualized rate offered to a candidate, as an incentive for the candidate to accept an employment offer for a position that otherwise could not be filled due to:

- (1) Labor market conditions;
- (2) Specialized skill requirements; or
- (3) Competitor compensation offers.

(c) *Promotion.*

- (1) Except as provided in paragraphs (2) and (3) of this subsection, if a position in the classified service is filled by the promotion of a current employee to a different position classification, the base hourly rate of pay for the employee in the new position classification shall be the higher of:
 - (i) The minimum base hourly rate of pay of the new grade; and
 - (ii) The base hourly rate of a step of the new grade which most closely corresponds to but is not less than the employee's current hourly rate plus two steps, not to exceed the maximum base hourly rate of pay for the new grade.
- (2) If an employee is promoted and the promotion results in a change in the number of hours in the employee's standard workweek, the employee's new pay rate shall be the step in the new grade that most closely corresponds to, but is not less than, a two-step increase from the employee's former salary on an annual basis.
- (3) If an employee is promoted and the promotion results in the employee being paid in accordance with the FM scale or PM scale, the employee shall be slotted into the rate and step in the new range which correlates to the length of the employee's creditable service.
- (4) The Personnel Officer may approve a higher rate of pay for an employee who is promoted.

(d) *Demotion.* If an employee in the classified service is demoted, the employee's base hourly rate of pay in the new position shall:

- (1) Be set by the appointing authority with the approval of the Personnel Officer; and
- (2) Not exceed the maximum base hourly rate for the grade to which the new position classification is assigned.

(e) *Reclassification.* If an occupied position is reclassified under subsection 1.202(c) of this title, the position incumbent shall be paid at the rate of pay as follows:

- (1) If the employee's position is reclassified to a higher grade, the employee's new base hourly rate of pay shall:
 - (i) Be the base hourly rate of the step within the new grade which most closely corresponds to, but is not less than, the employee's former base hourly rate, plus two steps; and
 - (ii) Not exceed the maximum base hourly rate of pay for the new grade.
- (2) If the employee's position is reclassified to a lower grade for non-disciplinary reasons:
 - (i) The employee's base hourly rate shall be at a level within the new grade that is closest to, but not less than, the employee's base hourly rate in the employee's former grade; and
 - (ii) If the base hourly rate at which the employee was paid in the former grade is more than the maximum base hourly rate for the new grade, the employee's new base hourly rate shall remain the same as the employee's base hourly rate in the employee's former grade; and
- (3) The personnel officer may approve a rate of pay for an employee whose position is reclassified that is higher than the rate otherwise provided for by this subsection.

(C.B. 52, 1997; C.B. 25, 1999; C.B. 3, 2003, § 1; C.B. 55, 2007, § 1, 2; C.B. 17, 2016, § 1; C.B. 39, 2017, § 1)

Sec. 1.303. - Fringe benefits.

The Personnel Officer, with the approval of the County Executive, shall establish fringe benefits for positions in the classified, exempt, and State-authorized exempt services.

(C.B. 52, 1997)

Sec. 1.304. - Employee performance award.

- (a) *Award Authorized.* In a fiscal year, an eligible employee may be paid an employee performance award if:
 - (1) The County Executive provides funding for employee performance awards in the proposed annual expense budget;
 - (2) The employee performance award funding is approved by the County Council as part of the expense budget; and
 - (3) The employee's performance appraisal rating qualifies the employee for an employee performance award.
- (b) *Procedures.*
 - (1) The Personnel Officer shall establish procedures for payment of an employee performance award and shall include the procedures in the pay plan.
 - (2) Procedures under this subsection shall establish:
 - (i) The maximum employee performance award;
 - (ii) The performance appraisal rankings for which an employee shall be paid an employee performance award; and
 - (iii) Level of employee performance award paid for each appraisal ranking.

(C.B. 52, 1997)

Sec. 1.305. - State-authorized exempt positions.

- (a) *Positions Defined.* State-authorized exempt positions are those positions which are required or authorized by State law to be funded by Howard County, or are necessary to support the functions of State Agencies which are required or authorized by the State to be supported by Howard County.
- (b) *Not Employees of the County.* An individual in State-authorized exempt position is not an employee of Howard County Government. An individual in a State-authorized exempt position serves in accordance with the provisions of State law governing the position.
- (c) *Pay is in Accordance with the County employee Schedule.* A State-authorized exempt employee receives the fringe benefits under section 1.301 of this subtitle and is paid according to the salary schedule adopted as part of the pay plan. The starting salaries for a State-authorized exempt employee shall be set by the appointing authority and may not exceed the maximum base hourly rate of pay for the position.
- (d) *Employee Performance Award.* A State-authorized exempt employee is eligible for an employee performance award, provided that the employee's supervisor complies with all procedures for participation in the employee performance award program.
- (e) *Pay Grades.* Class Codes and pay grades for State-authorized exempt positions are established or amended by legislative action of the County Council. The Class Codes and pay grades are established or amended as attachments to the Council bill on which the legislative action is taken, and are not reprinted in this Code, but are maintained by the Office of Human Resources.

(C.B. 52, 1997)

Sec. 1.306. - Executive exempt.

- (a) *Positions Defined.*
 - (1) The positions listed in this section shall be in the Executive exempt service. An Executive exempt employee serves at the pleasure of the appointing authority. Appointing authorities for Executive exempt positions are established as provided in this section.
 - (2)
 - (i) An Executive exempt employee receives fringe benefits as provided by the Personnel Officer.
 - (ii) The starting salary for an Executive exempt employee shall be set by the appointing authority and may not exceed the maximum base hourly rate of pay for the position.
 - (iii) An exempt employee is paid an annual salary based on the hourly rates established in the pay plan. An Executive exempt employee shall perform the duties assigned and shall work the hours necessary to perform those duties.
 - (3) An Executive exempt employee is eligible for an employee performance award.
 - (4) The County Executive shall determine the level of education and experience necessary to meet the minimum qualifications for Executive exempt positions for which the County Executive is the appointing authority.
- (b) *Appointing Authorities.* Appointing authorities for Executive exempt employees are as provided in this subsection:
 - (1) *County Executive.* The County Executive is the appointing authority for the:
 - Executive Assistant I, serving the Office of the County Executive;
 - Executive Assistant II, serving the Office of the County Executive;
 - Administrative Assistant, serving the Office of the County Executive;

Administrative Analyst II, serving the Office of the County Executive;

Chief Administrative Officer;

Chief of Staff;

Director of Community Resources and Services;

Director of Corrections;

Director of Finance;

Chief of Fire and Rescue Services;

Director of Housing and Community Development;

Director of Inspections, Licenses and Permits;

Director of Planning and Zoning;

Chief of Police;

Director of Public Works;

Director of Recreation and Parks; and

Director of Technology and Communication Services.

(2) *County Executive and County Council.* The County Executive, with the concurrence of the County Council is the appointing authority for: Technical Services Supervisor, serving as the Cable Administrator; and County Solicitor.

(3) *Chief Administrative Officer.* The Chief Administrative Officer, with the approval of the County Executive, is the appointing authority for the following positions:

Administrative Assistant, serving the Office of the Chief Administrative Officer;

Administrative Analyst II, serving the Office of the Chief Administrative Officer;

Administrator of the Office of Community Sustainability;

Administrator of the Office of Transportation;

Executive Assistant I, serving the Office of the Chief Administrative Officer;

Executive Assistant II, serving the Office of the Chief Administrative Officer;

Budget Administrator;

Deputy Chief Administrative Officer;

Human Services Manager I, serving as the Workforce Development Administrator;

Human Resources Administrator;

Human Services Manager II, serving as the Human Rights Administrator; Labor Relations Coordinator; and

Public Information Administrator.

- (4) *Chief of Police.* The Chief of Police, with the approval of the County Executive, is the appointing authority for the:
- Police Major; ¹
 - Assistant Administrator;
 - Police Information Specialist; and
 - Police Services Support Supervisor III, serving as the Animal Control Administrator.
- (5) *Fire and Rescue Services.* The Chief of Fire and Rescue Services, with the approval of the County Executive, is the appointing authority for the: Deputy Chief; ¹ the Medical Director, and the Assistant Administrator.
- (6) *Community Resources and Services.* The Director of Community Resources and Services, with the approval of the County Executive, is the appointing authority for the:
- Human Services Manager II, serving as the Deputy Director of Community Resources and Services;
 - Human Services Manager II, serving as the Administrator on Aging and Independence;
 - Human Services Manager I, serving as the Administrator of the Office of Children and Families;
 - Human Services Manager I, serving as the Administrator of the Office of Community Partnerships; and
 - Human Services Manager I, serving as the Consumer Protection Administrator.
- (7) *Public Works.* The Director of Public Works, with the approval of the County Executive, is the appointing authority for the:
- Deputy Director of Public Works;
 - Engineering Manager II, serving as the Chief, Bureau of Engineering;
 - Engineering Manager II, serving as the Chief, Bureau of Environmental Services;
 - Engineering Manager II, serving as the Chief, Bureau of Highways;
 - Engineering Manager II, serving as the Chief, Bureau of Facilities; and
 - Engineering Manager II, serving as the Chief, Bureau of Utilities.
- (8) *County Solicitor.* The County Solicitor, with the approval of the County Executive is the appointing authority for the:
- Deputy Attorney, serving as the Deputy County Solicitor;
 - Principal Attorney, serving as a Senior Assistant County Solicitor I;
 - Senior Attorney, serving as a Senior Assistant County Solicitor II;
 - Attorney, serving as an Assistant County Solicitor II;
 - Entry Level Attorney, serving as an Assistant County Solicitor I; and
 - Administrative Assistant, serving as Secretary to the County Solicitor.

- (9) *Planning and Zoning.* The Director of Planning and Zoning, with the approval of the County Executive, is the appointing authority for the Deputy Director of Planning and Zoning.
 - (10) *Finance.* The Director of Finance, with the approval of the County Executive, is the appointing authority for the Deputy Director of Finance.
 - (11) *Technology and Communication Services.* The Director of Technology and Communication Services, with the approval of the County Executive, is the appointing authority for the Deputy Director, Technology and Communication Services.
 - (12) *County Council.* The County Council is the appointing authority for the:
Administrator to the County Council; and

County Auditor.
 - (13) *Housing and Community Development.* The Director of Housing and Community Development, with the approval of the County Executive, is the appointing authority for the Human Services Manager II, serving as the Deputy Director of Housing and Community Development.
 - (14) *County Council Member.* The County Council Member is the appointing authority for the Special Assistant and District Aide serving that Member.
 - (15) *Administrator to the County Council.* The Administrator to the County Council, with the approval of the County Council, is the appointing authority for the:
Deputy Administrator to the County Council;

Executive Assistant I, serving as the Assistant to the Administrator to the County Council; and

Public Information Administrator, serving as the Public Information Officer to the County Council.
 - (16) *County Auditor.* The County Auditor, with the approval of the County Council, is the appointing authority for Deputy County Auditor.
 - (17) *Corrections .* The Director of Corrections, with the approval of the County Executive, is the appointing authority for the:
Deputy Director of Corrections; and

Custody and Security Chief ¹ .
- (c) *Pay Grades.* Class Codes and pay grades for Executive exempt positions are established or amended by legislative action of the County Council on the pay plan. The pay plan adopted or amended as an attachment to the Council bill on which the legislative action is taken, and is not reprinted in this Code, but is maintained by the Office of Human Resources.

Note:

¹ A Howard County classified employee appointed to this position automatically reverts to the employee's prior rank in the classified service upon removal from the position, unless the removal is based upon such cause as would justify the termination of a classified employee.

(C.B. 52, 1997; C.B. 25, 1999; C.B. 26, 2000; C.B. 25, 2001; C.B. 9, 2002, § 1; C.B. 12, 2002, § 2; C.B. 3, 2003, § 1; C.B. 9, 2003, § 1; C.B. 11, 2003, § 1; C.B. 13, 2005; C.B. 33, 2007; C.B. 12, 2008, § 1; C.B. 33, 2008, § 1; C.B. 23, 2010, § 1; C.B. 5, 2011, § 1; C.B. 25, 2011, § 1; C.B. 3, 2015, § 1; C.B. 12, 2016, § 1; C.B. 27, 2016, § 1; C.B. 39, 2017, § 1; C.B. 22, 2018, § 1; C.B. 6, 2019, § 1; C.B. 19, 2019, § 1)

Sec. 1.307. - Grant-funded position.

- (a) *Positions Defined.* A grant-funded position is a position that is equivalent in job content to a position in the classified service, the exempt service, or the State-authorized exempt service, but is funded by grants.
- (b) *Serves at the Pleasure.* An employee in a grant-funded position serves at the pleasure of the appointing authority and may be terminated if the grant funding that pays the employee's salary ends.
- (c) *Minimum Qualifications.* The minimum qualifications for a grant-funded position shall be as established in the classification plan.
- (d) *Starting Pay.* The provisions of subsection 1.300(b) of this title, concerning starting rate of pay, applies to a grant-funded position.
- (e) *Pay Grades; Employee Performance Award.*
 - (1) Class Codes and pay grades for grant-funded positions are established or amended by legislative action of the County Council on the pay plan. The pay plan is adopted or amended as an attachment to the Council bill on which the legislative action is taken, and is not reprinted in this Code, but is maintained by the Office of Human Resources.
 - (2) An employee in a grant-funded position is eligible for an employee performance award.

(C.B. 52, 1997)

Sec. 1.308. - Part-time benefited position.

- (a) *Position Defined.* A part-time benefited position is a position that is equivalent in job content to a position in the classified service, the State-authorized exempt service, or designated as Executive exempt or grant-funded exempt in the exempt service; and
 - (1) Includes a regular work schedule of 20 hours or more per week, but less than 40; or
 - (2) Includes a regular work schedule of 17½ hours or more per week, but less than 40, if the position incumbent was appointed on or before July 1, 1997 and continued to work at least 17½ hours after July 1, 1997.
- (b) *Serves at the Pleasure.* An employee in a part-time benefited position serves at the pleasure of the appointing authority.
- (c) *Minimum Qualifications.* The minimum qualifications for a part-time benefited position shall be as established in the classification plan.
- (d) *Starting Pay.* The provisions of subsection 1.302(a) of this title, concerning starting rate of pay, applies to a part-time benefited position.
- (e) *Employee Performance Award.* A part-time benefited employee is eligible for an employee performance award, which shall be paid in the proportion that the employee's work week compares to the standard work week for classified employees.

(C.B. 52, 1997)

Sec. 1.309. - Contingent employment.

- (a) *Positions Defined.* An employee who is engaged in contingent employment includes an employee who:
 - (1) Provides staffing support for unanticipated, unusual, or seasonal needs of the County;

- (2) Fills in for employees who are absent for an extended period of time; or
- (3) Is a part-time, nonbenefited employee, as provided in the annual expense budget.
- (b) *Wages and Hours.* A contingent employee:
 - (1) Shall be paid an hourly wage as specified under subsection (f) of this section; and
 - (2) May work a varying number of hours per week.
- (c) *Fringe Benefits.* A contingent employee is only eligible for fringe benefits required by State or Federal law, and is not entitled to other benefits awarded to other County employees, or to an employee performance award.
- (d) *No Service Benefits.* A contingent employee does not accrue County service credit for purposes of calculating any service benefit.
- (e) *Categories.* The categories of work under contingent employment are as provided in this subsection.
 - (1) *Administrative support* includes general office work such as data entry, clerical, word processing, cashier, registration processing, and hearing reporting.
 - (2) *Paraprofessional* includes recreation program instruction, day camp operation, day care program operation, grant administration, and any position that requires some education or training beyond high school graduation.
 - (3) *Professional* includes day care center management, interpreters for the deaf, special project coordination, and any position that requires knowledge attained through college training or higher education.
 - (4) *Protective service* includes firefighter, security guard, dispatcher, school crossing guard, inspector, or other position related to public safety, code enforcement, or security.
 - (5) *Service/maintenance* includes lawn/ground maintenance, general custodial, basic upkeep and care of buildings, facilities, or parks, drivers of busses and vans, road maintenance and construction, and snow removal.
 - (6) *Special projects* includes positions requiring unique or specialized skills that are of limited duration and typically under Executive direction, such as the base realignment coordinator and other special project positions.
- (f) *Pay Rates.* Pay rates for contingent employees are established or amended by legislative action of the County Council on the pay plan. The pay plan is adopted or amended as an attachment to the Council bill on which the legislative action is taken, and is not reprinted in this Code, but is maintained by the Office of Human Resources.

(C.B. 52, 1997; C.B. 33, 2007, § 1)

Sec. 1.310. - Military leave and supplemental pay.

If a part-time or full-time County employee, except an elected official, is involuntarily ordered to active duty in the Armed Forces of the United States or National Guard during a national emergency or under presidential authority, the County shall pay the employee the employee's base County salary, reduced by all pay the employee receives for military service except separation allowances.

(C.B. 61, 2001)

SUBTITLE 4. - RETIREMENT PLANS⁶

Footnotes:

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Editor's note— Section 1 of C.B. 21, effective June 12, 1995, repealed § 1.400 in its entirety. Formerly, § 1.400 pertained to employee pensions and derived from Ch. 529 of the 1961 Code; Ch. 537 of the 1965 Code; C.B. 118, 1989; and C.B. 150, 1991. Section 2 of said council bill added a new §§ 1.400—1.482 as herein set out. Section 3 of said council bill renumbered § 1.401 as § 1.485. Formerly, § 1.401 pertained to the police and fire pension plan and derived from Ch. 190 of the 1965 Code; C.B. 118, 1989; C.B. 73, 1991; C.B. 150, 1991; and C.B. 51, 1993. Section 7 of said council bill renumbered § 1.402 as § 17.103(j); inasmuch as provisions designated as subsection (j) existed prior to adoption of this council bill, said subsection (j) has been included as subsection (k). Formerly, § 1.402 pertained to length of service award program for volunteer firefighting/EMS personnel and derived from C.B. 2, 1974; C.B. 11, 1980; C.B. 56, 1981; C.B. 30, 1984; C.B. 64, 1986; C.B. 12, 1993; and C.B. 21, 1995, and included as herein set out in this Code.

ARTICLE I. - GENERALLY

Sec. 1.400. - Retirement and pension programs.

- (a) *Pensions before 1965.* Before July 1, 1965, Howard County provided a pension to its retirees who had at least 15 years of service.
- (b) *Pensions in Year 1965 and Later.*
 - (1) Beginning in July 1965, Howard County joined the employees' retirement system of the State of Maryland and, later, the employees' pension system of the State of Maryland ("Maryland Systems"). The Maryland Systems covered Howard County officials and employees hired on or after July 1, 1965 and existing employees and officials as of June 30, 1965 who chose to join the Maryland Systems.
 - (2) The County paid a supplement to retirees with at least 15 years' service whose pension from the Maryland Systems was less than \$1,200.00, so that their Maryland Pension plus the Howard County supplement totaled \$1,200.00 per year.
- (c) *Pensions in Year 1990 and Later.*
 - (1) Effective July 1, 1990, the County established a police and fire pension plan. The provisions of that plan (see section 1.485 et seq. of this subtitle) cover certain employees of the Department of Police and the Department of Fire and Rescue Services hired on or after July 1, 1990 plus existing police and fire employees who transferred from the Maryland Systems by June 30, 1990.
 - (2) Howard County continued to make contributions to the Maryland Systems as provided by law on behalf of police and fire employees who chose not to transfer from the Maryland Systems.
 - (3) The County's supplement to assure a minimum payment of \$1,200.00 annually to retirees was amended to apply to retirees with at least five years of service.
- (d) *Incentives for Retirement Effective January 1, 1992 or February 1, 1992.* The County offered cash and health benefit incentives to induce employees to retire in January and February 1992. In calculating the group health insurance for those retirees, the period between the date of retirement and June 30, 1993 is considered as part of the retiree's length of service with the County.
- (e) *Incentives for Retirement Effective April 8, 1996.*
 - (1) *Cash incentives.*
 - (i) The County shall pay an incentive bonus equal to 20 percent of the employee's base annual pay to employees who elect and agree in writing to take a service retirement from the Maryland Systems on April 8, 1996. The bonus shall be paid as a lump sum by May 8, 1996.

- (ii) The County shall pay an incentive bonus equal to 20 percent of the employee's base annual pay to employees who elect and agree in writing to take a service retirement from the Howard County Police and Fire Employee's Retirement Plan on April 8, 1996. The bonus shall be paid as a lump sum by May 8, 1996.
 - (iii) The County shall pay an incentive bonus equal to 20 percent of the employee's base annual pay to employees who elect and agree in writing to take a service retirement from the Howard County Retirement Plan on April 8, 1996, unless the employee has elected to receive an incentive retirement benefit which is made available under section 1.437 of this subtitle for employees who elect to retire on April 8, 1996. If a bonus is paid under this subsection, the bonus shall be paid as a lump sum by May 8, 1996.
- (2) *Health insurance incentives.*
- (i) *Definition.* For purposes of this subsection, "group health insurance" means either the County's Retiree Health Insurance Program or continuation insurance under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).
 - (ii) *Eligibility for group health insurance; County's contributions.* Employees who elect and agree in writing to take a service retirement from the State systems, the Howard County Police and Fire Employees' Retirement Plan or the Howard County Retirement Plan on April 8, 1996 are eligible for group health insurance and shall, should they elect to receive group health insurance coverage from the County, receive monthly County contributions in an amount equal to the County's monthly contribution toward an active employee's group health insurance through November 30, 1997.
 - (iii) *Eligibility for group health insurance after November 30, 1997.*
 - a. Employees who elect to take a service retirement from the State systems, the Howard County Police and Fire Employee's Retirement Plan, or the Howard County Retirement Plan on April 8, 1996, and who are not otherwise entitled to purchase group health insurance under the County's Retiree Health Insurance Program, may elect to purchase group health insurance coverage from the County for a period of up to two years after November 30, 1997 as follows:
 - 1. By making an election in writing, on or before April 8, 1996, to receive group health insurance coverage for a specific coverage period, and by paying the cost of all coverage elected on or before April 28, 1996, such cost to be calculated and based upon the actual premium cost as of April 8, 1996; or
 - 2. By making an election in writing, on or before October 31, 1997, to receive group health insurance coverage, and by paying the actual monthly premium cost for all coverage elected.
 - b. When calculating the group health insurance to which a retiree who retired on April 8, 1996 is entitled under the County's Retiree Health Insurance Program, the period between the date of retirement and November 30, 1997 shall be considered as part of the retiree's length of service with the County.
- (3) *Irrevocability of election to take service retirement on April 8, 1996.* For a period of seven days after an employee elects and agrees in writing to take a service retirement on April 8, 1996 under this subsection, the employee may revoke his or her election and agreement. Upon expiration of this seven-day revocation period, an employee's election and agreement to take a service retirement on April 8, 1996 shall be irrevocable.
- (4) *Exceptions.* The cash and health insurance incentives made available to employees under this subsection shall not be available to any employee who retires on April 8, 1996, and who claims before or at the time of retirement that he or she is entitled to disability retirement benefits from the Maryland Systems, the Howard County Police and Fire Employee's Retirement Plan or the Howard County Retirement Plan.

(C.B. 21, 1995; C.B. 6, 1996)

Sec. 1.401. - Howard County Retirement Plan.

- (a) *Plan Established.* There is a Howard County Retirement Plan, set forth in sections 1.402 through 1.484 of this subtitle.
- (b) *Withdrawal from Maryland Systems.*
- (1) The County Council authorizes the withdrawal from the Maryland Systems of individuals who are eligible to participate in the Howard County Retirement Plan and who consent to the withdrawal.
 - (2) The County Council directs that:
 - (i) Each withdrawing individual's accumulated contributions be credited to the individual; and
 - (ii) The total reserves resulting from previous contributions by Howard County allocable to the withdrawing individuals be transferred from the Maryland Systems to the Howard County Retirement Plan.
 - (3) The County Council also directs that the County shall continue to make contributions to the Maryland Systems, as provided by law, on behalf of the individuals who chose not to withdraw from the Maryland Systems.

(C.B. 21, 1995)

Sec. 1.402. - Short title.

This Plan may be referred to as the "Howard County Retirement Plan."

(C.B. 21, 1995)

Sec. 1.403. - Qualifying under Internal Revenue Code.

The Howard County Retirement Plan is intended to be a pension plan that will qualify under Section 401(a) of the Internal Revenue Code, so that the trust established under the plan will be exempt from tax under Section 501 of the Internal Revenue Code. Effective with the paycheck issued July 21, 1995 which covers the pay period beginning June 26, 1995 and ending July 9, 1995, the contributions made by Plan participants through payroll deductions shall be characterized as "pick-up" contributions, as described in Section 414(h)(2) of the Internal Revenue Code.

(C.B. 21, 1995)

Sec. 1.404. - Applicability.

The provisions of the plan shall apply only to an individual who meets the definition of covered individual set forth in section 1.406 of this subtitle and who is credited with an hour of service on or after the effective date.

(C.B. 21, 1995)

Sec. 1.405. - Construction of terms.

For all purposes of the plan, where the context admits, the singular shall include the plural, and the plural shall include the singular, and references to persons shall include corporations, partnerships, estates and trusts. Headings of articles, sections, subsections, and paragraphs are inserted only for convenience of reference and are not to be considered in the construction of the plan.

(C.B. 21, 1995)

Sec. 1.406. - Definitions.

The following terms, as used herein, unless a different meaning is clearly implied by the context, shall have the following meanings:

(a) *Accrued benefit.*

- (1) *Accrued benefit* means the benefit to which a participant is entitled, pursuant to the provisions of sections 1.428—1.432, expressed as the normal form of monthly benefit commencing at normal retirement date or the actuarial equivalent thereof.
- (2) The accrued benefit as of any date preceding the participant's normal retirement date, but expressed as aforesaid, shall be the monthly benefit computed pursuant to section 1.429, 1.431 or 1.432.
- (3) In no event, however, shall the accrued benefit exceed the maximum limitation determined, as of the date of computation, pursuant to section 1.433.
- (4)
 - (i) The portion of the participant's accrued benefit attributable to the participant's contributions made pursuant to sections 1.426 and 1.427 shall be equal to the actuarial equivalent of the participant's employee contributions benefit, expressed as the normal form of monthly benefit commencing at normal retirement date.
 - (ii) The portion of the participant's accrued benefit attributable to employer contributions shall be the remainder, if any, of the accrued benefit.

(b) *Actuarial equivalent* means a form of benefit differing in time, period or manner of payment from a specific benefit provided under the plan but having the same value when computed based upon the following:

Pre-retirement and post-retirement:

GAM 83 Mortality Table (blended 50 percent male, 50 percent female)

Eight percent per annum interest rate.

Cost of living adjustment:

Three percent per annum compounded.

The foregoing factors, to the extent applicable, shall be utilized (whether or not there is a specific reference to this definition) whenever in the administration of the plan a calculation of actuarial equivalence is to be made.

(c) *Actuarial reduction.*

- (1) *Actuarial reduction* means a reduction which will cause a benefit with a starting date which precedes a participant's normal retirement date to be the actuarial equivalent of the benefit which would otherwise have been payable at such normal retirement date.
- (2) However, notwithstanding any factors set forth in the definition of actuarial equivalent:
 - (i) For participants who reach a termination date on or before August 31, 2002, the reduction shall be equal to one-half percent of the benefit for each month by which the participant's

benefit commencement date precedes the first day of the month coincident with or next following the date on which the participant attains age 62; and

- (ii) For participants who reach a termination date after August 31, 2002, the reduction shall be equal to one-half percent of the benefit for each month by which the participant's benefit commencement date precedes the first day of the month coincident with or next following:
 - a. The date on which the participant attains age 62; or
 - b. If earlier, the date on which the participant would earn 30 years of eligibility service if the participant continued in employment with the County as a covered individual.
- (d) *Administrator* means the Retirement Plan Committee established pursuant to section 1.455.
- (e) *AFSCME Local 3085 employee* means a covered individual employed by the County in a job class represented by Local 3085 of the American Federation of State, County and Municipal Employees.
- (f) *Average compensation.*
 - (1) *Average compensation* means the average monthly rate of a participant's compensation, equal to 1/36 th of the total amount of a participant's compensation for the 36 consecutive full calendar months of the participant's employment which produce the highest average.
 - (2) Except as provided in subsection 1.431(d), the average compensation of a participant who was not employed on a full-time basis shall be calculated using the full-time equivalent of the participant's compensation.
 - (3) Any calendar month during which a full-time participant was not employed on a full-time basis or was on a leave of absence for all or any part of the month shall be disregarded for purposes of the foregoing, and the existence of such calendar months shall be ignored and shall not be counted in determining the 36 consecutive full calendar months of the participant's employment which produce the highest average.
 - (4) If the participant's employment does not provide 36 consecutive full calendar months as aforesaid, compensation for the participant's most recent 36 full calendar months of employment will be totaled and divided by 36.
 - (5) If the participant's employment does not provide 36 full calendar months, compensation for the participant's actual full months of employment will be totaled and divided by the number thereof.
- (g) *Beneficiary* means any person entitled to receive the benefits which are payable under the plan upon or after the death of a participant.
- (h) *Benefited employee.* Except as provided in paragraph (3) below, benefited employee means:
 - (1) A full-time employee of the County in the classified, Executive exempt or miscellaneous exempt services; or
 - (2) A part-time employee of the County who is scheduled to work at least 50 percent of the regularly-scheduled workweek for his or her position in the miscellaneous exempt service.
 - (3) Benefited employee does not include:
 - (i) A partially benefited employee; or
 - (ii) An employee of the County hired after June 30, 1995 in the miscellaneous exempt service with a Class Code of 5100, 5102, 5131, 5133, 5136, 5137, 7751 or 7752.
 - (4) A benefited employee shall include full-time or part-time employees of the Economic Development Authority, the Howard County Housing Commission, and the Howard Soil Conservation District; provided that benefited employees of the Howard County Economic Development Authority, the Howard County Housing Commission, and the Howard Soil Conservation District shall include only those part-time employees who are scheduled to work at least 50 percent of the regularly scheduled workweek for their positions.

- (i) *Benefit commencement date* means the day on which the sole payment is made or the first day of the period for which the first in a series of payments constituting the distribution of an accrued benefit is made.
- (j) *Break in service* means a calendar month with respect to which a fully benefited employee is not credited with 1/12 of a year of creditable service on account of such fully benefited employee's having reached his or her termination date.
- (k) *Cash-out* means a distribution in settlement of a benefit otherwise payable under the plan, and which is equal to the employee contributions benefit. Cash-out refers to a cash-out election under subsection (c) of section 1.432 or a mandatory cash-out under subsection (d) of section 1.432.
- (l) *C/L increase* means an automatic increase (without necessity of plan amendment) in a dollar value set forth or described in the plan, for the purpose of reflecting increases in the cost of living to the extent prescribed in or pursuant to regulations under Subsection 415(d) of the Internal Revenue Code, but only to the extent permitted by the operative Internal Revenue Code or regulatory provision specifically governing the dollar value in question.
- (m) *Compensation*.
 - (1) *Compensation* means the monthly equivalent of the participant's legislated base annual salary (including longevity payments and performance awards, to the extent paid prior to July 30, 1999), determined without regard to:
 - (i) Overtime, bonuses and other extra remuneration;
 - (ii) Amounts in excess of 1/12 of the applicable dollar limit under Subsection 401(a)(17) of the Internal Revenue Code and regulations promulgated thereunder, as adjusted by the Commissioner of the Internal Revenue Service for increases in the cost of living in accordance with Subsection 401(a)(17)(B) of the Internal Revenue Code;
 - (iii) Contributions, credits or benefits under this plan or under any other retirement, deferred compensation, fringe benefit or employee welfare benefit plan; or
 - (iv) Direct reimbursement for expenses; provided, however, that compensation shall include any amount that would have qualified as compensation but for the fact that it constitutes salary reduction under any plan described in Subsection 414(h)(2), 457(b), 132(F) or 125 of the Internal Revenue Code.
 - (2) Notwithstanding the preceding, if a higher legislated base annual salary becomes effective in the same month, such higher rate shall be used if in effect for a greater number of days during the month than the rate in effect on the first day of the month.
- (n) *Coordinator* means the specified employee of the County to whom certain administrative duties may be delegated by the Administrator pursuant to subsection 1.454(d).
- (o) *Corrections employee* means a covered individual employed by the County in one of the following position classifications:

2229	Director of Corrections;
2227	Deputy Director of Corrections;
2225	Correctional Program Supervisor III;
2223	Correctional Captain;

2221	Corrections Program Supervisor II;
2219	Detention Center Nurse;
2217	Correctional Lieutenant;
2215	Correctional Specialist II;
2213	Correctional Specialist I;
2212	Correctional Technician;
2211	Correctional Sergeant;
2210	Correctional Sergeant- Dietary
2209	Correctional Supervisor I;
2207	Correctional Corporal;
2205	Correctional Officer;
2203	Probationary Correctional Officer; or
2201	Correctional Dietary Officer.

- (p) *County* means the County of Howard, a body corporate and politic, duly organized and existing under the laws of the State of Maryland.
- (q) *Covered compensation.*
- (1) *Covered compensation* means, for any participant as of any date, an annual amount determined on the basis of the Social Security Act as in effect on the first day of the plan year of determination for a participant who attained age 65 on the first day of the plan year.
 - (2) This annual amount shall equal the average (without indexing) of the Social Security taxable wage bases in effect for each calendar year during the 35-year period ending with the last day of the calendar year in which the participant attains (or will attain) age 65.
- (r) *Covered individual.*
- (1) From the effective date through September 28, 1997, *covered individual* means:
 - (i) A benefited employee or a partially benefited employee:

- a. Except for individuals participating in, or required as a condition of their employment to participate in, the police and fire pension plan; and
 - b. Except as otherwise provided in subsection 1.407(a) of this subtitle with regard to employees, who do not elect to participate in the plan;
 - (ii) Except for masters in chancery (Class Code 5615), a full-time employee in a State-authorized exempt position and a part-time employee who is scheduled to work at least 50 percent of the regularly scheduled workweek for such a position;
 - (iii) A benefited employee of the Howard County Economic Development Authority or the Howard Soil Conservation District;
 - (iv) A member of the Howard County Council; or
 - (v) The Howard County Executive.
- (2) Effective September 29, 1997, covered individual includes:
- (i) A participant in the plan on September 28, 1997; or
 - (ii) A person who, on or after September 29, 1997, is or becomes:
 - a. A full-time employee in either the classified service (including a probationary employee) or the Executive exempt service as described in subtitle 1 of this title;
 - b. An employee in a part-time benefited position, as defined in section 1.308 of this title;
 - c. An employee in a grant-funded position, as defined in section 1.307 of this title;
 - d. A person who works in a State-authorized exempt position, as defined in section 1.305 of this title;
 - e. A benefited employee of the Howard County Economic Development Authority, the Howard County Housing Commission or the Howard Soil Conservation District;
 - f. A member of the Howard County Council; or
 - g. The Howard County Executive.
- (3) Effective September 29, 1997, covered individual does not include:
- (i) Individuals participating in, or required as a condition of their employment to participate in the police and fire plan;
 - (ii) Individuals who elected not to participate in the plan pursuant to section 1.407 of this subtitle;
 - (iii) A contingent employee; or
 - (iv) A master in chancery (Class Code 1513).
- (s) *Deferred retirement* means retirement, as described in section 1.430, which occurs after the participant's normal retirement date.
- (t) *Early retirement date*.
- (1) For participants who reach a termination date on or before August 31, 2002, *early retirement date* means any date occurring on or after the first date on which a participant has attained age 55 and has completed at least 15 years of eligibility service.
 - (2) For participants who reach a termination date after August 31, 2002, *early retirement date* means any date occurring on or after the first date on which a participant has:
 - (i) Attained age 55 and completed at least 15 years of eligibility service; or
 - (ii) Earned 25 years of eligibility service.
- (u) *Effective date* means the effective date of the plan, which shall be July 1, 1995.

- (v) *Employee contributions benefit* means the sum of the following amounts (net of any previous distributions):
- (1) The contributions made by the participant through salary reduction and picked up by the County, as described in subsection 1.426(a)(1); plus
 - (2) The contributions made by the participant pursuant to section 1.427 which are not picked up by the County; plus
 - (3) The contributions other than contributions comprising a participant's pick-up contributions benefit pursuant to section 1.436, plus earnings previously credited on such contributions, made by the participant, pursuant to subsection 1.426(a)(2), and picked up by another Maryland employer, all of which are thereafter transferred to the plan; plus
 - (4) The contributions, plus earnings previously credited on such contributions, made by the participant, pursuant to subsection 1.427(b)(4), and not picked up by another Maryland employer, all of which are thereafter transferred to the plan; plus
 - (5) Interest on the amounts described in paragraphs (1) through (4) above computed on June 30 of each year as follows and compounded annually:
 - (i) Two and one-half percent of the amount contributed during the current plan year and 0.42 percent per month for any amount transferred pursuant to subsections 1.426(a)(2) and 1.427(b)(4) during the current plan year.
 - (ii) Five percent of any amount contributed or transferred prior to the current plan year.
 - (iii) Effective July 1, 2006, interest on the amounts described in paragraphs (1) through (4) above for any participant who reached his or her termination date before receiving credit for at least five years of eligibility service shall be two percent computed on June 30 of each year and compounded annually, starting on the June 30 following the participant's termination date.
- (w) *Employer* means:
- (1) The County with respect to employees of the County;
 - (2) The Howard County Economic Development Authority with respect to employees of the Authority;
 - (3) The Howard Soil Conservation District with respect to employees of the District; and
 - (4) The Howard County Housing Commission with respect to employees of the Commission.
- (x) *Employment commencement date* means the date on which a covered individual first performs an hour of service.
- (y) *Fully benefited employee* means a covered individual who is not a partially benefited employee.
- (z) *Government employer* means the United States of America, the State of Maryland, any political subdivision within the State of Maryland, as well as any State, Commonwealth, Municipality or political subdivision within the United States of America.
- (aa) *Hour of service*.
- (1) *Hour of service* means each hour for which an individual, in his or her capacity as a covered individual, is directly or indirectly paid, or entitled to payment, for the performance of duties for the County.
 - (2) Hours of service include normal working hours, paid holidays, compensatory hours, disability leave and other paid leave, but not overtime hours.
 - (3) In addition, hours of service include annual leave, but not annual leave for which a covered individual is paid as a result of his or her termination date.

- (4) Hours of service also include hours for which an individual is not paid, but would be entitled to payment except for a temporary furlough declared by the County.
- (ab) *Internal Revenue Code* means the Internal Revenue Code of 1986, or any provision or section thereof herein specifically referred to, as such Code, provision or section may from time to time be amended or replaced.
- (ac) *Leave of absence* means an absence from active service, approved in advance by the employer, which does not constitute a termination of employment, and during which the covered individual completes no hours of service and is not paid.
- (ad) *Maryland employer* means the State of Maryland, as well as any other political subdivision within the State of Maryland.
- (ae) *Maryland Employer Retirement Plan* means a retirement plan of a Maryland employer to which the provisions of title 37 of the State Personnel and Pensions Article of the Annotated Code of Maryland apply.
- (af) *Maryland State Retirement Systems* means, collectively, the Employees' Retirement System of the State of Maryland and the Employees' Pension System of the State of Maryland.
- (ag) *Military service* means active military duty in the Armed Forces of the United States, including initial training and call-ups to active Federal duty with the National Guard or Military Reserve.
- (ah) *Normal retirement date*.
- (1) *Normal retirement date* means the earlier of:
- (i) The first day of the month coincident with or next following the date on which the participant has completed 30 years of eligibility service; and
 - (ii) The first day of the month coincident with or next following the date on which all of the following have occurred:
 - a. The participant has attained age 62;
 - b. The participant has completed at least two years of eligibility service; and
 - c. The sum of the participant's attained age in whole years and years of eligibility service equals at least 67.
- (2) *Normal retirement date* means, for a participating corrections employee, the earliest of:
- (i) The first day of the month coincident with or next following the date on which the participant has completed 30 years of eligibility service;
 - (ii) The first day of the month coincident with or next following the date on which all of the following have occurred:
 - a. The participant has attained age 62;
 - b. The participant has completed at least two years of eligibility service; and
 - c. The sum of the participant's attained age in whole years and years of eligibility service equals at least 67;
 - (iii) The date that is the later of:
 - a. January 1, 2003; and
 - b. The first day of the month coincident with or next following the date on which the participant has completed 25 years of eligibility service; and
 - (iv) The date that is the later of:
 - a. July 1, 2005; and

b. The first day of the month coincident with or next following the date on which the participant has completed 20 years of eligibility service.

(ai) *Partially benefited employee.*

(1) *Partially benefited employee* means a part-time employee of the County who prior to July 1, 1995, was scheduled to work at least 50 percent of the regularly scheduled workweek for his or her position in the miscellaneous exempt service with a Class Code of 3201, 3203, 3211, 3212, 3213, 3214, 3215, 3221, 3222, 3223, 3230, 7751 or 7752.

(2) A partially benefited employee shall not be credited with a year of creditable service (or 1/12 increments thereof) for any calendar month any portion of which he or she is classified as such, and a partially benefited employee shall not be credited with hours of service for purposes of determining years of eligibility service.

(aj) *Participant* means any covered individual who is currently benefitting under the plan, and, where appropriate according to the context of the plan, any former covered individual who is or may become (or whose beneficiaries may become) eligible to receive a benefit under the plan. Effective January 1, 2009, participant includes a person receiving differential wage payments as defined in Section 3401(h) of the Internal Revenue Code.

(ak) *Participating corrections employee* means any corrections employee during the period when he or she voluntarily elects participation under the provisions of subsection 1.410(a) of this subtitle or meets the provisions for mandatory participation under subsection 1.410(b) of this subtitle and has not had a change in employment status as described in subsection 1.410(c) of this subtitle.

(al) *Per-pay compensation* means, for a particular paycheck, the participant's base pay (including longevity payments and performance awards, to the extent paid prior to July 30, 1999), as reflected in such paycheck, determined without regard to:

(1) Overtime, bonuses and other extra remuneration;

(2) Amounts in excess of the per-pay equivalent of the applicable dollar limit under Section 401(a)(17) of the Internal Revenue Code and regulations promulgated thereunder as of the first day of the plan year;

(3) Contributions, credits or benefits under this plan or under any other retirement, deferred compensation, fringe benefit or employee welfare benefit plan; or

(4) Direct reimbursement for expenses;

provided, however, that per-pay compensation shall include any amount that would have qualified as base pay but for the fact that it constitutes salary reduction under any plan described in Section 414(h)(2), 457(b) or 125 of the Internal Revenue Code.

(am) *Per-pay Social Security taxable wage base* means, for a particular paycheck, the Social Security taxable wage base in effect for the calendar year divided by 26.

(an) *Plan* means the Howard County Retirement Plan, as set forth herein, and as amended from time to time.

(ao) *Plan year* means the 12-month period ending on the last day of the month of June.

(ap) *Police and Fire Pension Plan.* The Howard County Police and Fire Employees Retirement Plan, as amended from time to time.

(aq) *Reemployment commencement date* means the date on which a covered individual first performs an hour of service after a period during which no hours of service were performed by reason of the occurrence of the covered individual's termination date or otherwise.

(ar) *Social Security taxable wage base* means, with respect to any calendar year, the maximum amount of earnings which may be considered wages under Section 3121(a)(1) of the Internal Revenue Code for purposes of the tax imposed under Section 3101(a) of the Internal Revenue Code.

- (as) *Spouse* means an individual who is married to a participant. Spouse includes same-sex and opposite-sex spouses except where Federal law requires a different meaning.
- (at) *Termination date* means the date of the first to occur of:
- (1) A termination of employment by reason of resignation, discharge, mutual agreement, total and permanent disability, retirement or death;
 - (2) The date on which a leave of absence expires without a return to active employment; or
 - (3) The date on which the individual ceases to be an employee of Howard County.
- (au) *Trust* means the trust fund established pursuant to the plan, maintained in accordance with the terms of the trust agreement, as from time to time amended, between the County and the trustees, which trust agreement constitutes a part of the plan; where appropriate according to the context, the term trust shall also refer to said trust agreement.
- (av) *Trustees* means, collectively, the trustee or trustees named in the trust and such successor and/or additional trustees as may be named pursuant to the terms of the trust.
- (aw) *Years of Class A creditable service* means, for a participant who has earned 12 or more years of creditable service as a participating corrections employee, the participant's total years of creditable service, and for a participant who has earned less than 12 years of creditable service as a participating corrections employee, an amount equal to the lesser of:
- (1) Twice the participant's years of creditable service earned as a participating corrections employee; and
 - (2) The participant's total years of creditable service.
- (ax) *Years of Class B creditable service* means an amount equal to the participant's total years of creditable service less his or her years of Class A creditable service.
- (ay) *Years of Class C creditable service* means an amount equal to the participant's total years of creditable service less the sum of his or her years of Class A creditable service plus his or her years of Class D creditable service.
- (az) *Years of Class D creditable service* means an amount equal to the greater of:
- (1) His or her years of County plan creditable service earned as of December 31, 1997 minus one-half of his or her years of Class A creditable service; and
 - (2) Zero years of service.
- (aaa) *Year of County plan creditable service* means, for a participant who has elected to receive credit for service under the Maryland State Retirement Systems pursuant to subsection 1.417(d), an amount equal to the lesser of:
- (1) Twice the participant's years of creditable service earned with respect to service as a covered individual on and after July 1, 1995; or
 - (2) The participant's total years of creditable service.
- (aab) *Year of creditable service*.
- (1) Subject to subsection 1.415(b) and except as provided in sections 1.413, 1.414, 1.418 and subsection 1.428(c), a covered individual shall be credited with 1/12 of a year of creditable service for each calendar month during which he or she is classified as a full-time, fully benefited employee for the entire month.
 - (2) A covered individual shall not be credited with years of creditable service (or 1/12 increments thereof) for any calendar month during any portion of which he is classified as a partially benefited employee.
- (aac) *Year of eligibility service*.

- (1) *Year of eligibility service* means, subject to subsection 1.415(a) and except as provided in sections 1.413, 1.414, 1.418 and 1.419, any plan year during which a covered individual completes at least 900 hours of service as a fully benefited employee.
 - (2) For purposes of determining years of eligibility service, a covered individual shall not be credited with hours of service as a partially benefited employee.
- (aad) *Year of State plan creditable service* means, for a participant who has elected to receive credit for service under the Maryland State Retirement Systems pursuant to subsection 1.417(d), an amount equal to the difference between the participant's total years of creditable service and his or her years of County plan creditable service.

(C.B. 21, 1995; C.B. 100, 1995; C.B. 54, 1997; C.B. 59, 1997; C.B. 26, 1999; C.B. 42, 2000, § 1, 7-27-2000; C.B. 54, 2000; C.B. 35, 2001, § 1; C.B. 20, 2002, §§ 1, 2; C.B. 30, 2002, § 1; C.B. 6, 2004, § 2; C.B. 24, 2006, § 1; C.B. 14, 2009, § 1; C.B. 42, 2010, § 1; C.B. 12, 2013, § 1; C.B. 14, 2013, § 1; C.B. 34, 2014, § 1; C.B. 12, 2016, § 1; C.B. 42, 2016, § 1)

Sec. 1.407. - Participation requirements.

Except as otherwise provided below, a covered individual's participation in this plan, and the agreement to make contributions hereunder, as described in subsection 1.426(a)(1), is mandatory as a condition of employment with the employer:

- (a) *Voluntary Participation.* Every individual who is a covered individual as of June 30, 1995 may elect to participate in the plan effective July 1, 1995 and to continue participation until the individual's termination date. Such election shall be irrevocable, shall be made on a written application supplied by the County and shall contain agreement to make, as a condition of the individual's continued employment with the employer, participant contributions as provided in subsection 1.426(a)(1). If an otherwise eligible covered individual fails to return the completed application to the coordinator by April 28, 1995 (or by such later date determined by the Administrator in the case of an individual who became a covered individual after April 28, 1995 but before July 1, 1995), he or she shall cease to be a covered individual as of July 1, 1995.
- (b) *Mandatory Participation.* Every other individual who becomes a covered individual on or after July 1, 1995 shall become a participant on the date he or she first performs an hour of service as a covered individual. No individual shall become a participant, however, if he or she is not a covered individual on the date the individual's participation is to begin.
- (c) *Election by Elected Officials Not to Participate.* Notwithstanding subsection (b) above, an individual who becomes the Howard County Executive or a member of the Howard County Council (an "elected official") on or after July 1, 1995 may elect not to participate in the plan as of the date he or she first performs an hour of service as an elected official. Such election shall be irrevocable and shall be made no later than ten days before the individual will first perform an hour of service as an elected official.

(C.B. 21, 1995; C.B. 100, 1995)

Sec. 1.408. - Reemployment.

If a covered individual who reaches a termination date is subsequently reemployed as a covered individual, the covered individual's status with respect to the plan shall be governed by the following:

- (a) *Eligibility.* If the reemployed covered individual was not a participant prior to his or her termination date, or his or her reemployment commencement date occurs prior to July 1, 1995, he or she shall become a participant in accordance with the provisions of section 1.407. If the covered individual was a participant prior to such termination date, or his or her reemployment commencement date

occurs after June 30, 1995, the individual's participation shall commence immediately upon the resumption of his or her status as a covered individual.

- (b) *Vesting and benefit accrual.* Subject to subsection (d) below and section 1.413, if the reemployed covered individual was a participant prior to his or her termination, his or her prior years of eligibility service and years of creditable service shall be aggregated with years of eligibility service and years of creditable service credited after his or her reemployment commencement date for purposes of determining the individual's eligibility to receive, the vested percentage of, and amount of, his or her accrued benefit (with respect to the periods before the individual's termination date and after his or her reemployment commencement date). Notwithstanding the foregoing:
- (1) The amount of the accrued benefit of a participant who retires pursuant to section 1.428, 1.429 or 1.431 prior to April 1, 1999 and whose reemployment commencement date occurs on or after April 1, 1999 shall be determined pursuant to the terms of the plan in effect prior to July 30, 1999 with respect to years of creditable service earned prior to April 1, 1999; and
 - (2) The amount of the accrued benefit of an AFSCME Local 3085 employee who retires pursuant to section 1.428, 1.429 or 1.431 prior to July 1, 2011 and whose reemployment commencement date occurs on or after July 1, 2011 shall be determined pursuant to the terms of the plan in effect prior to July 1, 2011 with respect to years of creditable service earned prior to July 1, 2011.
- (c) *Benefit Payments.* If, at the time of his reemployment commencement date, the participant is receiving benefits under the plan, such benefits (other than those previously funded through individual or nonpooled group insurance annuity arrangements) shall cease until such time as they may be paid in conjunction with the benefits accrued with respect to the participant's subsequent employment. In any event, any benefits payable with respect to subsequent employment shall be reduced or offset if and as necessary to avoid duplication of any benefits payable or paid with respect to the participant's prior employment.
- (d) *Cash-Out.*
- (1) If, after the participant's termination date:
 - (i) The participant receives a cash-out of his or her employee contributions benefit, and
 - (ii) The participant resumes his or her employment as a covered individual,then, notwithstanding the crediting of additional years of eligibility service and years of creditable service, the years of eligibility service and years of creditable service with respect to which the distribution was received shall be disregarded in subsequent determinations of the amount of the participant's eligibility to receive, the vested percentage of, and the amount of his or her accrued benefit.
 - (2) However, if the participant:
 - (i) Resumes his or her employment as a covered individual, and
 - (ii) Within 90 days of his or her reemployment commencement date, repays to the trust the full amount of the cash-out, plus interest from date of distribution to date of repayment at the rate of five percent per annum compounded annually,
 - (iii) A covered individual may elect to repay the full amount of a cash-out, plus interest, by making a lump sum cash payment to the trust. Effective May 1, 2004, a covered individual may also elect to repay the cash-out, plus interest, through one or more of the following methods:
 - a. A rollover from another employer's qualified retirement plan;
 - b. A rollover from an individual retirement account to the extent permitted under Section 408(d)(3) of the Internal Revenue Code;

- c. A rollover or direct trustee-to-trustee transfer from an eligible deferred compensation plan established by a Governmental employer pursuant to Section 457(b) of the Internal Revenue Code to the extent permitted under Sections 457(e)(16) and 457(e)(17) of the Internal Revenue Code; or
- d. A direct trustee-to-trustee transfer from a tax deferred annuity established pursuant to Section 403(b) of the Internal Revenue Code to the extent permitted by Section 403(b)(13) of the Internal Revenue Code,

his or her accrued benefit will be determined taking into account the participant's years of eligibility service and years of creditable service before as well as after the termination date (subject to the provisions of this section 1.408).

(C.B. 21, 1995; C.B. 26, 1999; C.B. 6, 2004, § 2; C.B. 14, 2009, § 1)

Sec. 1.409. - Enrollment.

Participation hereunder shall be automatic when the requirements of section 1.407 have been met; provided, however, that the employer may, in its discretion, require each covered individual to execute a written application containing such items as may be desired by the employer including, but not limited to, the covered individual's consent to be bound by all the terms and conditions of the plan and all amendments thereto.

(C.B. 21, 1995; C.B. 100, 1995)

Sec. 1.410. - Participating corrections employees—Eligibility.

- (a) *Voluntary Participation.* A covered individual who is a corrections employee on or before December 31, 1997 may elect to become a participating corrections employee effective January 1, 1998 and until the individual's termination date, or, if earlier, until he or she ceases to be a corrections employee. Such election shall be irrevocable, shall be made on a written application supplied by the County and shall contain an agreement to make, as a condition of the individual's continued employment with the County as a corrections employee, participant contributions as provided in subsection 1.426(a)(1)(ii). If an otherwise eligible corrections employee fails to return the completed application to the coordinator by January 9, 1998, he or she shall not be eligible to become a participating corrections employee.
- (b) *Mandatory Participation.* An individual who becomes a corrections employee after December 31, 1997 shall become a participating corrections employee on the date he or she first performs an hour of service as a corrections employee.
- (c) *Change of Employment Status.* A corrections employee who, because of a change in position classification, remains a covered individual but ceases to be a corrections employee, will cease to be a participating corrections employee as of the date of the change. Such a covered individual:
 - (1) Will no longer make the contributions described in subsection 1.426(a) of this subtitle;
 - (2) Will not be subject to the special normal retirement date for participating corrections employees; and
 - (3) Will be subject to the benefit calculations of subsection 1.428(c) or (d), as applicable.
- (d) *Reemployment.* A corrections employee who, after reaching a termination date, is rehired by the County as a corrections employee after December 31, 1997 will be subject to the provisions of subsection (b) of this section 1.410.

(C.B. 59, 1997; C.B. 75, 1997)

Secs. 1.411, 1.412. - Reserved.

ARTICLE II. - CREDITED SERVICE

Sec. 1.413. - Breaks in service.

Years of eligibility service and years of creditable service completed prior to one or more breaks in service shall be disregarded if:

- (a) The participant's vested percentage in his or her accrued benefit was zero percent at the time the participant incurred the breaks in service; and
- (b) The number of consecutive breaks in service exceeds the number of months in the participant's years of eligibility service completed prior to the periods of breaks in service.

(C.B. 21, 1995)

Sec. 1.414. - Special service rules.

(a) *Leave of Absence.*

- (1) Except as otherwise provided in paragraph (2) below and in subsection 1.417(e), hours of service (for purposes of determining years of eligibility service) and 1/12 increments of years of creditable service shall not be credited during a leave of absence.
- (2) However, to the extent permitted under the Internal Revenue Code, a participant who, on account of a leave of absence, earns less than the service the participant would have earned had he or she remained in active service, may elect to receive credit for years of eligibility service and 1/12 increments of years of creditable service (to a maximum of one year) to the extent of his or her leave of absence.
- (3) If a participant does so elect, the participant shall be required to pay over to the plan in one lump sum payment, within 90 days after his or her return from Leave of absence, an amount equal to the sum of:
 - (i) The participant contributions he or she would have been required to make pursuant to subsection 1.426(a)(1) had the participant remained in active service during the leave of absence (based on what the participant's per-pay compensation would have been in his or her last paycheck prior to the leave of absence had the participant worked his or her regularly scheduled hours); and
 - (ii) The actuarially determined contribution required to be made by the employer to fund the participant's benefit during the period of the leave of absence beginning on the four-month anniversary of its commencement.
- (4) A participant who is on a leave of absence (or the participant's beneficiary) remains eligible for disability benefits as provided by section 1.431 or for death benefits as provided by section 1.439.

(b) *Temporary Furlough.*

- (1) A participant who is on a temporary furlough declared by the employer shall receive credit for hours of service (for purposes of determining years of eligibility service) and 1/12 increments of years of creditable service during the temporary furlough.
- (2) However, to the extent permitted under the Internal Revenue Code, a participant on temporary furlough shall be required to pay over to the plan in one lump sum payment, within 90 days after his or her return from temporary furlough, an amount equal to the participant contributions he or she would have been required to make pursuant to subsection 1.426(a)(1) had the participant remained in active service during the temporary furlough (based on what the participant's per-

pay compensation would have been in his or her last paycheck prior to the temporary furlough had the participant worked his or her regularly scheduled hours).

- (c) *Nontransferable Government Service.* A participant shall receive credit for years of eligibility service (solely for purposes of determining the extent to which the participant is vested in his or her accrued benefit) for service for the County which would have been recognized as eligibility service under the Maryland State Retirement Systems and would have been transferrable to the plan pursuant to subsection 1.417(d) hereof but for the participant's statutory exclusion from participation in the Maryland State Retirement System.

(C.B. 21, 1995; C.B. 100, 1995; C.B. 71, 2006)

Sec. 1.415. - Fractional credit for service.

To the extent not precluded by the operation of section 1.413, and except as otherwise provided in section 1.418, an individual shall receive partial or full credit for service, as follows:

(a) *Year of Eligibility Service.*

- (1) For purposes of determining the extent to which a participant is vested in his or her accrued benefit and for purposes of determining whether he or she is eligible for retirement, the participant shall receive credit on the basis of his or her whole years of eligibility service.
- (2) Notwithstanding paragraph (1) above, for plan years which contain the participant's employment commencement date and the participant's termination date, he or she shall receive fractional credit equal to 1/12 of a year of eligibility service for each calendar month during which he or she is a fully benefited employee (whether or not employed on a full-time basis) for the entire month.

(b) *Year of Creditable Service.*

- (1) For purposes of determining the extent to which a participant shall accrue benefits, the participant shall receive credit on the basis of the number of his or her years of creditable service.
- (2) Notwithstanding paragraph (1) above, for plan years during any portion of which a participant is a fully benefited employee but is not employed on a full-time basis, the participant shall receive credit for:
 - (i) One-twelfth of a year of creditable service for each calendar month during which he or she is classified as a full-time, fully benefited employee during the entire month; and
 - (ii) Additional 1/12 of a year of creditable service which result from dividing the number of hours of service (except for hours of service as a partially benefited employee), credited during the calendar months during which the participant is a fully benefited employee but is not employed on a full-time basis for any portion of the month, by 1,820, multiplying the result by 12 and rounding up (if necessary) to the next highest whole number.

(C.B. 21, 1995)

Sec. 1.416. - Transfer of credited service.

To the extent permitted under the Internal Revenue Code, a participant may elect to receive credit for service (whether or not it would be considered a year of eligibility service or a year of creditable service had it been performed for the employer) purchased or transferred from another employer in accordance with section 1.417. If such service is purchased or transferred and recognized under the plan, the number of years of service credited and the amount of the benefit payable to the participant pursuant to section 1.428 shall be adjusted in accordance with section 1.418.

(C.B. 21, 1995; C.B. 100, 1995)

Sec. 1.417. - Conditions for transfer of credited service.

- (a) *Credit for Service Under Another Maryland Employer Retirement Plan.* Any member of a Maryland employer Retirement Plan who, without a break in employment, becomes a covered individual may elect to receive credit for years of eligibility service and years of creditable service for service recognized under another Maryland employer Retirement Plan to the extent and under the conditions the plan is required to permit the covered individual to make such an election under the provisions of title 37 of the State Personnel and Pensions Article of the Annotated Code of Maryland or any successor statute.
- (b) *Reserved.*
- (c) *Credit for Breaks in Service, Military Service, Service under a Government or Maryland employer, or as a Teacher.*
- (1) Any covered individual who retires pursuant to the provisions of section 1.428, 1.429, 1.430, or 1.431, or who reaches a termination date after completing at least five years of eligibility service, may elect, on or before his or her benefit commencement date, to receive credit for years of eligibility service and years of creditable service (to a maximum of ten years) for:
- (i) Service with the employer which is disregarded on account of breaks in service pursuant to section 1.413;
- (ii) Military service which precedes the participant's employment commencement date and is not credited under subsection (e)(2) of this section 1.417;
- (iii) Service with a Maryland employer which is not recognized in subsection (a) of this section 1.417;
- (iv) Service with a Government employer not referred to in subsection (a) of this section 1.417; or
- (v) Service with private, parochial, or out-of-State schools, provided such service is performed as a teacher.
- The election under this paragraph (1) is available only if the participant is not entitled to receive any pension benefits with respect to such service.
- (2) If the participant makes an election under paragraph (1) above, the participant shall be required to pay over to the plan, on or before his or her benefit commencement date, the full actuarial cost of the years of eligibility service and the years of creditable service as described in subsection 1.427(c)(1).
- (d) *Credit for Service under Maryland State Retirement Systems.* Any covered individual may elect to receive credit for years of eligibility service and years of creditable service for service recognized under the Maryland State retirement systems. Such election:
- (1) Shall be irrevocable;
- (2) Shall be made by April 28, 1995 pursuant to section 1.407; and
- (3) Shall be contingent upon the complete forfeiture of benefits and service credits under the Maryland State Retirement Systems and the transfer to this plan of any participant contributions, whether picked up or not, in the individual's account under the employees' pension system of the State of Maryland.
- (e) *Credit for Military Service.* Any covered individual who provides the coordinator with sufficient evidence of the covered individual's military service shall receive service credit for such military service as follows:

- (1) *Leave of Absence on Account of Military Service.* Notwithstanding section 1.414, if a participant incurs a leave of absence on account of military service, the participant shall receive credit for years of eligibility service and years of creditable service for the period of such leave of absence to the extent required by the Uniformed Services Employment and Reemployment Rights Act of 1994 or any other Federal law (but without any requirement for such a participant to make participant contributions upon his or her reemployment for the period of his or her military service). If a participant fails to again become an employee as a result of his death while in military service on or after July 1, 2007, the participant shall be entitled to eligibility service for such military service.
- (2) *Military Service before Employment Commencement Date.*
 - (i) If a participant's military service precedes the participant's employment commencement date, the participant shall receive credit for years of eligibility service and years of creditable service to the extent of his or her pre-employment military service (to a maximum of four years) provided that the participant earns at least ten years of creditable service other than his or her military service.
 - (ii) However, if the participant has elected to receive credit for service under the Maryland State Retirement Systems pursuant to subsection (d) of this section 1.417, the preceding sentence shall be applied by substituting a maximum of five years.
- (3) *Reasons for Not Receiving Service Credit for Military Service.* A participant may not receive service credit for military service:
 - (i) If the military service has been previously recognized by the Maryland State Retirement Systems;
 - (ii) If the participant is entitled to receive a benefit (except for disability benefits, Social Security benefits, benefits under the National Railroad Retirement Act or benefits with respect to National Guard or Military Reserve service) from another retirement system on account of the military service; or
 - (iii) If the service was rendered for the Peace Corps or Volunteers in Service to America.

(C.B. 21, 1995; C.B. 100, 1995; C.B. 26, 1999; C.B. 42, 2000, § 1, C.B. 24, 2006, § 2; C.B. 71, 2006; C.B. 12, 2013, § 2)

Sec. 1.418. - Amount of credited service.

Years of eligibility service and years of creditable service transferred pursuant to section 1.417 shall be calculated in accordance with the following provisions:

- (a) *Service Transferred from a Maryland Employer Retirement Plan.*
For service transferred pursuant to subsection 1.417(a), the participant shall receive credit for years of eligibility service and for years of creditable service to the extent required under the provisions of title 37 of the State Personnel and Pensions Article of the Annotated Code of Maryland or any successor statute.
- (b) *Reserved.*
- (c) *Other Transfers.* For service transferred pursuant to subsections 1.417(c), (d) and (e), the participant shall receive full credit for all years of eligibility service and years of creditable service, except as provided in subsection 1.428(b).

(C.B. 21, 1995; C.B. 100, 1995; C.B. 59, 1997; C.B. 26, 1999; C.B. 42, 2000, § 1, 7-27-00)

Sec. 1.419. - Transfers between police and fire pension plan and this plan.

(a) *Transfer to a Position as a Covered Individual.*

- (1) In the case of an individual who has transferred from a position covered under the police and fire pension plan to a position as a covered individual, the individual's retirement benefits with respect to his or her service as a covered individual (and any other service recognized under this plan) shall be determined under the provisions of this plan (and not the police and fire pension plan).
- (2) If such an individual elects to receive credit for service recognized under the police and fire pension plan pursuant to subsection 1.417(a) of this plan, such service shall be recognized to the extent provided under subsection 1.418(a).
- (3) If such an individual does not elect to receive credit for service recognized under the police and fire pension plan pursuant to subsection 1.417(a), he or she shall receive credit for years of eligibility service for service recognized under the police and fire pension plan (but only for purposes of determining the vested percentage of the individual's accrued benefit under this plan).
- (4) In determining such a participant's average compensation under this plan, only compensation paid while a covered individual shall be taken into account.

(b) *Transfer to a Position Covered under the Police and Fire Pension Plan.*

- (1) In the case of an individual who transfers from a position as a covered individual to a position covered under the police and fire pension plan, the individual's retirement benefits with respect to his or her service as a covered individual (and any other service recognized under this plan) shall be determined under the provisions of this plan (and not the police and fire pension plan), unless the police and fire pension plan credits all or part of the individual's service as a covered individual;
- (2) In determining such a participant's average compensation under this plan, only compensation paid while a covered individual shall be taken into account.
- (3) If the police and fire pension plan recognizes any of such an individual's years of eligibility service for any purpose under the police and fire pension plan, those years of eligibility service shall be recognized under this plan (but only for purposes of determining the vested percentage of his accrued benefit under this plan).
- (4) If such an individual transfers his or her employee contributions benefit to the police and fire pension plan pursuant to the provisions of the police and fire pension plan, the individual shall be no longer entitled to any benefit under this plan.

(C.B. 21, 1995)

Sec. 1.420. - Transfers of credited service to other plans.

If a participant terminates employment with the County as a covered individual, but either:

- (a) Remains an employee and becomes a participant in the Howard County Police and Fire employees' Retirement Plan, or
- (b) Ceases to be an employee, but becomes an employee of a Government employer, and becomes eligible to participate in a retirement plan sponsored by the Government employer, the participant may elect to transfer service earned under this plan to the retirement plan sponsored by such other Government employer.

(C.B. 54, 1997)

Sec. 1.421. - Involuntary transfers of employment.

If a participant is involuntarily transferred to another State or local retirement or pension system because of an involuntary transfer of the participant's employing unit to another employer, all of the County's contributions on behalf of the participant and interest on those contributions shall be transferred to the new system. The amount to be transferred to the new system shall be determined by actuarial valuation. Notwithstanding the foregoing, this section 1.421 shall be operative only to the extent required by title 37 of the State Personnel and Pensions Article of the Annotated Code of Maryland, or any successor statute.

(C.B. 6, 2004)

Sec. 1.422. - Reserved.

ARTICLE III. - TRUST FUND

Sec. 1.423. - Payment of contributions.

The funding of the plan and payment of benefits hereunder shall be provided for through the medium of the trust. The trust shall accept transfers of funds from the Maryland State Retirement Systems, consistent with the elections made by participants pursuant to subsection 1.417(d) of the plan. The employer, from time to time, shall make contributions to the trust in amounts determined, in accordance with generally accepted actuarial principles, to be sufficient to support the contributions and transfers made pursuant to section 1.426 and the contributions and transfers made pursuant to section 1.427, and to fund the benefits provided by the plan.

(C.B. 21, 1995; C.B. 100, 1995)

Sec. 1.424. - Disposition of forfeitures.

Any forfeiture arising under the provisions of the plan shall be used to reduce the then current or future costs of funding the benefits provided in the plan.

(C.B. 21, 1995)

Sec. 1.425. - Actuarial examination.

The County shall, at least once every plan year, cause the liabilities of the plan to be evaluated by an enrolled actuary who shall report to the County as to the soundness and solvency of the trust in relation to the said liabilities and the amount of the employer contribution sufficient to meet the requirements of section 1.423.

(C.B. 21, 1995; C.B. 100, 1995)

Sec. 1.426. - Pick-up contributions.

Under limited circumstances described below, participant contributions and monies from other Government employers may be accepted by the plan.

(a) *Types of Contributions/Transfers.*

(1) *County pick-up contributions.*

(i) Effective with the first paycheck issued after December 31, 2013, and in accordance with rules established by the county, each participant, other than an AFSCME Local 3085

employee or a participating corrections employee, shall make contributions to the plan equal to three percent of his or her per-pay compensation.

- (ii) Effective with the paycheck issued January 30, 1998, and in accordance with rules established by the County and in lieu of the contributions described in subparagraphs 1.426(a)(1)(i), (vii) and (viii), each participant who is classified as a participating corrections employee shall make contributions to the plan equal to eight and one-half percent of his or her per-pay compensation.
- (iii) Effective with the first paycheck issued after June 30, 2011, and in accordance with rules established by the County and in lieu of the contributions described in subparagraphs 1.426(a)(1)(i), (vii) and (viii), each participant who is classified as an AFSCME Local 3085 employee shall make contributions to the plan equal to three percent of his or her per-pay compensation. The contributions under this subparagraph (iii) shall be made only during the period when the participant is an AFSCME Local 3085 employee.
- (iv) Notwithstanding subparagraphs (i), (ii) and (iii) of this paragraph, in those calendar years in which the County issues 27 paychecks, no participant contributions shall be required with respect to per-pay compensation reflected in the 27th paycheck of the calendar year.
- (v) The participant contributions referred to in this paragraph shall be:
 - a. Picked up by the employer, as described in Section 414(h)(2) of the Internal Revenue Code;
 - b. Deducted from the pay of the contributing participants as salary reduction contributions; and
 - c. Paid by the employer to the trustees within reasonable promptness after the total of such contributions during any month has been determined, and in any event by the end of the succeeding month.
- (vi) The contributions made pursuant to this paragraph (1) shall be made a part of the participant's employee contributions benefit, that is, a part of his or her accrued benefit.
- (vii) Effective with the paycheck issued July 21, 1995 and continuing through the paycheck issued July 30, 1999, in accordance with rules established by the County, each participant who is classified as a fully benefited employee shall make contributions to the plan equal to the sum of:
 - a. Two percent of the participant's per-pay compensation; and
 - b. Two percent of the participant's per-pay compensation which exceeds the applicable per-pay Social Security taxable wage base.

(b) *Suspension of Contributions.*

- (1) A participant's salary reduction contributions shall be automatically suspended for any payroll period during which the participant is not a covered individual or during which he or she is on a leave of absence; provided, however, that a participant's salary reduction contributions shall be continued for any payroll period during which the participant is receiving differential wage payments as defined in Section 3401(h) of the Internal Revenue Code.
- (2) The salary reduction contributions pursuant to subsection 1.426(a)(1)(ii) of a participant who is a participating corrections employee shall no longer be required for any period after which the participant has received credit for 20 years of creditable service, and the participant's salary reduction contributions pursuant to subsection 1.426(a)(1)(ii) shall be suspended as of the last day of the payroll period that includes such date.

(c) *Withdrawals of Pick-Up Contributions.*

- (1) The employee contributions benefit shall be returned to a participant who has reached his or her termination date as provided in subsection (c) and (d) of section 1.432.

- (2) A cash-out shall constitute full payment of all benefits due to such participant under the plan.
- (d) *Forfeiture of Remaining Accrued Benefit.* In the event of a cash-out to a participant pursuant to subsection (c) or (d) of section 1.432, then, subject to restoration provided in subsection 1.408(d), the entire remaining portion of his or her accrued benefit shall be forfeited by the participant.
- (e) *Vesting of Pick-Up Contributions.* Notwithstanding any provisions of this plan to the contrary, participant contributions, picked up either by the employer or by other Maryland employers and made or transferred to the plan, shall be fully vested at all times.
- (f) *Payment of Benefits.* Subject to the limitations described in subsections (c) and (d) of section 1.432, the benefits purchased from the participant's contributions shall be payable at the same time, in the same manner, and, in the event of the participant's death, to the same beneficiary or beneficiaries, as is the remainder of the participant's accrued benefit.
- (g) *Plan Termination.* In the event of a termination of the plan, distribution to each participant of the portion of his or her accrued benefit attributable to the participant's contributions picked up by the employer shall, notwithstanding any other provision of section 1.469, be treated as a priority distribution ahead of any other distribution to participants based upon the remainder of the trust, other than those attributable to contributions made pursuant to section 1.427.

(C.B. 21, 1995; C.B. 100, 1995; C.B. 59, 1997; C.B. 26, 1999; C.B. 24, 2006, § 3; C.B. § 26, 2006, § 1; C.B. 14, 2009, § 2; C.B. 12, 2013, § 3; C.B. 45, 2013, § 1)

Sec. 1.427. - Participant contributions.

Under limited circumstances, as described below, other participant contributions may be accepted by the plan.

- (a) *Characterization.* The contributions made pursuant to this section 1.427 shall be distinct from those made pursuant to section 1.426 as to the character of such contributions. Whereas contributions made pursuant to section 1.426 shall be classified as employer, or other Maryland employer, contributions picked up from the pay of participants, contributions made pursuant to this section 1.427 shall be contributions either made directly by the participant or, in some cases, transferred from another Maryland employer Retirement Plan.
- (b) *Limitations.* A participant may elect to make contributions pursuant to this section 1.427, or to have his or her contributions previously made to another Maryland employer Retirement Plan transferred to this plan, within the following limitations:
- (1) A participant who elects to restore credit for service and benefits, as described in subsection 1.408(d), shall pay over to the plan the amount of any cash-out previously made to the participant, with interest thereon.
 - (2) A participant who is on a leave of absence, and who elects to purchase service credit in accordance with subsection 1.414(a), shall pay over to the plan the amount required in subsection 1.414(a).
 - (3) A participant who is on a temporary furlough, as described in subsection 1.414(b), shall pay over to the plan the amount required in subsection 1.414(b).
 - (4) The trustees shall accept a direct transfer of after-tax participant contributions, together with interest thereon, from another Maryland employer, provided such contributions were made by a covered individual who elects to transfer service from another Maryland employer Retirement Plan, as described in subsections 1.417(a) and (d).
 - (5) A covered individual may elect to pay for service credit purchased by a lump sum cash payment to the trust. Effective May 1, 2004, a covered individual may also elect to pay for service credit purchased through one or more of the following methods:
 - (i) A rollover from another employer's qualified retirement plan;

- (ii) A rollover from an individual retirement account to the extent permitted under Section 408(d)(3) of the Internal Revenue Code;
 - (iii) A rollover or direct trustee-to-trustee transfer from an eligible deferred compensation plan established by a Governmental employer pursuant to Section 457(b) of the Internal Revenue Code to the extent provided by Sections 457(e)(16) and 457(e)(17) of the Internal Revenue Code;
 - (iv) A direct trustee-to-trustee transfer from a tax deferred annuity established pursuant to subsection 403(b) of the Code to the extent permitted by Subsection 403(b)(13) of the Internal Revenue Code.
- (c) *Procedures.* All participant contributions or transfers made pursuant to this section 1.427 shall be paid to the trust.
 - (1) Cost of purchase.
 - (i) It is the intent of the County that a participant who elects to purchase credit for service hereunder pay the full actuarial cost of the credit for service.
 - (ii) The cost of the purchase equals the present value of the participant's accrued benefit including the credit for the service purchased hereunder less the present value of the participant's accrued benefit without the service credit purchased hereunder.
 - (iii) The present value of service credit purchased will be determined using the interest, post-retirement mortality and post-retirement benefit increase assumptions most recently adopted by the Committee except that the interest assumption will be net of investment expenses and the Actuary will use the unisex version of the mortality table used to determine post-retirement mortality.
- (d) *Separate Accounting.* participant contributions, whether made directly or transferred from another retirement plan, as aforesaid, shall be made a part of the participant's employee contributions benefit, which shall be a part of the accrued benefit of the respective participants.
- (e) *Withdrawals of Participant Contributions.*
 - (1) The employee contributions benefit shall be returned to a participant who has reached his or her termination date as provided in subsection (c) and (d) of section 1.432.
 - (2) A cash-out shall constitute full payment of all benefits due to such participant under the plan.
- (f) *Forfeiture of Remaining Accrued Benefit.* In the event of a cash-out to a participant pursuant to subsection (c) or (d) of section 1.432, then, subject to restoration provided in subsection 1.408(d), the entire remaining portion of his or her accrued benefit shall be forfeited by the participant.
- (g) *Vesting of Participant Contributions.* Notwithstanding any provisions of this plan to the contrary, participant contributions made to the plan pursuant to this section 1.427 shall be fully vested at all times.
- (h) *Payment of Benefits.* Subject to the limitations described in subsections (c) and (d) of section 1.432, the benefits purchased from the participant's contributions shall be payable at the same time, in the same manner, and, in the event of the participant's death, to the same beneficiary or beneficiaries, as is the remainder of the participant's accrued benefit.
- (i) *Plan Termination.* In the event of a termination of the plan, distribution to each participant of the portion of the participant's accrued benefit attributable to his or her participant contributions shall, notwithstanding any other provision of section 1.469, be treated as a priority distribution ahead of any other distribution to participants based upon the remainder of the trust.

(C.B. 21, 1995; C.B. 100, 1995; C.B. 6, 2004; C.B. 24, 2006, § 3)

Sec. 1.428. - Normal retirement.

A participant who retires on his or her normal retirement date shall be entitled to receive a monthly retirement income, beginning with the first day of the month coincident with or next following his or her normal retirement date and continuing for the remainder of the participant's life.

(a) *Current Provision—Amount of Monthly Retirement Income—Participant Who Reaches a Termination Date On or After January 1, 2014.*

(1) Subject to subsection (j) of this section and section 1.408(d) of this subtitle, and subject to the limitations set forth in section 1.433 of this subtitle, the amount of the monthly retirement income of an employee who:

- (i) Is not an AFSCME Local 3085 employee or a participating corrections employee; and
- (ii) Who reaches a termination date on or after January 1, 2014 shall be equal to the sum of paragraphs (iii) and (iv) of this subsection where:

(iii) Equals:

- a. 1.66 percent of the participant's average compensation;
- b. Multiplied by the participant's years of creditable service earned after June 30, 2012; and

(iv) Equals:

- a. 1.55 percent of the employee's participant's average compensation;
- b. Multiplied by the participant's years of creditable service earned prior to July 1, 2012.

(2) For purposes of this subsection (a), (i) a participant's years of creditable service earned prior to July 1, 2012 will include creditable service earned on account of military service, transferred service or purchased service if the actual dates of service occurred prior to July 1, 2012 and (ii) a participant's years of creditable service earned after June 30, 2012 will include creditable service earned on account of military service, transferred service or purchased service if the actual dates of service occurred after June 30, 2012.

(3) Notwithstanding paragraphs (1) and (2) above, the benefit attributable to years of creditable service earned prior to July 1, 2012 as an AFSCME Local 3085 employee by a participant described in this subsection (a) shall be calculated by multiplying 1.66 percent of his or her average compensation times such years of creditable service.

(b) *Current Provision—Amount of Monthly Retirement Income Participant Who is a Participating Corrections Employee and Reaches a Termination Date On or After June 30, 2005.* Subject to subsection (j) of this section and section 1.408(d) of this subtitle, and subject to the limitations set forth in section 1.433 of this subtitle, the amount of the monthly retirement income of a participating corrections employee who reaches a termination date on or after June 30, 2005 shall be equal to the sum of paragraphs (1) and (2) where:

(1) Equals:

- (i) Two and one-half percent of the participant's average compensation;
- (ii) Multiplied by the participant's years of creditable service to a maximum of 20 years of creditable service; and

(2) Equals:

- (i) One percent of the participant's average compensation;
- (ii) Multiplied by the participant's years of creditable service in excess of 20 years of creditable service (but not in excess of 30 years of creditable service).

(c) *Current Provision—Amount of Monthly Retirement Income—AFSCME Local 3085 Employee Who Reaches a Termination Date On or After June 30, 2011.* Subject to subsection (j) of this section and section 1.408(d) of this subtitle, and subject to the limitations set forth in section 1.433 of this subtitle,

the amount of the monthly retirement income of an AFSCME Local 3085 employee who reaches a termination date on or after June 30, 2011 shall be equal to the sum of paragraphs (1) and (2) of this subsection where:

- (1) Equals:
 - (i) 1.66 percent of the participant's average compensation;
 - (ii) Multiplied by the participant's years of creditable service earned as an AFSCME Local 3085 employee; and
 - (2) Equals:
 - (i) 1.55 percent of the employee's participant's average compensation;
 - (ii) Multiplied by the participant's years of creditable service other than his or her years of creditable service earned as an AFSCME Local 3085 employee. For purposes of this subsection (c), all years of creditable service earned prior to July 1, 2011 by a participant who was an AFSCME Local 3085 employee on June 30, 2011 will be considered years of creditable service as an AFSCME Local 3085 employee.
- (d) *Historical Provision—Amount of Monthly Retirement Income—Participant Who Became a Corrections Employee After December 31, 1997 and Reached a Termination Date Between July 30, 1999 and June 30, 2005.* Subject to subsection (j) of this section and section 1.408(d) of this subtitle, and subject to the limitations set forth in section 1.433 of this subtitle, the amount of the monthly retirement income of a participant who earned his or her first hour of service as a corrections employee after December 31, 1997 and who reached a termination date between July 30, 1999 and June 30, 2005 shall be equal to the sum of paragraphs (1) and (2) of this subsection where:
- (1) Equals:
 - (i) Two percent of the participant's average compensation;
 - (ii) Multiplied by the participant's years of creditable service as a participating corrections employee, to a maximum of 30 year[s] of creditable service; and
 - (2) Equals:
 - (i) 1.55 percent of the participant's average compensation.
 - (ii) Multiplied by the participant's years of creditable service (if any) not earned as a corrections employee.
- (e) *Historical Provisions—Amount of Monthly Retirement Income—Participant Who Elected to Become a Participating Corrections Employee as of January 1, 1998 and Reached a Termination Date Between July 30, 1999 and June 30, 2005.* Subject to subsection (j) of this section and subsection 1.408(d) of this subtitle, and subject to the limitations set forth in section 1.433 of this subtitle, the amount of the monthly retirement income of a corrections employee who elected to become a participating corrections employee as of January 1, 1998 and who reached a termination date between July 30, 1999 and June 30, 2005 pursuant to subsection 1.410(a) of this subtitle shall be equal to the sum of paragraphs (1) and (2) where:
- (1) Equals:
 - (i) 1.55 percent of the participant's average compensation;
 - (ii) Multiplied by the participant's years of Class B creditable service and
 - (2) Equals:
 - (i) Two percent of the participant's average compensation;
 - (ii) Multiplied by the participant's years of Class A creditable service.
- (f) *Historical Provision—Amount of Monthly Retirement Income—Participant Who Became a Covered Individual After June 30, 1995 and Reached a Termination Prior to July 30, 1999.* Subject to

subsection (j) of this section and subsection 1.408(d) of this subtitle, and subject to the limitations set forth in section 1.433 of this subtitle, the amount of the monthly retirement income of a participant who became a covered individual after June 30, 1995 and who reached a termination date prior to July 30, 1999 shall be equal to:

- (1) The sum of 1.3 percent of the participant's average compensation and one-half percent of the participant's average compensation that exceeded 1/12 of his or her covered compensation;
- (2) Multiplied by the participant's years of creditable service.

(g) *Historical Provision—Amount of Monthly Retirement Income—Participant Who Has Elected to Receive Service Under The Maryland State Retirement Systems and Reached a Termination Prior to July 30, 1999.* Subject to subsection (j) of this section and subsection 1.408(d) of this subtitle, and subject to the limitations set forth in section 1.433 of this subtitle, the amount of the monthly retirement income of a participant who has elected to receive credit for service under the Maryland State Retirement Systems pursuant to subsection 1.417(d) of this subtitle and who reached a termination date prior to July 30, 1999 shall be equal to the sum of paragraphs (i) and (2) of this subsection, where:

- (1) Equals:
 - (i) The sum of 0.8 percent of the participant's average compensation and 0.7 percent of the participant's average compensation that exceeded 1/12 of his or her covered compensation;
 - (ii) Multiplied by the participant's years of state plan creditable service, and
- (2) Equals:
 - (i) The sum of 1.3 percent of the participant's average compensation and one-half percent of the participant's average compensation that exceeded 1/12 of his or her covered compensation;
 - (ii) Multiplied by the participant's years of County plan creditable service.

(h) *Historical Provision—Amount of Monthly Retirement Income—Participant Who Elected to Become a Participating Corrections Employee as of January 1, 1998 and Reached a Termination Date Prior to July 30, 1999.* Subject to subsection (j) of this section and subsection 1.408(d) of this subtitle, and subject to the limitations set forth in section 1.433 of this subtitle, the amount of the monthly retirement income of a corrections employee who elected to become a participating corrections employee as of January 1, 1998 pursuant to subsection 1.410(a) of this subtitle shall be equal to the sum of paragraphs (1), (2) and (3), where:

- (1) Equals:
 - (i) The sum of 0.8 percent of the participant's average compensation and 0.7 percent of the participant's average compensation that exceeded 1/12 of his or her covered compensation;
 - (ii) Multiplied by the participant's years of Class C creditable service; and
- (2) Equals:
 - (i) The sum of 1.3 percent of the participant's average compensation and one-half percent of the participant's average compensation that exceeded 1/12 of his or her covered compensation;
 - (ii) Multiplied by the participant's years of Class D creditable service; and
- (3) Equals:
 - (i) Two percent of the participant's average compensation;
 - (ii) Multiplied by the participant's years of Class A creditable service.

- (i) *Historical provision—Amount of monthly retirement income—Participant who reached a termination date on or after July 30, 1999 and prior to January 1, 2014.* Subject to subsection (j) of this section and section 1.408(d) of this subtitle, and subject to the limitations set forth in section 1.433 of this subtitle, the amount of the monthly retirement income of a participant who reaches a termination date on or after July 30, 1999 shall be equal to:
- (1) 1.55 percent of the participant's average compensation;
 - (2) Multiplied by the participant's years of creditable service.
- (j) *Unused disability leave.*
- (1) For purposes of determining the amount of the participant's retirement benefit payable pursuant to sections 1.428—1.432, and for purposes of determining the amount of a surviving spouse annuity benefit pursuant to subsection 1.439(b), the participant shall receive additional years of creditable service for unused disability leave.
 - (2) Such unused disability leave shall be credited at the rate of 1/12 of a year of creditable service for each 22 days of unused disability leave accrued by the participant as of his or her termination date.
 - (3) If, after crediting unused disability leave in multiples of 22 days, 11 or more days remain uncredited, the participant shall receive an additional 1/12 of a year of creditable service.
 - (4) Generally, the benefit attributable to years of creditable service for unused disability leave for a participating corrections employee shall be calculated by multiplying two percent of his or her average compensation times such years of creditable service. However, where a participating corrections employee receives a monthly benefit calculated under subsection 1.428(d) of this subtitle, the benefit attributable to his or her years of creditable service for unused disability leave shall be calculated by multiplying one percent of his or her average compensation times such years of creditable service.
 - (5) The benefit attributable to years of creditable service for unused disability leave for a participant who reaches his or her termination date as an AFSCME Local 3085 employee on or after June 30, 2011 shall be calculated by multiplying 1.66 percent of his or her average compensation times such years of creditable service.
 - (6) The benefit attributable to years of creditable service for unused disability leave for a participant, other than an AFSCME Local 3085 employee or a participating corrections employee, who reaches his or her termination date on or after January 1, 2014 shall be calculated by multiplying 1.66 percent of his or her average compensation times such years of creditable service.

(C.B. 21, 1995; C.B. 59, 1997; C.B. 75, 1997; C.B. 26, 1999; C.B. 54, 2000; C.B. 35, 2001, § 1; C.B. 14, 2009, § 2; C.B. 45, 2013, § 1)

Sec. 1.429. - Early retirement.

- (a) *Early Retirement Date.* A participant may elect to retire on any date on or after the first date which qualifies as an early retirement date, in which case the date of retirement shall be deemed to be his or her early retirement date and the participant shall be entitled to a monthly early retirement benefit equal to the benefit computed pursuant to section 1.428 (based upon his or her actual years of creditable service, average compensation and covered compensation at the early retirement date).
- (b) *Commencement of Early Retirement Benefits.* Early retirement benefits shall commence on the first day of the month coincident with or next following the participant's normal retirement date, unless the participant elects to have his or her benefits commence on the first day of any prior month coincident with or following the early retirement date, in which case the amount of the benefit shall be subject to the appropriate actuarial reduction.

- (c) *Form of Payment.* The benefits payable pursuant to this section 1.429 shall be payable in the normal form provided by section 1.428, unless an optional form of payment has been elected pursuant to section 1.442.

(C.B. 21, 1995)

Sec. 1.430. - Deferred retirement.

In the event a participant remains a covered individual after his or her normal retirement date, then, subject to the limitations set forth in section 1.433, the participant shall be entitled to receive, commencing on the first day of the month coincident with or otherwise next following his or her termination date, the benefit to which the participant would have been entitled pursuant to section 1.428 if he or she had retired at the normal retirement date, but adjusted:

- (a) By including any additional years of creditable service which have accrued since his or her normal retirement date;
- (b) Notwithstanding any provision in the definition of average compensation to the contrary, by taking into account any increases in average compensation which may be generated by increases in compensation earned since his or her normal retirement date; and
- (c) By reflecting the applicable covered compensation in effect upon the participant's termination date.

(C.B. 21, 1995)

Sec. 1.431. - Disability benefits.

The plan shall pay disability benefits determined in accordance with the following provisions:

- (a) *Ordinary Disability.* Subject to subsections (c)—(f) of this section, if a participant who has completed at least five years of eligibility service reaches a termination date by reason of total and permanent disability (as defined in subsection (e)(4) of this section) not in the line of duty, the participant shall be entitled to receive a monthly disability benefit equal to the lesser of:
 - (1) A monthly amount which, when combined with any Social Security disability benefits the participant is entitled to receive, equals 50 percent of his or her average compensation as adjusted in accordance with subsection (c) of this section; and
 - (2) Thirty-three and one-third percent of such average compensation.
- (b) *Line of Duty Disability.* Subject to subsections (c)—(f) of this section, if a participant (regardless of his or her length of service) reaches a termination date by reason of total and permanent disability (as defined in subsection (c)(4) of this section), incurred as a result of an accident or injury which has been sustained as an active covered individual and which has been ruled compensable under the Maryland Workers' Compensation Act, the participant shall be entitled to receive a monthly benefit equal to the lesser of:
 - (1) A monthly amount which, when combined with any Social Security disability benefits the participant is entitled to receive, equals 75 percent of his or her average compensation determined at the time the disability is incurred; and
 - (2) Sixty-six and two-thirds percent of such average compensation.
- (c) *Adjustments to Compensation.*
 - (1) For purposes of calculating average compensation under subsections (a) and (b) of this section, compensation includes adjustments to the legislated base annual salary for employees in the same position classification as the participant at the time his or her disability is incurred.

- (2) Such adjustments shall include only those adjustments to the legislated base annual salary from the date the disability is incurred through the date the participant's disability benefits commence.
- (d) *Disability Benefits—Part-Time Employees.* For purposes of calculating the benefits under subsections (a) and (b) of this section, the average compensation of a participant who was not employed on a full-time basis at the time the disability was incurred shall be calculated on the basis of the participant's compensation and not the full-time equivalent of his or her compensation.
- (e) *General Provisions Relating to Disability.*
 - (1) *Commencement of disability benefits.* Disability benefits shall commence on the first day of the month coincident with or next following the determination of disability by the County.
 - (2) *Reductions for other benefits and earned income.* Benefits payable pursuant to this section shall be reduced, dollar for dollar, by:
 - (i) Any earned income received by the participant; and
 - (ii) Any amounts received by the participant under the Maryland Workers' Compensation Act as compensation for an accident or injury underlying the participant's total and permanent disability. If a participant receives amounts under the Maryland Workers' Compensation Act in the form of a lump sum, the reduction shall be based on the actuarial equivalent of the lump sum expressed as a monthly benefit in the normal form of payment.
 - (3) If a participant who is eligible to receive disability benefits under this section 1.431 is also eligible for benefits under section 1.428, 1.429 or 1.430. The participant may elect to receive benefits under section 1.428, 1.429 or 1.430 in lieu of disability benefits under this section 1.431.
 - (4) *Forms of benefit.*
 - (i) The benefits payable pursuant to this section shall be payable in the normal form provided by section 1.428 of this subtitle, unless an optional form of payment has been elected pursuant to section 1.442 of this subtitle.
 - (ii) Notwithstanding the preceding sentence, a participant receiving disability benefits pursuant to this section 1.431 may not elect to receive:
 - a. The joint and survivor option (with a 100 percent survivor benefit) described in subsection 1.442(a) of this subtitle;
 - b. The pop-up option (with a 100 percent survivor benefit) described in subsection 1.442(b) of this subtitle; or
 - c. The guaranteed return of accrued benefit option described in subsection 1.442(c) of this subtitle.
 - (iii) Except as provided in paragraph (11) of this section 1.431, if a participant receiving ordinary disability benefits pursuant to this section 1.431 elects to receive:
 - a. The joint and survivor option (with a 50 percent survivor benefit) described in subsection 1.442(a) of this subtitle; or
 - b. The pop-up option (with a 50 percent survivor benefit) described in subsection 1.442(b) of this subtitle 6, section 1.433, Maximum Limitation on Benefits.

The benefit payable to the participant's surviving spouse following the participant's death shall not be less than 50 percent of the benefit the participant would have received under the elected option if the disability were based on 33.3 percent of average compensation.

(5) *Definition.*

- (i) For purposes of the initial determination of a participant's disability, total and permanent disability shall mean a medically determinable physical or mental impairment which can be expected to be permanent or result in death, and by reason of which the participant will be prevented from performing the usual duties of his or her position with the County.
- (ii) Such total and permanent disability must be evidenced by a certificate of a physician selected or approved by the County.
- (iii) However, total and permanent disability shall not include any injury or disease which:
 - a. Resulted from or consists of chronic alcoholism or addiction to narcotics;
 - b. Was contracted, suffered or incurred while the participant was engaged in, or resulted from his having engaged in, a criminal enterprise;
 - c. Was intentionally self-inflicted;
 - d. Arose as a result of willful negligence on the part of the participant; or
 - e. With respect to a participant who became a covered individual after June 30, 1995, is a natural and proximate result of, or is an aggravation of, a physical or mental condition which existed at the time the participant commenced participation in the plan.

(6) *Continuing disability.*

- (i) From the date his or her disability benefits pursuant to this section 1.431 commence through the day before the two-year anniversary of such commencement date, a participant shall be entitled to receive disability benefits pursuant to this section 1.431 only if he or she remains totally and permanently disabled as defined in paragraph (4) of this subsection.
- (ii) Beginning with the two-year anniversary of the date his or her disability benefits commence, a participant shall be entitled to continue receiving disability benefits only if, by reason of the total and permanent disability, the participant is prevented from securing any gainful employment (with the County or otherwise).
- (iii) Notwithstanding the preceding sentence, if the participant secures gainful employment (with the County or otherwise) in the period beginning with the two-year anniversary of the date his or her disability benefits commence but remains totally and permanently disabled (as defined in paragraph (4) of this subsection), the participant shall be entitled to continue receiving disability benefits (subject to the reductions set forth in paragraph (2) of this subsection).

(7) *Review of continuing disability.*

- (i) Until a participant who has reached a termination date by reason of disability attains:
 - a. Age 65 (in the case of a participant whose disability is incurred on or before the attainment of age 60); or
 - b. The five-year anniversary of the date the participant's disability benefits pursuant to this section 1.431 commence (in the case of a participant whose disability is incurred after the attainment of age 60), the continuation of his or her right to receive disability benefits shall be subject to periodic review in accordance with rules established by the County to determine the participant's disability status.
- (ii) The review shall include the requirement that the participant submit to a physical examination no more often than annually with a physician selected or approved by the County and that the participant furnish the coordinator a copy of his or her Federal income tax return each year.

- (iii) In the event a disabled participant ceases to submit to such review, the participant shall be deemed to have recovered from the disability and the disability benefits payable pursuant to this section 1.431 shall cease.
- (8) *Recovery from disability.*
- (i) In the event of the participant's recovery from the disability (whether or not he returns to service as a covered individual), disability benefits payable pursuant to this section 1.431 shall cease.
 - (ii) Notwithstanding any provision in this plan to the contrary, the participant's years of eligibility service (except for purposes of determining whether the participant has reached his or her early retirement date on account of being credited with 15 years of eligibility service or whether the participant has reached his or her normal retirement date on account of being credited with 25 or 30 years of eligibility service, as applicable) and years of creditable service shall include such years during which the participant received disability benefits pursuant to this section 1.431.
- (9) *Death of disabled participant.* In the event of the death of a disabled participant, no benefits with respect to the participant shall be payable except as otherwise provided in section 1.439 of this subtitle.
- (10) *Participant on leave of absence.* A participant who reaches a termination date by reason of a disability incurred while the participant is on a leave of absence, including a leave of absence for military service, shall be eligible to apply for ordinary disability benefits under subsection (a) of this section 1.431 but shall not be eligible to apply for line-of-duty disability benefits under subsection (b) of this section 1.431.
- (11) *Special rules for ordinary disability retirements prior to July 1, 2003.* The following rules apply to a participant who retired pursuant to subsection (a) of this section 1.431 prior to July 1, 2003:
- (i) When a participant to whom this paragraph (11) applies reaches age 62, the participant's monthly benefit will be the greater of the benefit determined under section (a) of this section 1.431 or the benefit determined under section 1.428 as of the participant's termination date.
 - (ii) If a participant to whom this paragraph (11) applies elects to receive:
 - a. The joint and survivor option (with a 50 percent survivor benefit) described in subsection 1.442(a) of this subtitle; or
 - b. The pop-up option (with a 50 percent survivor benefit) described in subsection 1.442(b) of this subtitle.
- The benefit payable to the participant's surviving spouse following the participant's death shall not be less than 50 percent of the benefit the participant would have received under the elected option if the disability were based on 50 percent of average compensation.
- (f) *Change in Amount of Disability Benefits.*
- (1) Disability incurred on or before age 60. Notwithstanding any of the foregoing provisions of this section, if a participant's disability is incurred on or before the attainment of age 60, as of the first day of the month coincident with or next following his or her attainment of age 65, the participant shall no longer receive the monthly disability benefit calculated pursuant to subsection (a) or (b) of this section, but instead shall begin receiving a monthly disability benefit equal to the amount determined under section 1.428 of this subtitle (or the actuarial equivalent thereof if the participant elected an optional form of benefit pursuant to subsection (e)(3) of this section), with:

- (i) Years of eligibility service and years of creditable service credited under the assumption that the participant had remained in active service, working the same number of hours in the same position classification as he or she was regularly working when his disability was incurred, through the attainment of age 65; and
 - (ii) Average compensation calculated using the compensation, during the 36-month period prior to his or her attainment of age 65, of the same position classification held by the participant when the disability was incurred (or, if the same position no longer exists, the most comparable position as determined by the Administrator).
- (2) *Disability incurred after age 60.* Notwithstanding any of the foregoing provisions of this section, if a participant's disability is incurred after the attainment at age 60, as of the first day of the month coincident with or next following the five-year anniversary of the date the participant's disability benefits pursuant to this section commence, the participant shall no longer receive the monthly disability benefit calculated pursuant to subsection (a) or (b) of this section, but instead shall begin receiving a monthly disability benefit equal to the amount determined under section 1.428 of this subtitle (or the actuarial equivalent thereof if the participant elected an optional form of benefit pursuant to subsection (e)(3) of this section), with:
- (i) Years of eligibility service and years of creditable service credited under the assumption that the participant had remained in active service, working the same number of hours in the same position classification as he or she was regularly working when the disability was incurred, through the five-year anniversary of the date his or her disability benefits commence; and
 - (ii) Average compensation calculated using the compensation, during the 36-month period prior to such five-year anniversary, of the same position classification held by the participant when the disability was incurred (or, if the same position no longer exists, the most comparable position as determined by the Administrator).

(C.B. 21, 1995; C.B. 100, 1995; C.B. 54, 1997; C.B. 59, 1997; C.B. 56, 2001, § 1; C.B. 6, 2004, §§ 1, 2; C.B. 71, 2006; C.B. 12, 2013, § 4)

Sec. 1.432. - Other terminations of employment.

- (a) *Amount of Termination Benefit.* If a participant reaches a termination date for any reason other than death, retirement or disability, the participant shall be entitled to a monthly termination benefit equal to a vested percentage (determined as set forth below) of the benefit computed pursuant to section 1.428 (based upon the participant's actual years of creditable service and average compensation at his or her termination date).
- (b) *Commencement of Termination Benefits.*
 - (1) Benefits payable pursuant to this section 1.432 shall commence on the first day of the month coincident with or next following the participant's normal retirement date.
 - (2) Notwithstanding paragraph (1), a participant who has been credited with at least 15 years of eligibility service may elect to have his or her benefits commence on the first day of any month coincident with or next following attainment of age 55, in which case the amount of the benefit shall be subject to the appropriate actuarial reduction.
- (c) *Cash-Out Option.* Notwithstanding the preceding provisions of this section 1.432:
 - (1) A participant who has reached his or her termination date after having been credited with at least five years of eligibility service may elect, at any time, to receive a cash-out of his or her employee contributions benefit, by filing a written notice of such election with the coordinator.
 - (2) A participant who (i) has an employee contributions benefit that exceeds \$1,000.00, and (ii) has reached his or her termination date on or after December 4, 2006, regardless of the number of

his or her years of eligibility service may elect, at any time, to receive a cash-out of his or her employee contributions benefit, by filing a written notice of such election with the coordinator.

- (3) In either case, such cash-out shall constitute full payment of all benefits due to such participant under the plan.
- (d) *Mandatory Cash-Out Option.* Notwithstanding the preceding provisions of this section 1.432:
 - (1) A participant who has reached his or her termination date prior to December 4, 2006 after having been credited with less than five years of eligibility service shall automatically have a cash-out of the participant's employee contributions benefit paid to him or her as soon as administratively feasible following the later of the effective date of this amendment or the participant's termination date.
 - (2) A participant who (i) has an employee contributions benefit that does not exceed \$1,000.00, and (ii) has reached his or her termination date on or after December 4, 2006 after having been credited with less than five years of eligibility service shall automatically have a cash-out of the participant's employee contributions benefit paid to him or her as soon as administratively feasible following the termination date.
 - (3) In either case, the cash-out shall constitute full payment of all benefits due to such participant under the plan.
- (e) *Form of Benefits.* Except as provided in subsections (c) and (d) above, the benefits payable pursuant to this section 1.432 shall be payable in the normal form provided by section 1.428, unless an optional form of payment has been elected pursuant to section 1.442.
- (f) *Vested Percentage of the Accrued Benefit.*
 - (1) Subject to section 1.408, the vested percentage of the accrued benefit to which the participant is entitled shall be equal to the greater of:
 - (i) One hundred percent of the participant's employee contributions benefit; or
 - (ii) A percentage of the participant's accrued benefit, determined on the basis of the number of his or her years of eligibility service and in accordance with the following schedule:

Years of Eligibility Service	Percentage Vested
Less than 5	0 percent
5 or more	100 percent

- (2) Notwithstanding the preceding paragraph, a participant's vested percentage in his or her accrued benefit shall be 100 percent upon attainment of his or her normal retirement date.

(C.B. 21, 1995; C.B. 24, 2006, § 3)

Sec. 1.433. - Maximum limitation on benefits.

Notwithstanding any plan provisions to the contrary:

- (a) *Maximum Benefit.* To the extent necessary to prevent disqualification under Section 415 of the Internal Revenue Code, and subject to the remainder of this section 1.433, the maximum monthly benefit (exclusive of any benefit attributable to either employee contributions or rollover contributions) to which any participant may be entitled at any time pursuant to sections 1.428—1.432 of this subtitle (hereafter referred to as the "maximum benefit") shall be equal to 1/12 of the amount set forth in Section 415(B)(1)(A) of the Internal Revenue Code (such amount, as adjusted by c/l increases, hereafter referred to as the "monthly dollar limit"). The rate of benefit accrual shall be frozen or reduced accordingly.
- (b) *Actuarial Adjustment of Monthly Dollar Limit.* The monthly dollar limit shall be subject to actuarial adjustment as follows:
- (1) If the benefit is payable in any form other than a single life annuity or a qualified joint and survivor annuity (as defined for purposes of Section 415 of the Internal Revenue Code), the monthly dollar limit shall be reduced so that it is the actuarial equivalent of the single life annuity.
 - (2)
 - (i) With respect to a benefit beginning before age 62, the monthly dollar limit shall be reduced to the actuarial equivalent of a monthly benefit in the amount of the monthly dollar limit beginning at age 62.
 - (ii) Notwithstanding the foregoing, however, in no event shall the monthly dollar limit applicable to benefits beginning before age 62 be reduced for participants who have been credited with at least 15 years of creditable service:
 - a. As a full-time employee of the employer in a position providing police protection, firefighting services or emergency medical services;
 - b. In military service; or
 - c. In a combination of a. and b., above.
 - (3) With respect to a benefit beginning after age 65, the monthly dollar limit shall be increased so that it is the actuarial equivalent of the monthly dollar limit applicable to a benefit beginning at age 65.
 - (4) For purposes of this subsection (b), actuarial equivalent shall be as defined in section 1.406 of this subtitle, except that the interest rate assumption for purposes of a computation under paragraph (1) or (2) above shall not be less than five percent or any higher rate specified in the definition, and for purposes of a computation under paragraph (3) above shall not be greater than five percent or any lower rate specified in the definition.
 - (5) Applicable mortality table. This subsection shall apply to distributions with annuity starting dates on or after December 31, 2002.
 - (i) Notwithstanding any other plan provisions to the contrary, the applicable mortality table used for purposes of adjusting any benefit or limitation under Section 415(b)(2)(B), (C), or (D) of the Internal Revenue Code and the applicable mortality table used for purposes of satisfying the requirements of Section 417(e) of the Internal Revenue Code is the table prescribed in Revenue Ruling 2001-62.
 - (ii) For any distribution with an annuity starting date on or after the effective date of this section and before the adoption date of this section, if application of the amendment as of the annuity starting date would have caused a reduction in the amount of any distribution, such reduction is not reflected in any payment made before the adoption date of this section. However, the amount of any such reduction that is required under Section 415(b)(2)(B) of the Internal Revenue Code must be reflected actuarially over any remaining payments to the participant.
- (c) *Reducing Monthly Dollar Limit.* The monthly dollar limit shall be reduced (but not by more than 90 percent) by 1/10 th for each year of creditable service less than ten, considering only those years of creditable service during any part of which the participant was participating in the plan (including

those periods for which he or she elected to transfer service pursuant to section 1.417 of this subtitle).

- (d) *Other Reductions in Maximum Benefit.* In addition to the foregoing, the maximum benefit shall be reduced, and the rate of benefit accrual shall be frozen or reduced accordingly, to the extent necessary to prevent disqualification of the plan under Section 415 of the Internal Revenue Code, with respect to any participant who is also a participant in:
- (1) Any other tax-qualified pension plan maintained by the employer, including a defined benefit plan in which an individual medical benefit account (as described in Section 415(1) of the Internal Revenue Code) has been established for the participant;
 - (2) Any welfare plan maintained by the employer in which a separate account (as described in Section 419A(d) of the Internal Revenue Code) has been established to provide post-retirement medical benefits for the participant; and/or
 - (3) Any retirement or welfare plan, as aforesaid, maintained by a related employer, as described in Section 414(b), (c), (m) or (o) of the Internal Revenue Code.

(C.B. 21, 1995; C.B. 100, 1995; C.B. 20, 2002, § 2; C.B. 6, 2004, § 2; C.B. 21, 2008, § 1)

Sec. 1.434. - Post-termination changes.

Any change in benefits provided for by amendment to the plan shall not apply to any participant whose termination date with the employer occurred prior to the effective date of such amendment, except as otherwise specifically provided for in the plan or in such amendment.

(C.B. 21, 1995; C.B. 100, 1995)

Sec. 1.435. - Cost of living adjustments.

- (a) *Monthly Retirement Income Subject to Cost of Living Adjustment.* Notwithstanding the foregoing, but subject to the limitations set forth in section 1.433, the monthly retirement income of a participant who has reached his or her benefit commencement date, as otherwise computed pursuant to section 1.428, 1.429, 1.430, 1.431, 1.432, or 1.437 (whichever is applicable), shall be subject to the cost of living adjustment described in this section 1.435.
- (b) *Computation of Cost of Living Adjustment.*
- (1) As of each July 1 (hereafter referred to as the "valuation date") which occurs during the period beginning on the first valuation date occurring at least 12 months subsequent to the participant's benefit commencement date and ending on the date of death, the participant's then monthly retirement income shall be multiplied by a fraction:
 - (i) The numerator of which is the consumer price index (as defined in subsection (c) of this section) as of such valuation date; and
 - (ii) The denominator of which is the lesser of the numerator or the consumer price index (as defined in subsection (c) of this section) as of the immediately preceding valuation date;
 - (2) Provided, however, that no such cost of living adjustment shall cause a participant's monthly retirement income to exceed an amount equal to the participant's monthly retirement income as of his or her benefit commencement date compounded at the annual rate of three percent as of each of the valuation dates (including the valuation date for which the adjustment is being made) which have occurred subsequent to his or her benefit commencement date.
- (c) *Definition of Consumer Price Index.*

- (1) The consumer price index to be used is the index for "All Urban Consumers (CPI-U) Washington-Baltimore, DC-MD-VA-WV—All items—November 1996=100" published by the Bureau of Labor Statistics; and the Consumer Price Index as of any valuation date means the index reading on the last day of March preceding such valuation date.
 - (2) In the event the Bureau of Labor Statistics abandons publication of the index for "All Urban Consumers (CPI-U) Washington-Baltimore, DC-MD-VA-WV—All items—November 1996=100" the County shall adopt any other index which, in its judgment, provides an accurate measure of cost-of-living changes.
- (d) *Monthly Survivor Benefits Subject to Cost of Living Adjustments.* All survivor benefits payable pursuant to section 1.439 (but only if payable in the form of a monthly income) shall be granted the cost of living adjustments provided in this section 1.435.

(C.B. 21, 1995; C.B. 7, 1996; C.B. 26, 1999; C.B. 30, 2002, § 1; C.B. 14, 2012, § 1)

Sec. 1.436. - Pick-up contribution benefit.

(a) *Definitions.*

- (1) *Additional contributions*, for the purposes of this section, means the portion of pick-up contributions made by the participant to the Employees' Retirement System of the State of Maryland prior to July 1, 1995 that would have provided an additional benefit to the participant (pursuant to section 3-405 of the State Personnel and Pension Article of the Annotated Code of Maryland) had the participant transferred to the Employees' Pension System of the State of Maryland and remained a member of the Employees' Pension System of the State of Maryland instead of electing to participate in this plan, plus earnings credited upon such contributions under the Employees' Retirement System of the State of Maryland.
- (2) *Pick-up contributions benefit*, for the purposes of this section 1.436, means the sum of the following amounts:
 - (i) The additional contributions; plus
 - (ii) Interest on the additional contributions computed on June 30 of each year as follows and compounded annually:
 - a. 0.42 percent per month for any amount transferred during the current plan year.
 - b. Five percent of any amount transferred prior to the current plan year.

A participant shall at all times be 100 percent vested in his or her pick-up contributions benefit.

- (b) *Eligibility* means a participant who has elected to receive credit for service under the Maryland State Retirement Systems pursuant to subsection 1.417(d) and whose "additional contributions" have been transferred to this plan shall be entitled to receive, at the participant's benefit commencement date, in addition to the monthly retirement income pursuant to section 1.428, 1.429, 1.430, 1.431 or 1.432 (whichever applicable), the pick-up contributions benefit.
- (c) *Form of benefit* means a participant entitled to receive the pick-up contributions benefit shall elect, pursuant to subsection 1.443(b) whether to receive such benefit in the form in which the participant has elected to receive the monthly retirement income otherwise payable under the plan or in a lump sum distribution.

(C.B. 21, 1995)

Sec. 1.437. - 1996 early retirement incentives.

- (a) *Eligibility.* The retirement benefit of a participant who was a participant in the plan on or before April 1, 1996 may be determined under this section if:
- (1) The participant elects, in writing to reach a termination date and retire from employment with the County on April 8, 1996 and to have the amount of his or her benefit determined under this section;
 - (2) The participant does not revoke the election during the seven-day period following April 8, 1996;
 - (3) At the time of making the election described in paragraph (1) of this subsection, the participant attained either:
 - (i) The participant's normal retirement date; or
 - (ii) The participant's early retirement date;
 - (4) The participant has not previously applied, or is not, coincident with the application described in this section, applying for a disability retirement benefit described in section 1.431 of this subtitle; and
 - (5) The participant acknowledges that the participant has not reached a termination date by reason of total and permanent disability as defined in subsection 1.431(e)(4) of this subtitle.
- (b) *Early Retirement Benefits.* A participant's election under subsection (a) of this section shall be an election of one of the following retirement benefits:
- (1) *Option 1—Adjusted actuarial reduction.* A participant electing to receive payments under this paragraph shall be entitled to receive a monthly retirement benefit equal to the benefit computed pursuant to section 1.428 (based upon his or her actual years of creditable service, average compensation and covered compensation as of April 8, 1996), but subject to a reduction equal to 0.25 percent per month for each month by which the participant's benefit commencement date precedes the first day of the month coincident with or next following the date on which the participant attains age 62.
 - (2) *Option 2—Additional years of creditable service.* A participant electing to receive payments under this paragraph shall be entitled to receive a monthly retirement benefit equal to the benefit computed pursuant to section 1.428 or 1.429, based upon:
 - (i) The participant's actual average compensation and covered compensation as of April 8, 1996; and
 - (ii) The participant's years of creditable service as of April 8, 1996, plus:
 - a. Two years of creditable service, if the participant has less than 25 years of creditable service as of April 8, 1996; or
 - b. Three years of creditable service if the participant has 25 or more years of creditable service as of April 8, 1996.
 - (3) *Option 3—Social Security bridge payment.*
 - (i) *Payment in addition to monthly benefit.* A participant electing to receive payments under this paragraph shall be entitled to receive a Social Security bridge payment in addition to the monthly retirement benefit equal to the benefit computed pursuant to section 1.428 or 1.429 of this subtitle (based upon his or her actual years of creditable service, average compensation and covered compensation as of April 8, 1996).
 - (ii) *Determination of amount of payment.* For purposes of this paragraph, a "Social Security bridge payment" is an amount actuarially determined to equal, as of the date the participant attains age 62 and, after annual adjustments for cost of living pursuant to section 1.435, the participant's anticipated monthly benefit at age 62 under Title II of the Social Security Act, and which is actuarially reduced to reflect the participant's election of a

form of payment that provides for continuation of payments to a designated beneficiary following the participant's death.

(iii) *Duration of payment:*

- a. *Benefits not continuing to beneficiary.* If a participant electing a Social Security bridge payment under this paragraph elects to receive payment of retirement benefits in a form that does not provide for continuation of payments to a designated beneficiary following the participant's death, Social Security bridge payments continue to be paid until the earlier of:
 1. The first day of the month coincident with or preceding the participant's 62nd birthday; or
 2. The first day of the month coincident with or preceding the participant's death.
- b. *Benefits continuing to beneficiary.* If a participant electing a Social Security bridge payment under this paragraph elects to receive payment of retirement benefits in a form that provides for continuation of payments to a designated beneficiary following the participant's death, Social Security bridge payments shall continue to be paid until the earlier of:
 1. The first day of the month coincident with or preceding the participant's 62nd birthday, or what would have been the participant's 62nd birthday if the participant dies before attaining age 62; or
 2. The first day of the month coincident with or preceding the date of death of the last to die of the participant and the participant's beneficiary.

(C.B. 7, 1996)

Sec. 1.438. - Reserved.

ARTICLE IV. - DEATH BENEFITS

Sec. 1.439. - Death benefits.

The only benefits payable under the plan in the event of the death of a participant shall be as follows:

- (a) *General Benefit.* In the event of the death of a participant prior to his or her benefit commencement date, the participant's beneficiary shall be entitled to receive as a single lump sum the benefit described in paragraph (1) plus that described in paragraph (2), where:
 - (1) Is an amount equal to the participant's employee contributions benefit and pick-up contributions benefit pursuant to section 1.436; and
 - (2) Is an amount equal to the participant's annualized compensation determined as of the date of death; provided, however, that the benefit provided by this paragraph (2) shall be payable only if the participant had died before his or her termination date and either after completing one year of eligibility service or while in the line of duty (as defined in subsection (c) of this section 1.439).
- (b) *Surviving Spouse Annuity Benefit.*
 - (1) If all of the following conditions are met, then the surviving spouse of a deceased participant shall be entitled to receive a survivor annuity, in lieu of any other plan benefit:
 - (i) The participant is married on the date of death;
 - (ii) The participant's death occurs before his or her termination date;
 - (iii) The participant has designated his or her surviving spouse as the participant's only primary beneficiary;

- (iv) The participant attained age 62 before his or her death or would have been eligible to receive either normal retirement benefits pursuant to section 1.428 or early retirement benefits pursuant to section 1.429 had the participant retired on the day before his or her death; and
 - (v) The spouse does not elect to receive the benefit provided in subsection (a) above.
- (2) For purposes of this subsection (b), a survivor annuity is a monthly income commencing on the first day of the month coincident with or next following the date of the participant's death, and continuing for the remainder of the spouse's life, in an amount equal to the benefit the spouse would have received under an immediate joint and survivor annuity pursuant to subsection 1.442(a) (with a 100 percent survivor benefit) had the participant retired on the day before death, but computed without actuarial reduction for early retirement.
- (c) *Line of Duty Definition.* For purposes of this section 1.439, the term "line of duty" means death from an injury or illness which has been sustained as an active covered individual and which has been ruled compensable under the Maryland Workers' Compensation Act. Line of duty does not include death from an injury or illness which has been sustained during military service.
- (d) *Benefits Payable after Benefit Commencement Date.* If a participant dies after his or her benefit commencement date, the benefits, if any, to which the participant's beneficiary shall be entitled shall depend upon the form in which the participant's benefits were payable at the time of his or her death, under the applicable form of benefit described in section 1.442 of this subtitle.
- (e) *Death While on Leave of Absence.* The beneficiary of a participant who dies while on a leave of absence (including, effective January 1, 2007, participant who dies while on a leave of absence for military service) shall be entitled to receive death benefits pursuant to this section 1.439.

(C.B. 21, 1995; C.B. 26, 1999; C.B. 30, 2002, § 1; C.B. 12, 2013, § 5)

Sec. 1.440. - Limitations.

All death benefits payable pursuant to section 1.439 shall be distributed only in accordance with final regulations published by the Internal Revenue Service under Section 401(a)(9) of the Internal Revenue Code. To the extent required thereby, such benefits shall be distributed in full not later than the last day of the calendar year containing the fifth anniversary of the death of the participant, except as follows:

- (a) *Distributed over Lifetime of Beneficiary.* Unless the participant or the participant's beneficiary irrevocably elects pursuant to any elective provision which may be then present in the plan (which election must be prior to the earliest date on which distribution would be otherwise required pursuant to this section 1.440) to have the aforesaid five year limit apply, benefits payable to or for the benefit of the participant's beneficiary, and which begin not later than the last day of the calendar year containing the first anniversary of the participant's death, may be distributed over the life of the beneficiary or a period certain not extending beyond the life expectancy of the beneficiary, under a method of distribution which meets the requirements of subsection 1.443(a). The life expectancy shall be based upon the beneficiary's attained age as of the beneficiary's birthday in the calendar year in which falls:
- (1) The date on which nonannuity benefits are required to commence pursuant to this subsection (a); or
 - (2) If earlier, the date on which annuity benefits actually commence.
- (b) *Surviving Spouse.* If the participant's beneficiary is the participant's surviving spouse, then, unless the participant or his or her spouse irrevocably elects pursuant to any elective provision which may be then present in the plan (which election must be prior to the earliest date on which distribution would be otherwise required pursuant to this section 1.440) to have the aforesaid five-year limit apply, benefits payable to or for the benefit of the spouse, and which begin not later than the later of the last day of the calendar year containing the first anniversary of the participant's death, or the last

day of the calendar year in which the participant would have reached age 70½, may be distributed over the life of the spouse or a period certain not extending beyond the life expectancy of the spouse, under a method of distribution which meets the requirements of subsection 1.443(a). The life expectancy shall be based upon the spouse's attained age as of the spouse's birthday in the calendar year in which falls:

- (1) The date on which non-annuity benefits are required to commence pursuant to this subsection (b); or
 - (2) If earlier, the date on which annuity benefits actually commence.
- (c) *Surviving Spouse Dies Prior to Commencement of Benefits.* If benefits are payable in accordance with subsection (b) above, and the surviving spouse dies after the participant but prior to:
- (1) The date on which nonannuity benefits are required to commence pursuant to subsection (b) above; or
 - (2) The date on which annuity distributions meeting the requirements of subsection (b) above actually commence, then, in either case, the aforesaid five-year limit, and the alternate limit set forth in subsection (a) of this section 1.440, are to be applied as if the spouse were the participant, so that such limits shall be measured from the death of the spouse.
- (d) *When Annuity Benefits Commence before Participant's Death.* If annuity benefits meeting the requirements of subsection 1.443(a) had commenced prior to the participant's death, then the death benefits payable pursuant to section 1.442 may be distributed without regard to the aforesaid five-year limit, but must be distributed at least as rapidly as they would have been under the pre-death method of distribution.

(C.B. 21, 1995; C.B. 21, 2008, § 2)

Sec. 1.441. - Method of payment.

- (a) All benefit distributions shall be in cash (or in annuity contracts as provided herein).
- (b) The County shall determine, in its discretion, whether the distribution shall be funded through periodic payments made directly from the trust, or through the purchase of annuity contracts, or whether a combination of such methods of distribution shall be used, and the County shall give to the trustees such directions and information as may be necessary for the trustees to carry out the decision of the County.
- (c) If the County shall determine that the whole or any part of the distribution is to be funded through purchase of an annuity contract for a participant, the County shall select such form of contract (including a variable annuity) to be so purchased and shall direct the trustees to pay the premium of such contract to the issuing company.
- (d) The County shall direct that all right, title and interest in such contract shall remain in the trustees under the terms of the plan and the participant shall have no right, title or interest therein except to receive the payments therefrom as provided therein, and to change the beneficiary from time to time.
- (e) Alternatively, the County may direct that the contract shall be purchased in the name of the participant and distributed to him or her free and clear of the trust, in which case:
 - (1) The contract shall be issued so as to be nontransferable;
 - (2) It shall not contain a death benefit in excess of the death benefit provided in section 1.439 hereof or in section 1.442; and
 - (3) It shall not contain provisions that expand upon, change or eliminate any plan provisions applicable to distributions in annuity form.

(C.B. 21, 1995)

Sec. 1.442. - Optional forms of benefit.

A participant, subject to the conditions hereinafter set forth and in subsection 1.431(e)(3), may elect to receive, in lieu of the normal monthly form of retirement income described in section 1.428, a benefit, which is its actuarial equivalent, payable in any of the following forms:

(a) *Joint and Survivor Option.*

- (1) The joint and survivor option is a monthly income payable during the participant's lifetime and continuing after his or her death at either 50 percent or 100 percent (as elected by the participant) of the rate to the participant's spouse as of the participant's benefit commencement date for the remainder of such spouse's life.
- (2) If, before the participant's benefit commencement date, the participant's spouse dies or the participant becomes divorced from the spouse, the election shall thereupon become void.
- (3) If, after the participant's benefit commencement date, the participant's spouse dies before the participant dies or the participant becomes divorced from his or her spouse, the election shall remain effective and the participant shall continue to receive the reduced retirement income payable to the participant in accordance with the option.

(b) *Pop-Up Option.*

- (1) The pop-up option is a monthly income payable during the participant's lifetime and continuing after the participant's death at either 50 percent or 100 percent (as elected by the participant) of the rate to the participant's spouse as of the participant's benefit commencement date for the remainder of such spouse's life.
- (2) If, before the participant's benefit commencement date, the participant's spouse dies or the participant becomes divorced from the spouse, the election shall thereupon become void.
- (3) If, after the participant's benefit commencement date, the participant's spouse dies before the participant dies or the participant becomes divorced from the spouse, the election shall likewise become void, and the participant shall receive, commencing on the first day of the month following the spouse's death (or divorce), the monthly benefit which the participant would have received had his or her benefits originally been payable in the normal form of payment described in section 1.428; such benefit shall thereafter be payable as a life only option.

(c) *Guaranteed Return of Accrued Benefit Option.* The guaranteed return of accrued benefit option is a monthly income payable during the participant's lifetime, and if upon the death of the participant he or she has not received total monthly payments equal to the actuarial equivalent present value of the participant's accrued benefit, the difference between the actuarial equivalent present value and the total monthly payments shall be paid in a single lump sum payment to the participant's designated beneficiary as soon as administratively feasible following the participant's death.

(d) *Guaranteed Return of Employee Contributions Benefit Option.* The guaranteed return of employee contributions benefit option is a monthly income payable during the participant's lifetime, and if upon the death of the participant he or she has not received total monthly payments equal to the participant's employee contributions benefit, the difference between the employee contributions benefit and the total monthly payments shall be paid in a single lump sum payment to the participant's designated beneficiary as soon as administratively feasible following the participant's death.

(e) *Special Option.* At the sole discretion of the Administrator upon a written request to the coordinator, a participant may elect a form of benefit, with respect to benefits payable during his or her lifetime and/or with respect to benefits payable to his or her spouse or another designated beneficiary after the participant's death, other than those forms of benefits described in subsections (a)—(d), above.

(f) *Lump Sum Option.* The lump sum option is a cash-out of the participant's employee contributions benefit in lieu of all other benefits under the plan, as described in subsections (c) and (d) of section 1.432.

(C.B. 21, 1995; C.B. 24, 2006, § 4)

Sec. 1.443. - General provisions applicable to options.

- (a) *Minimum Distribution Requirements.* Notwithstanding any other provision in the plan to the contrary, distribution shall be made only in accordance with Section 401(a)(9) of the Internal Revenue Code and the Final Regulations published thereunder. To the extent required thereby, distribution of benefits shall comply with the following limitations:
- (1) (i) Except as otherwise provided below, distribution shall begin not later than April 1 following the later of (a) the calendar year (hereinafter referred to as the "commencement year") in which the participant reaches age 70½ and (b) the year in which he or she retires.
 - (ii) Distribution shall be made:
 - a. Over the life of the participant or the lives of the participant and his or her beneficiary; and/or
 - b. Over a period certain not extending beyond the life expectancy of the participant or the joint life and last survivor expectancy of the participant and his or her beneficiary, or, if shorter, the alternate period, all as described in Treasury Regulation 1.401(a)(9)-6.
 - (2) A required distribution shall be deemed to have been made during the commencement year if actually made by the following April 1, but such delayed distribution shall not change the amount of such distribution, and the distribution otherwise required during the subsequent calendar year shall be calculated as if the first distribution had been made on the last day of the commencement year.
 - (3) Benefits paid prior to the commencement year shall reduce the aggregate amount subject to (but shall not otherwise negate) the minimum distribution requirements described herein.
 - (4) Nothing contained in this subsection (a) shall prevent distribution of annuity benefits providing for nonincreasing (except as otherwise permitted in Treasury Regulation 1.401(a)(9)-6) payments beginning not later than the commencement year (except as provided in paragraph (3) above) and payable at least annually over a period permitted by this subsection (a) (for which purpose, if benefit commencement under the annuity precedes the commencement year, each relevant life expectancy shall be based on the individual's attained age as of his or her birthday occurring in the calendar year in which benefit commencement occurs).
- (b) *Election Procedures.* An election of any optional form of benefit described in section 1.442 shall be made by a participant in writing, on a form supplied by or to the coordinator. Upon the participant's benefit commencement date, such election (including the designation of a beneficiary) shall be irrevocable.
- (c) *Effect of Death.* In the event of the death of a participant prior to his or her benefit commencement date, no benefits shall be payable to the participant's spouse or other beneficiary except as provided in section 1.439, regardless of whether or not the participant has elected an optional form of benefit pursuant to section 1.442.

(C.B. 21, 1995; C.B. 6, 2004 § 2; C.B. 21, 2008, § 2)

Sec. 1.444. - Eligible rollover distributions.

Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(a) *Definitions.*

- (1) *Eligible rollover distribution* means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution:
 - (i) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;
 - (ii) Any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and
 - (iii) The portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).
- (2) *An eligible retirement plan* is:
 - a. An individual retirement account described in Section 408(a) of the Internal Revenue Code;
 - b. An individual retirement annuity described in Section 408(b) of the Internal Revenue Code; or
 - c. A qualified trust described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution, or
 - (ii) For distributions made after December 31, 2001, an eligible retirement plan also includes:
 - a. An annuity contract described in Section 403(b) of the Internal Revenue Code; or
 - b. An eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a State, political subdivision of a State, or any agency or instrumentality of a State or political subdivision of a State and which agrees to separately account for amounts transferred into such plan from this plan.
 - (iii) For distributions made after December 31, 2007, an eligible retirement plan also includes a Roth IRA described in Section 408A of the Internal Revenue Code.
 - (iv) However, in the case of an eligible rollover distribution to the surviving spouse of a participant or former participant, an eligible retirement plan is an individual retirement account or individual retirement annuity.
- (3) *Distributee* includes a participant or former participant. In addition, the participant's or former participant's surviving spouse is a distributee with regard to the interest of the spouse or former spouse.
- (4) *Direct rollover* means a payment by the plan to the eligible retirement plan specified by the distributee.
- (5) *Spouse.* For purposes of this section 1.444, spouse means spouse as defined under Federal law.

(C.B. 21, 1995; C.B. 21, 2008, § 2; C.B. 14, 2013, § 2)

Sec. 1.445. - Distributions to non-spouse beneficiaries.

This section applies to distributions made on or after July 1, 2008. Notwithstanding any provision of the plan to the contrary that would otherwise limit the options of the beneficiary of a deceased participant who is not a distributee (within the meaning of section 1.444 of this subtitle), the Administrator shall, upon the request of such a beneficiary transfer a lump sum distribution to the trustee of an individual retirement

account established under Section 408 of the Internal Revenue Code in accordance with the provisions of Section 402(c)(11) of the Internal Revenue Code.

(C.B. 21, 2008, § 2; C.B. 14, 2013, § 3)

Secs. 1.446—1.447. - Reserved.

ARTICLE V. - TRUSTEES AND BENEFICIARIES

Sec. 1.448. - Designation of beneficiaries.

- (a) *Participant Designates Beneficiary.* Each participant may designate a beneficiary or beneficiaries (who may be named contingently or successively) to receive such benefits as may be payable under the plan upon or after the participant's death, and, subject to the provisions of subsection 1.443(b), such designation may be changed from time to time by the participant by filing a new designation.
- (b) *Revocations; Form of Designation; Filed with Coordinator.* Each designation shall revoke all prior designations by the same participant, shall be in form prescribed by the County, and shall be effective only when filed in writing with the coordinator prior to the participant's benefit commencement date.
- (c) *Absence of Valid Beneficiary Designation.* In the absence of a valid beneficiary designation (except in conjunction with the election of a form of benefit payment which does not require the designation of a specific beneficiary), or if, at the time any benefit payment is due to a beneficiary, there is no living beneficiary validly named by the participant eligible to receive the payment, the County shall direct the trustees to distribute any such benefit payment to:
 - (1) The participant's spouse, if then living; otherwise to
 - (2) The participant's then living descendants, if any, per stirpes; otherwise to
 - (3) The participant's then living parent or parents, equally; otherwise to
 - (4) The participant's estate.
- (d) *Question Regarding Right of a Person to Receive a Benefit Payment.* In determining the existence or identity of anyone entitled to a benefit payment, the County and the trustees may rely conclusively upon information supplied by the participant's personal representative. In the event of a lack of adequate information being supplied to the County, or in the event that any question arises as to the right of any person to receive a benefit payment as aforesaid, or in the event that a dispute arises with respect to any such payment, then, notwithstanding the foregoing, the County, in its sole discretion, may, in complete discharge of the County and the trustees, and without liability for any tax or other consequences which might flow therefrom, direct the trustees to:
 - (1) Distribute the payment to the participant's estate,
 - (2) Retain such payment, without liability for interest, until the rights thereto are determined, or
 - (3) Deposit the payment into any court of competent jurisdiction.

(C.B. 21, 1995)

Sec. 1.449. - Location of participants and beneficiaries.

- (a) *Notice to Last Post Office Address.* Any communication, statement or notice addressed to a participant or beneficiary at his or her last post office address filed with the coordinator, or if no such address was filed with the coordinator, then at the individual's last post office address as shown on the employer's records, shall be binding on the participant or beneficiary for all purposes of the plan.

Except for the employer's sending of a registered letter to the last known address, neither the trustees nor the employer shall be obliged to search for any participant or beneficiary.

- (b) *Distribution to Next of Kin if Participant or Beneficiary Fails to Claim Amount.* If the employer notifies any participant or beneficiary that he or she is entitled to an amount under the plan and the participant or beneficiary fails to claim such amount or make his or her location known to the coordinator within three years thereafter, then, except as otherwise required by law, if the location of one or more of the next of kin of the participant, including the participant's surviving spouse, is known to the employer, it may direct distribution of such amount to any one or more or all of such next of kin, and in such proportions as the employer determines.
- (c) *If Location of Participant, Beneficiary, or Next of Kin Cannot Be Determined.* If the location of none of the foregoing persons can be determined, the County shall have the right to direct that the amount payable shall be deemed to be a forfeiture and treated in accordance with section 1.424, except that the dollar amount of the forfeiture, unadjusted for gains or losses in the interim, shall be reinstated if a claim for the benefit is made by the participant or beneficiary to whom it was payable. If any benefit payable to an unlocated participant or beneficiary is subject to escheat pursuant to applicable State law, neither the trustees nor the employer shall be liable to any person for any payment made in accordance with such law.

(C.B. 21, 1995; C.B. 100, 1995)

Sec. 1.450. - Investment of funds.

- (a) All contributions under the plan shall be paid to the trustees and deposited in the trust.
- (b) Such contributions, all investments made therewith and proceeds thereof and all earnings and profits thereon, less the authorized disbursements therefrom, shall constitute the trust, which trust, and the agreement under which it is maintained, shall in all respects constitute a part of the plan.
- (c) The County reserves the right to select, and from time to time to change, the trustees, to amend the trust with the consent of the trustees, or to adopt a different funding vehicle.

(C.B. 21, 1995)

Sec. 1.451. - Prohibition against diversion of funds.

It shall be impossible by operation of the plan or trust, by natural termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by other means, for any part of the corpus or income of the trust, or any funds contributed thereto, to inure to the benefit of the employer or otherwise be used for or diverted to purposes other than providing benefits to participants and beneficiaries and defraying reasonable expenses of administering the plan, except as otherwise set forth in subsection 1.469(c)(5) hereof and in the trust with respect to the conditions under which trust assets may be returned to the employer.

(C.B. 21, 1995; C.B. 100, 1995)

Sec. 1.452. - Prohibition against assignment of benefits.

- (a) Except as provided below, no benefit payable at any time under this plan may be anticipated, assigned (either at law or in equity), alienated or subject to attachment, garnishment, execution, levy or other legal and equitable process.
- (b) However, the prohibitions of the preceding sentence shall not apply to, and the trustees shall fully recognize the creation, assignment or recognition of a right to any benefit payable with respect to a participant pursuant to a "qualified domestic relations order."

- (c) For the purposes hereof, a qualified domestic relations order shall mean a judgment, decree or order made pursuant to a State domestic relations law which relates to the provision of child support, alimony payments or marital property rights and:
- (1) Which clearly specifies:
 - (i) The names, Social Security numbers, dates of birth, and last known mailing addresses of the participant and each payee covered by the order;
 - (ii) The amount or percentage of the participant's benefits to be paid by this plan to each payee (or the manner in which such amount or percentage is to be determined);
 - (iii) The number of payments or period to which such order relates; and
 - (iv) The name of the plan and the plan Administrator; and
 - (2) Which specifically provides that:
 - (i) Upon the death of the payee while benefits are in pay status and prior to the death of the participant, the payments being made to the payee will thereafter be paid to the participant; and
 - (ii) No portion of any death benefit under subsection 1.439(a) of this subtitle will be paid to the payee upon the death of the participant prior to the commencement of benefit payments if a surviving spouse annuity benefit is payable to the then surviving spouse of the participant; and
 - (3) Which does not:
 - (i) Require this plan to provide increased benefits;
 - (ii) Require the payment of the same benefits to any payee which are payable to another payee pursuant to a prior qualified domestic relations order;
 - (iii) Require the plan to provide a type or form of benefit or benefit option not otherwise provided under the plan;
 - (iv) Provide for payment of benefits to a payee which commence before the commencement of benefit payments to the participant;
 - (v) Provide for payment of benefits to a payee over a period longer than the lifetime of the participant;
 - (vi) Allow a payee to designate a beneficiary to receive payments following the death of the payee;
 - (vii) Provide for the designation of the payee as the surviving spouse for purposes of receipt of all or a portion of any surviving spouse annuity benefit provided under subsection 1.439(b) of this subtitle; or
 - (viii) Provide for payment to the payee of all or a portion of any disability benefits payable to the participant under section 1.431 of this subtitle before the date specified in subsection 1.431(f)(1) subtitle.

(C.B. 21, 1995; C.B. 56, 2001, § 1)

Sec. 1.453. - Administrative authority.

- (a) *Sole Responsibility and Control.* Except as otherwise specifically provided herein, the County shall have the sole responsibility for and the sole control of the operation and administration of the plan.
- (b) *Powers, Duties and Responsibilities.* The County shall have the power and authority to take all action and to make all decisions and interpretations which may be necessary or appropriate in order

to administer and operate the plan, including, without limiting the generality of the foregoing, the power, duty and responsibility to:

- (1) Resolve and determine all disputes or questions arising under the plan, including the power to determine the rights of employees, participants and beneficiaries, and their respective benefits, and to remedy any ambiguities, inconsistencies or omissions;
 - (2) Adopt such rules of procedure and regulations as in its opinion may be necessary for the proper and efficient administration of the plan and as are consistent with the plan;
 - (3) Implement the plan in accordance with its terms and such rules and regulations;
 - (4) Direct the trustees with respect to the eligibility of any employee as a participant and the crediting and distribution of the trust, which are to be made only upon the basis of instructions from the County pursuant to the terms of the plan; and
 - (5) Establish and carry out a funding policy and method consistent with the objectives of the plan, pursuant to which the County shall determine the plan's liquidity and financial needs and communicate them to the trustees (or other fiduciaries who are charged with determining investment policy).
- (c) *Act through County Executive.* Subject to the power to delegate in the manner described in section 1.454, the County shall act through the County Executive.

(C.B. 21, 1995)

Sec. 1.454. - County administration.

The plan shall be operated and administered on behalf of the County by an Administrator, which shall be the Retirement Plan Committee established pursuant to section 1.455. The Administrator shall be governed by the following:

- (a) *Powers of the Administrator.* Except as the County shall otherwise expressly determine, the Administrator shall have the following powers:
- (1) To make and enforce rules and regulations as it shall deem necessary or proper for the efficient administration of the plan;
 - (2) To make and enforce procedures to be followed by employees in filing applications for benefits and for furnishing the evidence necessary to establish the employees' right to benefits;
 - (3) To make and enforce determinations concerning the rights of employees applying for or receiving benefits;
 - (4) To make and enforce procedures which afford a mechanism for adjusting complaints of an employee dissatisfied with determinations of the Administrator;
 - (5) To make and enforce procedures for determining the service credit of employees which affords employees an opportunity to object, in writing, and to establish service credit in advance of retirement;
 - (6) To make and enforce procedures for authorizing disbursements from the fund created under the plan and to authorize disbursements from the trustees of the fund in accordance with the plan documents;
 - (7) To make and enforce procedures and standards and make determinations concerning total and permanent disability in accordance with the plan documents;
 - (8) To compute the amount of benefits that shall be payable to any person in accordance with the plan documents;
 - (9) To interpret the plan;

- (10) To otherwise decide questions concerning the eligibility of any employee to participate in the plan or to receive benefits from the plan;
 - (11) To employ or engage actuaries to: make actuarial evaluation of the liabilities under the plan, to recommend the mortality and other tables and interest rates to be used from time to time in actuarial and other computations for any purpose of the plan, to recommend the amounts of contributions to be made by the employer and to perform such other services as the Administrator shall deem necessary or desirable in connection with the administration of the plan;
 - (12) To employ or engage accountants as it shall deem necessary or desirable in connection with the administration of the plan;
 - (13) To employ or engage legal counsel as it shall deem necessary or desirable in connection with the administration of the plan;
 - (14) To employ or engage any other experts as it shall deem necessary or desirable in connection with the administration of the plan;
 - (15) To determine the mortality and other tables and interest rates to be used from time to time in actuarial or other computations for any purpose of the plan;
 - (16) To recommend to the employer the amounts of contributions to be made by the employer, from time to time, under the provisions of the plan; and
 - (17) To act for the County before all persons in any matter directly pertaining to the plan.
- (b) *Limits on Power.* The Administrator shall have no power to:
- (1) Amend or terminate the plan;
 - (2) Determine employer contributions;
 - (3) Exercise authority to direct the trustees with respect to the investment of the trust;
 - (4) Affect the employer-employee relationship between the employer and any employee; or
 - (5) Retain and/or discharge the trustees,
- all of which powers are reserved to the County unless expressly granted to the Administrator.
- (c) *Fiduciary Duties, Powers and Responsibilities.* Fiduciary duties, powers and responsibilities (other than those reserved to the trustees, with respect to management or control of trust assets) may be allocated among the fiduciaries (if there be more than one) to whom such duties, powers and responsibilities have been delegated, so long as such allocation is pursuant to action of the County or by written agreement executed by the involved fiduciaries and approved by the County, in which case such fiduciary shall not have any liability, with respect to any duties, powers or responsibilities not allocated to him or her, for the acts or omissions of any other fiduciary. Any person may serve in more than one fiduciary capacity under the plan, including those of Administrator and trustee.
- (d) *Specialized Advice or Assistance.*
- (1) *Appoint persons or firms; rely upon advice.*
 - (i) The Administrator may appoint any persons or firms, or otherwise act to secure specialized advice or assistance, as it deems necessary or desirable in connection with the administration and operation of the plan.
 - (ii) The Administrator shall be entitled to rely conclusively upon, and shall be fully protected in any action or omission taken by it in good faith reliance upon, the advice or opinion of such firms or persons.
 - (2) *Delegate duties, powers or responsibilities to County employee.*
 - (i) The Administrator shall have the power and authority to delegate from time to time by written instrument all or any part of its duties, powers or responsibilities under the plan,

both ministerial and discretionary, as it deems appropriate, to the specified employee of the County who shall be designated by the Personnel Administrator of the County to assist the Administrator (the "coordinator"), and in the same manner to revoke any such delegation of duties, powers or responsibilities.

- (ii) Any action of the coordinator in the exercise of such delegated duties, powers or responsibilities shall have the same force and effect for all purposes hereunder as if such action had been taken by the Administrator.
 - (iii) Further, the Administrator may authorize the coordinator to execute any certificate or document on behalf of the Administrator, in which event any person notified by the Administrator of such authorization shall be entitled to accept and conclusively rely upon any such certificate or document executed by such person as representing action by the Administrator until such third person shall have been notified of the revocation of such authority.
 - (iv) The Administrator shall not be liable for any act or omission of any person to whom the Administrator's duties, powers or responsibilities have been delegated, nor shall any person to whom any duties, powers or responsibilities have been delegated have any liabilities with respect to any duties, powers or responsibilities not delegated to him or her.
- (e) *Liability.* All representatives of the County, and/or members of the retirement plan Committee shall use ordinary care and diligence in the performance of their duties pertaining to the plan, but no such individual shall incur any liability:
- (1) By virtue of any contract, agreement, bond or other instrument made or executed by the individual or on the individual's behalf in his/her official capacity with respect to the plan;
 - (2) For any act or failure to act, or any mistake or judgment made, in his/her official capacity with respect to the plan, unless resulting from his/her gross negligence or willful misconduct; or
 - (3) For the neglect, omission or wrongdoing of any other person involved with the plan.

The plan shall indemnify and hold harmless each such individual from the effects and consequences of his/her acts, omissions and conduct in his/her official capacity with respect to the plan, except to the extent that such effects and consequences shall result from his/her own willful misconduct or gross negligence; provided, however, that any person who shall claim the right to any payment or damage as a result of the actions of any individual in connection with the performance of the individual's duties pertaining to the plan shall be entitled to look only to the trust fund created by the plan for payment. Such person shall have no other right, claim or demand therefor against the County.

- (f) *Liability Insurance.*
- (1) The plan may purchase, from plan assets, as an expense of the plan, liability insurance for the plan and/or for its fiduciaries to cover liability or losses occurring by reason of an act or omission of a fiduciary, providing such insurance contract permits recourse by the insurer against the fiduciary in the case of breach of fiduciary obligation by such fiduciary.
 - (2) Any fiduciary may purchase, from and for his/her own account, insurance to protect himself or herself in the event of a breach of fiduciary duty and the County may also purchase insurance to cover the potential liability of one or more persons who serve in a fiduciary capacity with regard to the plan.
- (g) *Fiduciary's Benefits.* Nothing in the plan shall be construed so as to prevent any fiduciary from:
- (1) Receiving any benefit to which the fiduciary may be entitled as a participant or beneficiary; or
 - (2) Receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly incurred in the performance of his/her duties under the plan (except that no person so serving who receives compensation as an employee shall receive compensation from the plan, except for reimbursement of expenses properly incurred); or

- (3) Serving as a fiduciary in addition to being an officer, employee, agent, or other representative of the County or any related entity.

However, the fiduciary shall not be entitled to vote or act upon, or execute on behalf of the plan documents specifically relating to, his/her own participation in the plan.

(C.B. 21, 1995; C.B. 100, 1995)

Sec. 1.455. - Retirement Plan Committee.

There shall be a Committee, to be known as the Retirement Plan Committee, which in the absence of any designation to the contrary by the County, shall serve as Administrator. Except to the extent that the County has retained any power or authority, or allocated duties and responsibilities to another Administrator or other fiduciary, said Committee shall have full power and authority to administer and operate the plan in accordance with its terms and in particular the authority contained in subsection 1.454(a), and, in acting pursuant thereto, shall have full power and authority to deal with all persons in any matter directly connected with the plan, including, but not limited to, the trustees, other fiduciaries, insurance companies, investment advisors, other advisors and specialists, participants, beneficiaries and their representatives, in accordance with the following provisions:

- (a) *Individuals Serving on the Committee.* The Committee shall consist of those individuals who hold the following positions:
 - (1) Chief Administrative Officer or designee;
 - (2) Director of Finance or designee;
 - (3) Budget Administrator or designee;
 - (4) Human Resources Administrator of the County or designee, as Chairperson;
 - (5) Representative of American Federation of State, County and Municipal Employees Local 3085;
 - (6) Representative of American Federation of State, County and Municipal Employees Local 3080; and
 - (7) Representative from the general employee population.
- (b) Appointment of general employee representative.
 - (1) The County Executive shall appoint the representative from the general employee population described in subsection (a)(7) of this section from a list of candidates approved by the Pension Oversight Commission under subsection 1.482(c)(3) of this subtitle.
 - (2) A candidate for the position of general employee representative shall be an employee in the general population who is:
 - (i) Not represented by Local 3080 or Local 3085 of the American Federation of State, County and Municipal employees; and
 - (ii) A participant in the plan.
 - (3) The general employee representative shall serve a five-year term or until a successor is appointed, and may be appointed to successive terms. A vacancy shall be filled in the same manner as the original appointment or for an unexpired term.
- (c) *General Employee Representative Attendance.* The general employee representative shall attend regularly scheduled meetings. If the general employee representative misses more than 50 percent of the regularly scheduled meetings held in any calendar year or more than three consecutive regularly scheduled meetings, the representative is deemed to have resigned from the Committee and shall be replaced by a new general employee representative who shall be appointed in the manner described in subsection (b) of this section.

- (d) *Compensation; Acceptance of Duties and Responsibilities.* Subject to his/her right to resign at any time, each member of the Committee shall serve without compensation at the pleasure of the County, and the County may appoint, and may revoke the appointment of, additional members to serve with the Committee as may be determined to be necessary or desirable from time to time. Each member of the Committee, by accepting his/her appointment to the Committee, shall thereby be deemed to have accepted all of the duties and responsibilities of such appointment, and to have agreed to the faithful performance of his/her duties thereunder.
- (e) *Organization; Voting.*
- (1) The Committee shall adopt such formal organization and method of operation as it shall deem desirable for the conduct of its affairs.
 - (2) The Committee shall act as a body, and the individual members of the Committee shall have no powers and duties as such, except as provided herein.
 - (3) The Committee shall act by vote of a majority of its members at the time in office (other than those disqualified from voting pursuant to subsection 1.454(g) of this subtitle), either at a meeting or in writing without a meeting.
- (f) *Decisions Final.* Except as set forth in section 1.461 of this subtitle, the determination of the Committee on any matter pertaining to the plan within the powers and discretion granted to it shall be final and conclusive on the employer, the trustees, all participants and beneficiaries and all those persons dealing in any way or capacity with the plan.

(C.B. 21, 1995; C.B. 100, 1995; C.B. 55, 2000)

Sec. 1.456. - Mutual exclusion of responsibility.

Neither the trustees nor the County shall be obliged to inquire into or be responsible for any act or failure to act, or the authority therefor, on the part of the other.

(C.B. 21, 1995)

Sec. 1.457. - Uniformity of discretionary acts.

Whenever in the administration or operation of the plan, discretionary actions by the County, the Administrator or the trustees are required or permitted, such action shall be consistently and uniformly applied to all persons similarly situated, and no such action shall be taken which shall discriminate in favor of "highly compensated employees" as defined in Section 414(q) of the Internal Revenue Code.

(C.B. 21, 1995)

Sec. 1.458. - Fiduciary standards.

- (a) *Standard.* A member of the Retirement Plan Committee established in section 1.455 of this subtitle and all other persons in any fiduciary capacity with respect to the plan shall discharge their duties with respect to the plan:
- (1) Solely in the interest of the participants and beneficiaries and for the exclusive purposes of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering and operating the plan;
 - (2) With the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

- (3) In accordance with the documents and instruments governing the plan.
- (b) *Violation of Standard.* A member of the Retirement Plan Committee or any other fiduciary who violates any of the standards under subsection (a) of this section is subject to removal by the County Executive from his or her position as a fiduciary.

(C.B. 21, 1995; C.B. 55, 2000)

Sec. 1.459. - Litigation.

In any action or judicial proceeding affecting the plan and/or the trust, except as may be otherwise required by law, no participant or beneficiary shall be entitled to any notice or service of process, and any final judgment entered in such action shall be binding on all persons interested in, or claiming under, the plan.

(C.B. 21, 1995)

Sec. 1.460. - Payment of administration expenses.

Expenses incurred in the administration and operation of the plan shall be paid by the trustees out of the trust unless the County, in its discretion, elects to pay them.

(C.B. 21, 1995)

Sec. 1.461. - Review procedure.

An employee aggrieved by a decision of the Administrator may request that the Administrator review its decision, and the Administrator shall review its decision. The decision of the Administrator following such review upon request of an employee shall be final and conclusive.

(C.B. 21, 1995)

Secs. 1.462—1.464. - Reserved.

ARTICLE VI. - AMENDMENTS; TERMINATION OF PLAN

Sec. 1.465. - Right to amend.

- (a) Except as provided in section 1.485 et seq. of this subtitle relating to the Police and Fire Pension Plan, all rights, benefits and obligations of officers or employees of the employer with respect to pensions or retirement are provided under the terms of this plan, and this plan supersedes and prevails over the terms of any rule, regulation, resolution, or ordinance concerning such matters.
- (b) The County shall have the right to amend the plan, at any time by amendment to the Howard County Code, and all parties claiming any interest under this plan shall be bound thereby. Notwithstanding any other provision of County law, no County resolution or ordinance which relates to the subject matter of the plan or conflicts with, narrows, or expands any term of this plan shall be effective unless the County acts by ordinance which specifically amends the provisions of this subtitle and which has been passed in accordance with the procedures set forth in subsection 1.482(c)(2) hereof. No amendment which affects the rights, duties, responsibilities or immunities of the trustees shall be binding upon the trustees in the absence of their consent thereto.

(C.B. 21, 1995; C.B. 100, 1995)

Sec. 1.466. - Right to terminate.

It is the present intention of the County to maintain the plan throughout the County's existence. Nevertheless, the County reserves the right, at any time, to permanently discontinue further contributions to the trust or to terminate the entire plan and trust.

(C.B. 21, 1995)

Sec. 1.467. - Automatic termination of contributions.

The liability of the County to make contributions to the trust shall automatically terminate upon liquidation of the County, upon its adjudication as a bankrupt or upon the making of a general assignment for the benefit of creditors.

(C.B. 21, 1995)

Sec. 1.468. - Allocation and distribution.

(a) *Causation.*

(1) This section shall become operative upon any of the following events:

- (i) A complete termination of the County's liability to make further contributions to the trust;
- (ii) A complete discontinuance of contributions by the County to the trust; or
- (iii) A complete termination of the plan.

(2) The provisions of this section also shall become operative in the event of a partial termination of the plan, but only with respect to that portion of the plan attributable to the participants to whom the termination is applicable.

(b) *Effective Date Set by Resolution of the County.* The effective date of any termination or discontinuance of contributions shall be as set forth in a resolution adopted by the County.

(c) *Actions upon Termination or Discontinuance of Contributions.*

(1) Upon the effective date of any such event, then, notwithstanding any other provisions of the plan, subject to section 1.469:

- (i) No persons who were not theretofore participants shall be eligible to become participants;
- (ii) No further benefits shall accrue; and
- (iii) The accrued benefits of all participants not theretofore vested, and not theretofore forfeited, shall immediately become fully vested.

(2) The accrued benefits of all participants and beneficiaries shall be determined and distributed to them, as soon as is practicable after such termination or discontinuance, in accordance with sections 1.441—1.444.

(3) The assets in the trust shall be allocated for the purposes set forth below and in the order set forth below, to the extent the assets are sufficient therefor. The allocations may be implemented by distribution of trust assets, or by the purchase and distribution by the trustees of insurance company annuity contracts, or by a combination of these methods.

(C.B. 21, 1995)

Sec. 1.469. - Priorities for allocation of trust assets.

Upon termination of the trust, the trustees shall liquidate all assets remaining in the trust. After deduction of estimated expenses in liquidating and distributing the trust, and any reasonable compensation for the trustees agreed upon with the County, the balance of the trust assets shall be allocated so as to provide the accrued benefits otherwise payable under the plan pursuant to the following order of priorities:

- (a) *Participants in First Priorities.* To provide accrued benefits for each participant who:
 - (1) Had begun to receive benefits at least three years prior to the effective date of the termination of the plan;
 - (2) Would have begun to receive retirement or disability benefits at least three years prior to the effective date of the termination of the plan but for the fact that commencement of benefits was deferred; or
 - (3) Would have been eligible to receive retirement benefits at least three years prior to the effective date of the termination of the plan but for the fact that the participant did not actually retire; and
- (b) *Other Participants.* To provide accrued benefits for all other participants, in the following order of preference:
 - (1) For each participant who would have qualified under the priority described in subsection (a) above but for the fact that the entitling event occurred or would have occurred within three years of the effective date of the termination of the plan; and
 - (2) For all other participants in the priority described in this subsection (b).
- (c) *Trust Assets According to Priority.*
 - (1) Trust assets shall be utilized under a particular priority only after all accrued benefits set forth in all preceding priorities shall have been fully provided for.
 - (2) For purposes of the allocation of funds within each priority, as set forth in this section 1.469, funds will be credited to each participant to provide the accrued benefits to which he or she is so entitled, but only to the extent that such accrued benefits have not been provided under a preceding priority.
 - (3) Any reductions in accrued benefits within a particular priority (or within any particular preference set forth within a priority) as set forth above, due to insufficient trust assets, shall be allocated pro-rata among the participants within that priority (or preference) on the basis of then present values of the respective accrued benefits described in that priority (or preference) for each such participant.
 - (4) Any reference to accrued benefits payable to participants shall also be deemed to include accrued benefits payable to beneficiaries of deceased participants.
 - (5) If any balance of trust assets remains after all of the allocations described above, and after all liabilities with respect to participants and retired participants and their beneficiaries, if any, are satisfied, then the balance shall be returned to the employer, and the trust shall terminate. Upon making such distribution, the trustees shall be discharged from all obligations under the trust and no participant shall have any further right or claim therein.
- (d) *Death of Participant after Effective Date of Termination.* Notwithstanding any provision to the contrary in section 1.468 and this section 1.469, if a participant dies during the interim between the effective date of termination and the distribution of trust assets, and if the participant's benefit commencement date had not yet occurred as of the effective date of termination, the amount distributable to the participant or to the participant's beneficiary, and the timing thereof, shall be determined pursuant to section 1.439.

(C.B. 21, 1995; C.B. 100, 1995)

Sec. 1.470. - Alternative to immediate distribution of the trust.

- (a) *Event Entitling Participant to Benefit.* As an alternative to immediate distribution of the trust, the County, in its discretion, and subject to its option at any time to require the complete distribution of the trust to the then participants in accordance with section 1.468, may defer commencement of benefits to each participant until such participant reaches an event which would otherwise entitle him or her to benefit commencement pursuant to sections 1.428—1.432, at which time the provisions of sections 1.441—1.444 shall become applicable.
- (b) *Separate Account.* During the interim period, there shall be established and maintained a separate account in the name of each participant, based upon the values established pursuant to sections 1.468 and 1.469 (but subject to section 1.472). The separate account shall thereafter define and measure the amount available for benefits distributable to the participant, and there shall be credited or charged thereto any income, expenses, gains or losses (whether or not realized, based upon fair market value of invested assets) attributable or allocable thereto as of each trust valuation date (or the date of complete distribution of the trust) with respect to the period since the last valuation date.

(C.B. 21, 1995)

Sec. 1.471. - Modification of allocation provisions.

The provisions set forth in sections 1.468—1.470 shall be subject to such modification, retroactively if required, without necessity of formal amendment to the plan, as may be necessary in order to cause the termination of the plan and/or trust and any distributions made pursuant thereto and to conform to any requirements which may be imposed by the Internal Revenue Service to prevent disqualification of the plan and/or trust, and no such modification shall be deemed prejudicial to the interest of any participant or beneficiary.

(C.B. 21, 1995)

Sec. 1.472. - Benefits for highly compensated employees and restricted participants.

- (a) Notwithstanding any provision in the plan to the contrary, in the event that the plan and trust terminates, the benefit of any "highly compensated employee," as such term is defined in Section 414(q) of the Internal Revenue Code and the regulations promulgated thereunder, shall be limited to a benefit that is nondiscriminatory under Section 401(a)(4) of the Internal Revenue Code.
- (b) Notwithstanding any other provision of this plan and trust, the benefits payable under this plan and trust to any restricted participant, as defined below, shall be limited to an amount equal in each year to the payments that would be made on behalf of the restricted participant under a straight life annuity that is the actuarial equivalent of the accrued benefit to which the restricted participant is entitled under the plan and trust.
- (c) The limitation described in the preceding sentence, however, shall not apply if:
 - (1) After payment of benefits under the plan and trust to the restricted participant, the value of plan assets equals or exceeds ten percent of the value of current liabilities, as defined in Section 412(l)(7) of the Internal Revenue Code;
 - (2) The value of the benefits payable to the restricted participant is less than one percent of the value of current liabilities, as defined in Section 412(l)(7) of the Internal Revenue Code, before distribution; or
 - (3) The present value of the benefits payable to the restricted participant on his benefit commencement date does not exceed \$3,500.00.

- (d) For the purposes hereof, a restricted participant is a participant or former participant who, during a particular plan year, is one of the 25 highest paid "highly compensated employees," as such term is defined in Section 414(q) of the Internal Revenue Code and regulations promulgated thereunder.

(C.B. 21, 1995)

Sec. 1.473. - Plan combinations and transfers.

In the case of any merger or consolidation of the plan with, or transfer of assets or liabilities of the trust to, any other plan, the transaction shall be structured so that each participant in the plan would (if the plan then terminated) receive a benefit immediately after the transaction which is at least equal to the benefit he or she would have been entitled to receive immediately before the transaction (if the plan had then terminated).

(C.B. 21, 1995)

Secs. 1.474—1.476. - Reserved.

ARTICLE VII. - LIABILITY OF COUNTY

Sec. 1.477. - Limitations on liability of employer.

- (a) *No Rights Except as Provided by Law, Plan Provision, or Terms of Insurance of Annuity Policy.* Neither the establishment of the plan or trust, nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any participant or other person any legal or equitable right against the employer (or any person connected therewith), the trustees or any insurance company, except as provided by law, by any plan provision or by the terms of any insurance or annuity policy.
- (b) *Employer Does Not Guarantee the Trust.* The employer does not in any way guarantee the trust from loss or depreciation, nor does the employer guarantee the payment of any money which may be or become due to any person from the trust. Any person having a right or claim under the plan shall look solely to the trust assets, and in no event shall the employer (or any person connected therewith) be liable to any person on account of any claim arising by reason of the provisions of the plan or of any instrument or instruments implementing its provisions, or for the failure of any participant, beneficiary or other person to be entitled to any particular tax consequences with respect to the plan, the trust or any contribution thereto or distribution therefrom.
- (c) *Employer Not Liable for Failure to Make Contributions.* The employer shall not be liable to any person for failure on its part to make contributions as provided in section 1.423, nor shall any action lie to compel the employer to make such contributions.
- (d) *Employer Not Liable for Failure of Plan to Qualify under Internal Revenue Code.* The employer (or any person connected therewith) shall not have any liability to any person by reason of the failure of the plan to attain and/or maintain qualified status under Section 401(a) of the Internal Revenue Code, or the failure of the trust to attain and/or maintain tax exempt status under Section 501(a) of the Internal Revenue Code, regardless of whether or not such failure is due to any act or omission (willful, negligent or otherwise) of the employer (or any person connected therewith).

(C.B. 21, 1995; C.B. 100, 1995)

Sec. 1.478. - Construction.

- (a) *Intended to Comply with Requirements for Qualification Under Internal Revenue Code.* The plan is intended to comply with all requirements for qualification under Section 401(a) of the Internal Revenue Code and, if any provision of the plan is subject to more than one interpretation or construction, such ambiguity shall be resolved in favor of that interpretation or construction which is consistent with the plan being so qualified.
- (b) *Severability.* In case any provision of the plan shall be held to be illegal or void, such illegality or invalidity shall not affect the remaining provisions of the plan, but shall be fully severable, and the plan shall be construed and enforced as if said illegal or invalid provisions had never been inserted herein.
- (c) *Laws of State of Maryland Shall Govern.* Except to the extent preempted by the laws of the United States of America, the laws of the State of Maryland shall govern, control and determine all questions arising with respect to the plan and the interpretation and validity of its respective provisions. Participation under the plan shall not give any participant the right to be retained in the service of the employer nor any right or claim to any benefit under the plan unless such right or claim to such benefit has specifically accrued hereunder.

(C.B. 21, 1995; C.B. 100, 1995)

Secs. 1.479—1.481. - Reserved.

ARTICLE VIII. - PENSION OVERSIGHT COMMISSION^[6]

Footnotes:

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Cross reference— Boards and commissions, § 6.338.

Sec. 1.482. - Pension Oversight Commission.

- (a) *Establishment; Appointment; General Provisions.* There is a Pension Oversight Commission whose members shall be appointed by the County Executive and confirmed by the County Council. General provisions applicable to this commission are set forth in subtitle 3 "Board and Commissions" of title 6 "County Executive and the Executive Branch" of the Howard County Code.
- (b) *Number of Members; Qualifications.* The Pension Oversight Commission shall have five members who shall be residents of the County and knowledgeable about pension administration and funding. Members of the Pension Oversight Commission shall not:
 - (1) Hold elective or appointed office with the County or the State of Maryland;
 - (2) Be participants in any retirement plan offered by the County; or
 - (3) Have any involvement with any company which does business with a retirement plan offered by the County.
- (c) *Duties and Responsibilities.* The Pension Oversight Commission shall have the duties set forth in this subsection.
 - (1) *Annual report.* The Commission shall submit an annual report of the status of the Howard County Retirement Plan and the Police and Fire Employees' Retirement Plan to the County Executive and, subject to section 22.1000 of the County Code, the County Council.
 - (i) The Commission's assessment of the appropriateness of the actuarial assumptions used;

- (ii) A statement of revenues, including contributions, investment earnings, and forfeitures;
 - (iii) The cost of the plans, including an analysis of fees, commissions and expenses;
 - (iv) An evaluation of the administration of the plans; and
 - (v) Any proposal or amendment of the plans that the Commission may wish to recommend.
- (2) *Review of proposed amendments.* The Commission shall review and make recommendations to the County Executive and the County Council on any proposed amendments to this subtitle. The Commission shall include a fiscal impact statement, which may include a complete actuarial study, with any proposed amendment which would have a fiscal impact on the plans. The County Council may not vote on any amendment to the Howard County Retirement Plan, the Police and Fire Employees' Retirement Plan, or on any other proposed ordinance or resolution which relates to the subject matter of the plans or which narrows, augments or conflicts with any provision of the Howard County Retirement Plan or the Police and Fire Employees' Plan until the Commission has made its recommendation or 30 days have passed since submission of the proposed amendment to the Commission, whichever is first.
- (3) *Recommendation of general employee representative.*
- (i) Within 60 days prior to the expiration of the five-year term of any member of the Retirement Plan Committee for the Howard County Retirement Plan who is described in subsection 1.455(a)(7) of this subtitle, upon the resignation or removal of a general employee representative, or at any other time when a vacancy exists, the Commission shall recommend candidates for general employee representative.
 - (ii) Prior to making such recommendations, the Commission shall interview each candidate who meets the requirements for such position as set forth in subsection 1.455(b) of this subtitle, completes the information required by the Retirement Plan Committee to be completed by all such candidates, and applies to serve on the Retirement Plan Committee as a general employee representative, including any candidate who applies for a successive term.
 - (iii) The Commission shall, in its own discretion, determine which of the candidates are qualified to serve on the Committee and shall forward the list of all qualified candidates to the County Executive for appointment under subsection 1.455(b) of this subtitle.

(C.B. 21, 1995; C.B. 83, 1995; C.B. 55, 2000; C.B. 43, 2018, § 1)

Sec. 1.483. - Reserved.

Sec. 1.484. - Reserved.

Sec. 1.485. - Reserved.

Editor's note— Section 1 of C.B. 83, 1995, renamed and renumbered § 1.485 as § 1.401A.

SUBTITLE 4A. - POLICE AND FIRE EMPLOYEES' RETIREMENT PLAN

ARTICLE IA. - GENERALLY

Sec. 1.401A. - Police and Fire Employees' Retirement Plan.

- (a) *Plan Established.* There is a Howard County Police and Fire Employees' Retirement Plan set forth in sections 1.401A through 1.484A of this subtitle.

(b) *Legal Authority to Withdraw from the Maryland Employees Retirement System of the State of Maryland and/or the Pension System for Employees of the State of Maryland.* Pursuant to the provisions of Section 168 of Article 73B of the Annotated Code of Maryland, the County Council has passed resolution 168-1989 authorizing:

- (1) The withdrawal of certain members of the Howard County Police Department and career Firefighter Personnel of the Howard County Department of Fire and Rescue Services from the Maryland Employees Retirement System of the State of Maryland and/or the Pension System for Employees of the State of Maryland;
- (2) The crediting of each withdrawing member's accumulated contributions to the individual member; and
- (3) The transfer of total reserves resulting from previous contributions by Howard County allocable to the withdrawing members from the Maryland State Retirement and Pension Systems to a Howard County Police and Fire Employees' Plan.

(C.B. 21, 1995; C.B. 83, 1995)

Note— See the editor's note following § 1.400.

Sec. 1.402A. - Short title.

This plan may be referred to as the "Howard County Police and Fire Employees' Retirement Plan."

(C.B. 83, 1995)

Sec. 1.403A. - Qualifying under Internal Revenue Code.

- (a) *Continuation of Existing Plan.* The Howard County Police and Fire Employees' Retirement Plan was established effective as of July 1, 1989 by County Council resolution 17-1990. Since its establishment the plan has been operated for the benefit of participants pursuant to a plan document not included in the Howard County Code. Since its establishment, the plan document was amended on eight occasions by act of either the County Executive or the County Council. The codification of the plan in sections 1.401A—1.478A of the Howard County Code is intended to be a continuation of the plan as established by the County in 1989 and as subsequently amended.
- (b) *Qualification of Plan under Internal Revenue Code.* The Howard County Police and Fire Employees' Retirement Plan is intended to be a pension plan that will qualify under Section 401(a) of the Internal Revenue Code, and the trust established under the plan is intended to be exempt from tax under Section 501 of the Internal Revenue Code.
- (c) *Qualification of Pick-Up Contributions under Internal Revenue Code.* The County also intends that, effective July 1, 1990, the contributions made by plan participants pursuant to subsection 1.426(a)(1) through payroll deductions be characterized as "pick-up" contributions, as described in Section 414(h)(2) of the Internal Revenue Code.*

(C.B. 83, 1995)

***Note**— The provisions of subsection 1.426A(a)(3) became effective December 13, 1996, 30 days after the date Howard County received a ruling from the Internal Revenue Service that contributions made to the plan pursuant to subsection 1.426A(a)(3) qualify as pick-up contributions under Section 414(h)(2) of the Internal Revenue Code.

Sec. 1.404A. - Applicability.

The provisions of the plan shall apply only to an individual who meets the definition of covered employee set forth herein and whose employment with the County terminates after the effective date.

(C.B. 83, 1995)

Sec. 1.405A. - Construction of terms.

For all purposes of the plan, where the context admits, the singular shall include the plural, and the plural shall include the singular, and references to persons shall include corporations, partnerships, estates and trusts. Headings of articles, sections, subsections and paragraphs are inserted only for convenience of reference and are not to be considered in the construction of the plan.

(C.B. 83, 1995)

Sec. 1.406A. - Definitions.

The following terms, as used herein, unless a different meaning is clearly implied by the context, shall have the following meanings:

- (a) (1) *Accrued benefit* means the benefit to which a participant is entitled, pursuant to the provisions of sections 1.428A through 1.436A, expressed as the normal form of monthly benefit commencing at normal retirement date or the actuarial equivalent thereof.
- (2) The accrued benefit as of any date preceding the participant's normal retirement date, but expressed as aforesaid, shall be the monthly benefit computed pursuant to section 1.429A, 1.431A or 1.432A.
- (3) In no event, however, shall the accrued benefit exceed the maximum limitation determined, as of the date of computation, pursuant to section 1.433A.
- (4) (i) The portion of the participant's accrued benefit attributable to his or her contributions made pursuant to sections 1.426A and 1.427A shall be equal to the actuarial equivalent of the participant's employee contributions benefit, expressed as the normal form of monthly benefit commencing at normal retirement date.
- (ii) The portion of the participant's accrued benefit attributable to county contributions shall be the remainder, if any, of the accrued benefit.
- (5) Accrued benefit computations made for the purpose of reflecting a benefit commencement date prior to normal retirement date shall be made without regard to the cost of living adjustment provided for in section 1.435A.
- (b) (1) *Actuarial equivalent* means a form of benefit differing in time, period or manner of payment from a specific benefit provided under the plan but having the same value when computed based upon the following:

Pre-retirement and post-retirement:

Up-1984 Mortality Table

Eight percent per annum interest rate.

Cost of living adjustment:

Two percent per annum.

- (2) The foregoing factors, to the extent applicable, shall be utilized (whether or not there is a specific reference to this definition) whenever in the administration of the plan a calculation of actuarial equivalence is to be made.
 - (3) However, in determining the actuarial equivalence of a lump sum or any other optional form of benefit to the normal form of monthly retirement income payable pursuant to section 1.428A, the value of the said normal form of benefit shall include the value of the cost of living adjustments that would have been made pursuant to section 1.435A had the participant retired thereunder and lived his or her anticipated life span.
- (c) (1) *Actuarial reduction* means a reduction which will cause a benefit with a starting date which precedes a participant's normal retirement date to be the actuarial equivalent of the benefit which would otherwise have been payable at normal retirement date.
- (2) However, notwithstanding any factors set forth in the definition of actuarial equivalent, the reduction shall be equal to 0.25 percent of the benefit for each month during the first five years preceding normal retirement date.
- (d) *Administrator* means any person, group or entity designated in accordance with the provisions of section 1.455A to administer and operate the plan.
- (e) *ALS premium* means the premium (in addition to legislated base annual salary) paid to those firefighters who are trained as and assigned to the position of emergency medical technician-paramedic, emergency medical technician-intermediate or cardiac rescue technician.
- (f) *Average compensation.*
- (1) *Effective for retirements on or before August 31, 2002.*
- (i) *Average compensation* means the average monthly rate of a participant's compensation, equal to 1/36 th of the total amount of a participant's compensation for the last 36 consecutive full calendar months of the participant's employment.
 - (ii) Any calendar month during which the participant was not employed on a full time basis (or on leave of absence) shall be disregarded for purposes of the foregoing, and the existence of such calendar months shall be ignored and shall not be counted in determining the last 36 consecutive full calendar months of the participant's employment.
 - (iii) If the participant's employment does not provide 36 consecutive full calendar months as aforesaid, compensation for the participant's actual number of consecutive full calendar months will be totaled and divided by the number thereof.
- (2) *Effective for retirements after August 31, 2002.*
- (i) *Average compensation* means the average monthly rate of a participant's compensation, equal to 1/36 th of the total amount of a participant's compensation for the 36 consecutive full calendar months of the participant's employment which produce the highest average.
 - (ii) Any calendar month during which the participant was not employed on a full-time basis (or on leave of absence) shall be disregarded for purposes of the foregoing, and the existence of such calendar months shall be ignored and shall not be counted in determining the 36 consecutive full calendar months of the participant's employment which produce the highest average.
 - (iii) If the participant's employment does not provide 36 consecutive full calendar months, compensation for the participant's actual number of consecutive full calendar months of employment will be totaled and divided by the number thereof.
- (g) *Beneficiary* means any person entitled to death benefits in accordance with the provisions of sections 1.448A through 1.449A.
- (h) *Benefit commencement date* means the first day of the first period for which the sole payment or the first in a series of payments constituting the distribution of an accrued benefit is made.

- (i) *Cash-out* means a distribution in settlement of a benefit otherwise payable under the plan, and which is equal to the employee contributions benefit. *Cash-out* refers to a cash-out election under subsection (e) of section 1.432A or a mandatory cash-out under subsection (f) of section 1.432A.
- (j) *C/I increase* means an automatic increase (without necessity of plan amendment) in a dollar value set forth or described in the plan, for the purpose of reflecting increases in the cost of living to the extent prescribed in or pursuant to regulations under Section 415(d) of the Internal Revenue Code, but only to the extent permitted by the operative Internal Revenue Code or regulatory provision specifically governing the dollar value in question.
- (k) (1) *Compensation* means the monthly equivalent of the participant's legislated base annual salary (including employee performance awards to the extent paid prior to July 30, 1999 and longevity payments, to the extent paid, and, effective as of July 1, 1996, day shift premiums, ALS premiums and H.V.O. premiums), determined without regard to:
 - (i) Overtime, bonuses and other extra remuneration;
 - (ii) Amounts in excess of one-twelfth of the applicable dollar limit under Section 401(a)(17) of the Internal Revenue Code and regulations promulgated thereunder, as adjusted by the Commissioner of the Internal Revenue Service for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code;
 - (iii) Contributions, credits or benefits under this plan or under any other retirement, deferred compensation, fringe benefit or employee welfare benefit plan; or
 - (iv) Direct reimbursement for expenses; provided, however, that compensation shall include any amount that would have qualified as compensation but for the fact that it constitutes salary reduction under any plan described in Section 414(h)(2), 132(F) or 125 of the Internal Revenue Code.
 - (v) A participant may elect to have the employee performance award paid on or about October 1, 1999, included in the participant's compensation by completing an election form and by paying to the plan on or before June 16, 2000 (or the participant's termination date, if earlier) an amount equal to 7.7 percent of the employee performance award.
- (2) Notwithstanding the preceding subsection, if a higher legislated base annual salary becomes effective in the same month, the higher rate shall be used if in effect for a greater number of days during the month than the rate in effect on the first day of the month.
- (l) *County* means the County of Howard, a municipal body corporate, duly organized and existing under the laws of the State of Maryland.
- (m) *Covered employee*, except as otherwise provided in section 1.407A of this subtitle, means any employee who is classified by the County as full-time and who is employed by the County in one of the following position classifications:
 - (1) 7762 Police Officer (Probationary).
 - (2) 7764 Police Officer.
 - (3) 7766 Police Officer First Class.
 - (4) 7767 Police Corporal.
 - (5) 7768 Technical Corporal.
 - (6) 2121 Police Sergeant.
 - (7) 2123 Police Lieutenant.
 - (8) 2125 Police Captain.
 - (9) 2127 Police Major.
 - (10) 2129 Chief of Police.

- (11) 2500 Firefighter Trainee.
 - (12) 2501 Firefighter Recruit.
 - (13) 2503 Firefighter.
 - (14) 2504 Firefighter/HVO.
 - (15) 2505 Master Firefighter.
 - (16) 2506 Master Firefighter/HVO.
 - (17) 2507 Firefighter Lieutenant.
 - (18) 2511 Firefighter Captain.
 - (19) 2513 Battalion Chief.
 - (20) 2515 Deputy Chief.
 - (21) 2517 Chief Deputy.
 - (22) 2519 Chief, Fire and Rescue Services.
- (n) *Day-shift premium* means the premium (in addition to legislated base annual salary) paid to those firefighters who work the alternative work schedule.
- (o) *Early retirement date* means any date occurring on or after the first date on which a participant has completed 20 years of eligibility service, of which, for participants who become covered employees after June 30, 1990, at least ten years of eligibility service were performed as a covered employee. This subsection shall remain effective until January 1, 2002 and, with no further action required by the County Council, shall be abrogated and of no further force and effect.
- (p) *Effective date* means the effective date of the plan, which shall be July 1, 1989.
- (q) *Employee* means any person employed by the County.
- (r) *Employee contributions benefit* means the sum of the following amounts (net of any previous distributions):
- (1) The contributions made by the participant through salary reduction and "picked up" by the County, as described in subsection 1.426A(a)(1) but not subsection 1.426A(a)(3); plus
 - (2) The contributions made by the participant pursuant to section 1.427A which are not picked up by the County; plus
 - (3) The contributions, plus earnings previously credited on such contributions, made by the participant, pursuant to section 1.427A, through transfer from another Government employer retirement plan, which were not picked up by such Government employer; plus
 - (4) Contributions, plus earnings previously credited on such contributions, made by the participant, pursuant to subsection 1.426A(a)(1) but not subsection 1.426A(a)(3), and picked up by another Government employer, all of which are thereafter transferred to the plan; plus
 - (5) Interest on the amounts described in (1) through (4) above computed on June 30 of each year as follows and compounded annually:
 - (i) Two and one-half percent of the amount contributed during the current plan year and 0.42 percent per month for any amount transferred during the current plan year.
 - (ii) Five percent of any amount contributed or transferred prior to the current plan year.
 - (iii) Effective July 1, 2006, interest on the amounts described in paragraphs (1) through (4) above for any participant who reached his or her termination date before receiving credit for at least five years of eligibility service shall be two percent computed on June 30 of each year and compounded annually, starting on the June 30 following the participant's termination date.

- (s) *Employment commencement date* means the date on which the employee first performs an hour of service.
- (t) *Firefighter* means any employee who is classified by the County as full-time and who is employed by the County in one of the following position classifications:
 - (1) 2500 Firefighter Trainee.
 - (2) 2501 Firefighter Recruit.
 - (3) 2503 Firefighter.
 - (4) 2504 Firefighter/HVO.
 - (5) 2505 Master Firefighter.
 - (6) 2506 Master Firefighter/HVO.
 - (7) 2507 Firefighter Lieutenant.
 - (8) 2511 Firefighter Captain.
 - (9) 2513 Battalion Chief.
 - (10) 2515 Deputy Chief.
 - (11) 2517 Chief Deputy.
 - (12) 2519 Chief, Fire and Rescue Services.
- (u) *Government employer* means the United States of America, the State of Maryland, any political subdivision within the State of Maryland as well as any State, Commonwealth, Municipality or Political Subdivision within the United States of America.
- (v) *Hour of service* means each hour for which an individual, in his or her capacity as an employee, is directly or indirectly paid, or entitled to payment, for the performance of duties for the County.
- (w) *H.V.O. premium* means the premium (in addition to legislated base annual salary) paid to those firefighters who hold designated heavy vehicle operator positions.
- (x) *Internal Revenue Code* means the Internal Revenue Code of 1986, or any provision or section thereof herein specifically referred to, as such Internal Revenue Code, provision or section may from time to time be amended or replaced.
- (y) *Leave of absence* means an authorized absence from active service, under conditions described in section 1.414A, which does not constitute a termination of employment, and during which the employee completes no hours of service.
- (z) *Management firefighter* means any employee who is classified by the County as full-time and who is employed by the County in one of the following position classifications:
 - (1) 2511 Firefighter Captain.
 - (2) 2513 Battalion Chief.
 - (3) 2515 Deputy Chief.
 - (4) 2517 Chief Deputy.
 - (5) 2519 Chief, Fire and Rescue Services.
- (aa) *Maryland Employer* means the State of Maryland as well as any Political Subdivision within the State of Maryland.
- (ab) *Military service* means active military duty in the Armed Forces of the United States, including training and call-ups to active Federal duty with the National Guard or Military Reserve.
- (ac) (1) *General. Normal retirement date* means the earlier of:

- (i) The first day of the month on or following the date on which the participant completes 25 years of eligibility service of which, for participants who become covered employees after June 30, 1990, at least ten years of eligibility service were performed as a covered employee, or
 - (ii) The first day of the month on or following the date on which the participant attains age 62 and completes five years of eligibility service.
- (2) Effective January 1, 2002, *normal retirement date* means the earlier of:
 - (i) The first day of the month on or following the date on which the participant completes 20 years of eligibility service, of which at least ten years of eligibility service were performed as a covered employee; or
 - (ii) The first day of the month on or following the date on which the participant attains age 62 and completes five years of eligibility service.
- (ad) *Participant* means any employee who is currently benefiting under the plan, and, where appropriate according to the context of the plan, any former employee who is or may become (or whose beneficiaries may become) eligible to receive a benefit under the plan. Effective January 1, 2009, participant includes a person receiving differential wage payments as defined in Section 3401(h) of the Internal Revenue Code.
- (ae) *Period of severance* means the continuous period beginning with an employee's termination date and ending with the employee's reemployment commencement date, if any.
- (af) *Plan* means the retirement plan set forth herein, as amended from time to time.
- (ag) *Plan year* means the 12-month period ending on the last day of the month of June.
- (ah) *Police Officer* means any employee who is classified by the County as full-time and who is employed by the County in one of the following position classifications:
 - (1) 7762 Police Officer (Probationary).
 - (2) 7764 Police Officer.
 - (3) 7766 Police Officer First Class.
 - (4) 7767 Police Corporal.
 - (5) 7768 Technical Corporal.
 - (6) 2121 Police Sergeant.
 - (7) 2123 Police Lieutenant.
 - (8) 2125 Police Captain.
 - (9) 2127 Police Major.
 - (10) 2129 Chief of Police.
- (ai) *Reemployment commencement date* means the date on which an employee first performs an hour of service after a period of severance.
- (aj) (1) *Refundable contributions benefit* means the sum of the following amounts (net of any previous distributions) and is applicable only to those participants who irrevocably elected to transfer to the plan from the Maryland State Retirement Systems effective as of July 1, 1990:
 - (i) The contributions made prior to July 1, 1990 by the participant and contributed to the Maryland State Retirement System, which were classified by the Maryland State Retirement System as refundable contributions and which would have provided an additional benefit to the participant pursuant to the State Personnel and Pensions Article of the Annotated Code of Maryland (1994), or a statutory provision of comparable effect, if the

participant had not transferred from the Maryland State Retirement Systems, plus earnings previously credited on such contributions, all of which are transferred to the plan; plus

- (ii) Interest of five percent per annum, compounded annually, on the amount of contributions described in (i) hereof transferred to the plan, computed on the participant's termination date.
- (2) To the extent a participant is entitled to receive a refundable contributions benefit, the participant shall at all times be 100 percent vested in the refundable contributions benefit.
- (3) A participant's refundable contributions benefit is payable in addition to any employee contributions benefit the participant might otherwise be entitled to receive under the terms of the plan.
- (4) A refundable contributions benefit is payable only in the form of cash and in one lump sum distribution.
- (5) The trust shall accept a transfer of funds comprising participants' refundable contributions benefits from the Maryland State Retirement Systems.
- (ak) *Spouse* means an individual who is married to a participant. Spouse includes same-sex and opposite-sex spouses except where Federal law requires a different meaning.
- (al) *Termination date* means the date of the first to occur of:
 - (1) A termination of employment by reason of resignation, discharge, mutual agreement, total and permanent disability, retirement or death;
 - (2) The date on which a leave of absence expires without a return to active employment; or
 - (3) The date on which the individual ceases to be an employee of the County.
- (am) *Trust* means the trust fund established pursuant to the plan, maintained in accordance with the terms of the trust agreement, as from time to time amended, between the County and the trustees, which trust agreement constitutes a part of the plan; where appropriate according to the context, the term trust shall also refer to said trust agreement.
- (an) *Trustees* means, collectively, the trustee or trustees named in the trust and such successor and/or additional trustees as may be named pursuant to the terms of the trust.
- (ao) *Year of creditable service*, except as otherwise provided in sections 1.414A, 1.408A, and 1.428A, shall be calculated with reference to the continuous period beginning with the employee's employment commencement date or reemployment commencement date and ending with the employee's termination date, excluding any period during which the employee is not a covered employee, but including any periods for which service for another employer has been credited as described in sections 1.416A, 1.417A, and 1.419A. The participant shall receive fractional credit equal to 1/12 th of a year of creditable service for each calendar month during which he or she was a covered employee for the entire month, but shall receive no fractional credit with respect to any calendar month during which he or she was not a covered employee for the entire month.
- (ap) *Year of eligibility service*, except as otherwise provided in sections 1.414A and 1.408A, shall be calculated with reference to the continuous period beginning with the employee's employment commencement date or reemployment commencement date and ending with the employee's termination date, excluding any period during which the employee is not a covered employee, but including any periods for which service for another employer has been credited as described in sections 1.416A, 1.417A, and 1.419A and included solely for purposes of determining the extent to which a participant is vested in his or her accrued benefit, any period during which the participant is an employee of the County or is otherwise eligible to participate in the Howard County Retirement Plan (as described in sections 1.401 through 1.481 of this Code) and does not otherwise receive credit for such employment under this plan. The participant shall receive fractional credit equal to 1/12 th of a year of eligibility service for each calendar month during which he or she was a covered employee for the entire month, but shall receive no fractional credit with respect to any calendar month during which he or she was not a covered employee for the entire month.

(C.B. 83, 1995; C.B. 53, 1997; C.B. 60, 1997; C.B. 79, 1997; C.B. 49, 1999; C.B. 10, 2001; C.B. 15, 2001; C.B. 21, 2002, §§ 1, 2; C.B. 31, 2002, § 1; C.B. 7, 2004, §§ 1, 2; C.B. 43, 2005, § 1; C. B. 25, 2006, § 1; C.B. 72, 2006, §§ 1, 2; C.B. 13, 2013, § 1; C.B. 15, 2013, § 1; C.B. 57, 2018, § 1)

Sec. 1.407A. - Participation requirements.

Except as otherwise provided below, a covered employee's participation in this plan, and the agreement to make contributions hereunder, as described in section 1.426A, is mandatory as a condition of employment with the County:

- (a) *Voluntary Participation.* Prior to the effective date, every covered employee may elect to participate in the plan effective July 1, 1989. Such participation shall be temporary and shall be in effect until June 30, 1990. However, an otherwise eligible employee may not participate unless he or she has made written application in such manner as required by the County, and has agreed to make participant contributions as provided in section 1.427A.
- (b) *Irrevocable Participation.* Every individual who is a covered employee as of June 30, 1990 (including those participants described above) may elect to participate in the plan effective July 1, 1990 and continuing until his or her termination date. Such election shall be irrevocable, shall be made on a written application supplied by the County and shall contain agreement to make, as a condition of his or her employment with the County, participant Contributions as provided in section 1.426A. If an otherwise eligible employee fails to return the completed application to the County within ten working days after it has been provided to the employee by the County, he or she shall cease to be a covered employee as of July 1, 1990.
- (c) *Mandatory Participation.* Every other individual who becomes a covered employee on or after July 1, 1990 shall become a participant on the date he or she first performs an hour of service as a covered employee. No individual shall become a participant, however, if the individual is not a covered employee on the date his or her participation is to begin.

(C.B. 83, 1995)

Sec. 1.408A. - Re-employment.

If an employee or participant who reaches a termination date is subsequently re-employed as a covered employee, his or her status with respect to the plan shall be governed by the following:

- (a) *Eligibility.* If the re-employed employee was not a participant prior to his or her termination date, or the employee's re-employment commencement date occurs prior to July 1, 1990, the employee shall become a participant in accordance with the provisions of section 1.407A. If the reemployed employee was a participant prior to such termination, or the individual's reemployment commencement date occurs after June 30, 1990, his or her participation shall commence immediately upon the resumption of status as a covered employee.
- (b) *Vesting and Benefit Accrual.* Subject to subsection (d) below, if the re-employed employee was a participant prior to his or her termination, that employee's prior years of eligibility service and years of creditable service shall be aggregated with years of eligibility service and years of creditable service credited after his or her re-employment commencement date for purposes of determining eligibility to receive, the vested percentage of, and amount of, his or her accrued benefit (with respect to the periods before and after the period of severance).
- (c) *Benefit Payments.* If, at the time of re-employment, the participant is receiving benefits under the plan, such benefits (other than those previously funded through individual or nonpooled group insurance annuity arrangements) shall cease until such time as they may be paid in conjunction with the benefits accrued with respect to the participant's subsequent employment. In any event, any benefits payable with respect to the participant's subsequent employment shall be reduced or offset

if and as necessary to avoid duplication of any benefits payable or paid with respect to his or her prior employment.

(d) *Cash-Out.*

(1) If, after his or her termination date:

- (i) The participant receives a cash-out of his or her employee contributions benefit, and
- (ii) The participant resumes status as a covered employee,

Then, notwithstanding the crediting of additional years of eligibility service and years of creditable service, the years of eligibility service and years of creditable service with respect to which the distribution was received shall be disregarded in subsequent determinations of the amount of, and vested percentage of, the participant's accrued benefit.

(2) However, if the participant:

- (i) Resumes status as a covered employee; and
- (ii) Within 90 days of the resumption of such status, repays to the trust the full amount of the cash-out, plus interest from date of distribution to date of repayment at the rate of five percent per annum compounded annually, this accrued benefit will be determined taking into account the participant's years of eligibility service and years of creditable service before as well as after the termination date (subject to the remaining provisions of this subtitle); and
- (iii) A covered employee may elect to repay the full amount of a cash-out, plus interest, by making a lump sum cash payment to the trust. Effective May 1, 2004, a covered employee may also elect to repay the full amount of the cash-out, plus interest, through one or more of the following methods:
 - a. A rollover from another employer's qualified retirement plan;
 - b. A rollover from an individual retirement account to the extent permitted under Section 408(d)(3) of the Internal Revenue Code;
 - c. A rollover or direct trustee-to-trustee transfer from an eligible deferred compensation plan established by a Governmental employer pursuant to section 457(b) of the Internal Revenue Code to the extent permitted under Sections 457(e)(16) and 457(e)(17) of the Internal Revenue code; or
 - d. A direct trustee-to-trustee transfer from a tax deferred annuity established pursuant to Section 403(b) of the Internal Revenue Code to the extent permitted under Section 403(b)(13) of the Internal Revenue Code.

(C.B. 83, 1995; C.B. 10, 2001; C.B. 7, 2004, § 1)

Sec. 1.409A. - Enrollment.

Participation hereunder shall be automatic when the requirements of section 1.407A have been met; provided, however, that the County may, in its discretion, require each eligible employee to execute a written application containing such items as may be desired by the County including, but not limited to, the employee's consent to be bound by all the terms and conditions of the plan and all amendments thereto.

(C.B. 83, 1995)

Sec. 1.410A. - Change of employment category.

If a participant ceases to be a covered employee, but continues in the employ of the County as an employee, he or she shall be deemed to have reached a termination date.

(C.B. 83, 1995)

Secs. 1.411A, 1.412A. - Reserved.

ARTICLE IIA. - CREDITED SERVICE

Sec. 1.413A. - Credit for service.

Except as otherwise provided in sections 1.407A through 1.410A and sections 1.416A and 1.419A, a participant will receive credit only for years of eligibility service and years of creditable service.

(C.B. 83, 1995; C.B. 10, 2001)

Sec. 1.414A. - Leaves of absence.

- (a) *Temporary Absence is Not a Termination of Employment.* A participant shall not cease to be a covered employee even though his or her employment is interrupted by a temporary absence from active service, extending for not more than 24 months, under conditions which are not treated by the County as a termination of employment. The performance of an hour of service after a leave of absence has commenced will constitute an expiration of the leave of absence.
- (b) *Credit for Service During Unpaid Leave of Absence for Military Service.* Notwithstanding the foregoing, the participant will not receive credit for service during an unpaid leave of absence for military service, except to the extent required by the Uniformed Services Employment and Reemployment Rights Act of 1994 and the State Personnel and Pensions Article, title 38, of the Annotated Code of Maryland. To the extent required by the Heroes Earnings Assistance and Relief Tax Act of 2008, if a participant fails to again become an employee as a result of his death while in military service on or after July 1, 2007, the participant shall be entitled to eligibility service for such military service.
- (c) *Expiration of Leave of Absence.* If any participant on leave of absence fails to answer an inquiry by the County as to the status of the leave of absence, or if the County is not notified of the death or disability of such participant, and the County has no actual knowledge thereof, the County may determine that the leave of absence had or has expired.
- (d) *Crediting of Service During Paid Leaves of Absence.* Service with respect to a leave of absence will be credited pursuant to the following:
 - (1) Paid leaves of absence will constitute continuation of employment.
 - (2) Service will be credited for the customary period of work during a paid leave of absence, and section 1.426A contributions will continue to be made.
 - (3) An individual on a leave of absence for reasons of illness will be deemed to be on a paid leave of absence so long as the individual's rate of pay is not reduced and so long as he or she is paid directly by the County or through County-financed wage continuation insurance; but the individual will not be considered to be on a paid leave of absence under circumstances where payments are made solely for the purpose of complying with workers' compensation, unemployment insurance or disability insurance laws.
- (e) *Crediting of Service During Unpaid Leave of Absence.* A leave of absence where the participant's rate of pay is reduced shall constitute an unpaid leave of absence. Service credit shall not be granted for an unpaid leave of absence (other than for military service, as described below) unless

the participant continues to make regular contributions to the plan pursuant to section 1.427A, in accordance with such administrative procedures as are developed by the County.

(C.B. 83, 1995; C.B. 10, 2001; C.B. 21, 2002, § 2; C.B. 7, 2004, § 1; C.B. 72, 2006, § 3; C.B. 13, 2013, § 2; C.B. 14, 2016, § 1; C.B. 57, 2018, § 1)

Sec. 1.415A. - Credit for Pre-Employment Military Service.

- (A) *In general.* A participant shall receive credit for additional years of eligibility service and years of creditable service as provided in this section.
- (b) *Credit for Pre-Employment Military Service.* A participant shall receive credit for additional years of eligibility service and years of creditable service to the extent of the participant's military service, to a maximum of four years, if the participant:
 - (1) Has military service that precedes the participant's employment with the County and that has not been recognized under section 1.416A;
 - (2) Is not entitled to a military pension from the United States Government (except for benefits under a Reservist's Pension described in Chapter 1223 of the United States Code) or any other foreign government on account of such service; and
 - (3) Has 20 years of eligibility service (determined without regard to the participant's military service).
- (c) *Calculation.*
 - (1) Subject to paragraph (2) of this subsection, the credit for additional months of eligibility service and creditable service equals:
 - (i) The number of points recorded on a form showing proof of military service, divided by 28 up to maximum of 48 months; and
 - (ii) The months of active duty military service up to a maximum of 48 months.
 - (2) The maximum credit under paragraph (1)(i) plus (ii) is 48 months total.

(C.B. 57, 2018, § 1)

Sec. 1.416A. - Transfer of credited service.

Any covered employee as of July 1, 1990 had the right to elect to receive credit for years of eligibility service and years of creditable service for service, including military service, recognized or performed under the Maryland State Retirement Systems. Such election was irrevocable and must have been made prior to June 30, 1990. A participant who first performs an hour of service as a covered employee between July 1, 1990 and June 30, 1993 may elect to receive credit for service (whether or not it would be considered a year of eligibility service or a year of creditable service had it been performed for the County) transferred from another Maryland Employer Retirement Plan, provided such plan is a defined benefit plan operated on an actuarial basis. If such service is transferred and recognized under the plan, the amount of the benefit payable to the participant pursuant to section 1.428A shall be adjusted in accordance with the provisions of sections 1.417A and 1.418A.

(C.B. 83, 1995; C.B. 10, 2001; C.B. 7, 2004, § 1)

Sec. 1.417A. - Conditions for transfer of credited service.

- (a) *Participation in Contributory Plan Which Provides for the Transfer of Credit for Service and Contributions.* Credit for years of eligibility service and years of creditable service shall be granted to any participant:
- (1) Who irrevocably elects, within one year of performing an hour of service as a covered employee to transfer the amount of any participant contributions made to another Maryland Employer Retirement Plan under which the participant was covered, together with interest previously credited by such plan to this plan; and
 - (2) Who is participating in a plan which provides for the transfer of credit for service and contributions to this plan.
- (b) *Participation in Noncontributory Plan Which Provides for the Transfer of Credit For Service and Contributions.* If the covered employee was not required to make contributions to a Maryland Employer Retirement Plan under which he or she was covered, the covered employee may, nonetheless, elect to receive credit for years of eligibility service and years of creditable service under this plan. Such election:
- (1) Shall be irrevocable;
 - (2) Shall be made within one year of performing an hour of service as a covered employee; and
 - (3) Shall be contingent upon the complete forfeiture of benefits and service credits under the Maryland Employer Retirement Plan from which service credit is being transferred.
- (c) *Other Government Employer.* Any other covered employee who retires pursuant to the provisions of section 1.428A or section 1.430A, or who reaches a termination date after completing at least five years of eligibility service, may elect to receive credit for years of creditable service for service performed with another Government employer. If the participant does so elect, the participant shall be required to pay over to the plan, on or before his or her benefit commencement date, the actuarial equivalent of that portion of his or her accrued benefit attributable to service with such other employer, but determined on the basis of the participant's average compensation as of the participant's termination date.

(C.B. 83, 1995; C.B. 10, 2001; C.B. 25, 2006, § 2)

Sec. 1.418A. - Amount of credited service.

The benefits payable under the plan as a result of service transferred pursuant to section 1.417A shall be calculated in accordance with the following provisions:

- (a) *Service Transferred from a Maryland Employer Retirement Plan under Which Participant Contributions Are Required on All Compensation.* For service transferred pursuant to subsection 1.417A(a), the participant shall receive full credit for years of eligibility service. The participant shall receive pro-rata credit for years of creditable service. Such pro-rata credit for years of creditable service shall be determined by calculating the amount of the participant's accrued benefit under the transferor plan, comparing it to the benefit which would have accrued on the participant's behalf had such Maryland Employer Service been performed as a covered employee, and thereafter multiplying the resultant fraction (which shall not be more than one) by his or her Maryland employer service benefit.
- (b) *Service Transferred from a Maryland Employer Retirement Plan under Which Participant Contributions Are Not Required on All Compensation.* For service transferred pursuant to section 1.417A(b), the participant shall receive full credit for years of eligibility service. The participant shall receive partial credit for years of creditable service. Such partial credit for years of creditable service shall be determined by calculating the portion of the participant's accrued benefit (determined as of his or her employment commencement date as though he or she had been a covered employee during his or her period of service with such other Maryland employer) which would have been attributable to County contributions, comparing it to the benefit which would have accrued on the

participant's behalf had the participant's Maryland employer service been performed as a covered employee, and thereafter multiplying the resultant fraction (which shall not be more than one) by his or her Maryland employer service benefit.

- (c) *Other Transfers.* The participant shall receive full credit for years of creditable service transferred pursuant to section 1.417A(c).
- (d) *Equivalent of Maryland Employer Service Benefit.* For purposes of this section 1.418A, a participant's "Maryland employer service benefit" shall be equal to:
 - (1) Two percent of the participant's average compensation as of the participant's termination date; multiplied by
 - (2) The participant's number of years of creditable service (not in excess of 30) determined as of the participant's employment commencement date, assuming transfers of service have been elected pursuant to section 1.417A.

(C.B. 83, 1995; C.B. 10, 2001; C.B. 7, 2004, § 1)

Sec. 1.419A. - Transfer of credited service; special provisions.

Effective July 1, 1993 a participant may receive credit for years of eligibility service and years of creditable service for periods of employment with another Government employer under the circumstances described in this section 1.419A, provided that such service has not been transferred and recognized under sections 1.416A through 1.418A above. If such service is transferred and recognized under the plan, either:

- (a) *Adjustment of Retirement Date.* The participant's early retirement date and normal retirement date shall be adjusted in accordance with paragraph (c) below, and/or
- (b) *Amount of Benefit Payable to Participant.* The amount of the benefit payable to the participant pursuant to section 1.428A and the participant's accrued benefit shall be adjusted in accordance with paragraph (d) below.
- (c) *Adjustment of Early Retirement Date and Normal Retirement Date.* For the sole purpose of calculating whether a participant has reached his or her early retirement date or normal retirement date under the plan, a participant's years of eligibility service include the following:
 - (1) Up to five years of eligibility service will be credited for periods of full-time employment with another Government employer provided that such periods of full-time employment are in a position classification which is comparable to one or more of the position classifications of covered employees.
 - (2) Up to two years of eligibility service will be credited for periods of full-time employment with the County in the position classification of Police Cadet or with another Government employer within the State of Maryland, provided that such periods of full-time employment are in a position classification which is comparable to Police Cadet.
 - (3) The total years of eligibility service credited under this subsection shall not exceed five years of eligibility service.
- (d) *Adjustment of the Amount of Benefit Payable.* For the sole purpose of calculating a participant's accrued benefit and his or her retirement benefits payable under section 1.428A, any participant may irrevocably elect, within one year of performing an hour of service as a covered employee, to transfer to the plan the amount of any participant contributions made to another Government employer retirement plan under which the participant was covered, together with interest previously credited by such plan, provided that such plan permits transfer of contributions to this plan. If a participant so elects, the amount of his or her accrued benefit and the amount of retirement benefit as calculated under section 1.428A shall include an actuarial adjustment for the participant contributions which are transferred.

(e) *Purchase of Credited Service—Normal and Early Retirement Benefits.*

- (1)
 - (i) *General.* Any participant may elect, at any time after becoming a participant and prior to reaching a termination date, to receive credit for years of creditable service performed with another government employer, provided that such service has not been previously recognized under sections 1.416A through 1.418A or section 1.419A(a)—(d).
 - (ii) Any participant who has received credit for eligibility service pursuant to subsection (c)(2) of this section 1.419A may elect, at any time after June 30, 2014 and prior to reaching a termination date, to receive credit for up to two years of creditable service for periods of full-time employment with the County in the position classification of Police Cadet.
- (2) *Cost of purchase.*
 - (i) It is the intent of the County that a participant who elects to purchase credit for service hereunder pay the full actuarial cost of the credit for service.
 - (ii) The participant's election to purchase service shall include an election by the participant of an assumed retirement date (the "assumed retirement date") upon which the cost to purchase service will be based.
 - (iii) The cost of the purchase equals the present value of the participant's projected accrued benefit including the credit for the service purchased hereunder and calculated on the basis of the participant's assumed retirement date, less the present value of the participant's projected accrued benefit without the service credit purchased hereunder.
 - (iv) Present value will be determined using the interest, post-retirement mortality, post-retirement benefit increase and pay increase assumptions most recently adopted by the Committee, except that the interest assumption will be net of investment expenses and the actuary will use the unisex version of the mortality table used to determine post-retirement mortality.
- (3) *Methods of payment for purchased service.* The participant's election to purchase credit for service shall also include an election of the method by which the participant will purchase the credit for service.
 - (i) The participant may pay over to the plan the amounts calculated pursuant to subsection (ii) hereof by either:
 - a. A lump sum cash payment to the plan;
 - b. A rollover from another employer's qualified retirement plan;
 - c. Following the effective date of section 1.426A(a)(3), periodic installment payments by payroll deduction; or
 - d. Effective May 1, 2004, the participant may also purchase credit for service through one or more of the following methods:
 1. A rollover from an individual retirement account to the extent permitted under section 408(d)(3) of the Internal Revenue Code;
 2. A rollover or direct trustee-to-trustee transfer from a deferred compensation plan established by a Governmental employer pursuant to section 457(b) of the Internal Revenue Code to the extent provided for by sections 457(e)(16) and 457(e)(17) of the Internal Revenue Code;
 3. A direct trustee-to-trustee transfer from a tax deferred annuity established pursuant to section 403(b) of the Internal Revenue Code to the extent provided for by section 403(b)(13) of the Internal Revenue Code; or
 - (ii) If the participant chooses to purchase the credit in whole or in part by periodic installment payments, such a purchase shall be pursuant to a binding, irrevocable payroll deduction

authorization between the County and the participant which provides for the number of deductions and the dollar amount of each deduction.

- (iii) Notwithstanding the foregoing, the participant's election of the method of payment for purchased service may be modified by the County to the extent necessary to conform to section 415 of the Internal Revenue Code.
- (4) *Retirement before or after assumed retirement date.*
 - (i) If a participant reaches a termination date on a date other than the participant's assumed retirement date, but after the participant's normal retirement date, the credit for service purchased by the participant will be adjusted so that the amount of credit purchased equals the amount that would have been purchased (based on the participant's actual contributions) if the actual termination date had been used (rather than the assumed retirement date) for purposes of calculating the cost of the service.
 - (ii) If the adjustment increases the amount of credit purchased over the credit which would have been awarded if the participant terminated employment on the assumed retirement date, the excess will be used to provide an additional monthly benefit to the participant.
- (5) *Participant elects return of payments.* If a participant reaches a termination date after having been credited with at least five years of eligibility service and prior to his normal retirement date, the participant, or the participant's beneficiary, may elect to receive a return of the payments made pursuant to this section 1.419A(e) plus interest at the rate specified in (2) hereof, in the form of either:
 - (i) A lump sum payment; or
 - (ii) A monthly benefit equivalent to a lump sum payment, with the equivalence to be determined pursuant to the factors set forth in (2) hereof.
- (6) *Mandatory return of payments.* If a participant reaches a termination date before having been credited with five years of eligibility service, the participant, or the participant's beneficiary, shall receive a return of the payments made pursuant to this section 1.419A(e) plus interest at the rate specified in (2) hereof, in the form of a lump sum payment.

(C.B. 83, 1995; C.B. 10, 2001; C.B. 7, 2004, § 2; C.B. 25, 2006, § 2; C.B. 35, 2014, § 1)

Sec. 1.420A. - Transfers of Credited Service to other plans.

If a participant terminates employment for the County as a covered employee, but either:

- (a) Remains an employee and becomes a participant in the Howard County Retirement Plan, or
- (b) Ceases to be an employee, but becomes an employee of a Government employer, and becomes eligible to participate in a retirement plan sponsored by the Government employer, the participant may elect to transfer service earned under this plan to the retirement plan sponsored by such other Government employer.

(C.B. 53, 1997)

Sec. 1.421A. - Involuntary transfers of employment.

If a participant is involuntarily transferred to another State or local retirement or pension system because of an involuntary transfer of the participant's employing unit to another employer, all of the County's contributions on behalf of the participant and interest on those contributions shall be transferred to the new system. The amount to be transferred to the new system shall be determined by actuarial valuation. Notwithstanding the foregoing this section 1.421A shall be operative only to the extent required

by Title 37 of the State Personnel and Pensions Article of the Annotated Code of Maryland, or any successor statute.

(C.B. 7, 2004, § 2)

Sec. 1.422A. - Reserved.

ARTICLE IIIA. - TRUST FUND

Sec. 1.423A. - Payment of contributions.

The funding of the plan and payment of benefits hereunder shall be provided for through the medium of the trust. The trust shall accept transfer of funds from the Maryland State Retirement Systems, consistent with the elections made by participants pursuant to section 1.417A of the plan. For the plan year beginning July 1, 1989, the County shall make a contribution to the plan equal to four percent of the compensation of all participants. Thereafter, the County, from time to time, shall make contributions to the trust in amounts determined, in accordance with generally accepted actuarial principles, to be sufficient to support the contributions required under section 1.426A, and the contributions and transfers made pursuant to section 1.427A and to fund the benefits provided by the plan.

(C.B. 83, 1995)

Sec. 1.424A. - Disposition of forfeitures.

Any forfeiture arising under the provisions of the plan shall be used to reduce the then current or future costs of funding the benefits provided in the plan.

(C.B. 83, 1995)

Sec. 1.425A. - Actuarial examination.

The County shall, at least once every other plan year, cause the liabilities of the plan to be evaluated by an enrolled actuary who shall report to the County as to the soundness and solvency of the trust in relation to the said liabilities and the amount of the annual County contribution sufficient to meet the requirements of section 1.423A.

(C.B. 83, 1995)

Sec. 1.426A. - Pick-up contributions.

Under limited circumstances described below, participant contributions and monies from other Government employers may be accepted by the plan.

(a) *Types of Contributions/Transfers.*

(1) County pick-up contributions.

- (i) *General.* Effective July 1, 1990, and in accordance with rules established by the County, each participant shall make contributions to the plan equal to 7.7 percent of his or her compensation.
- (ii) *Special rule for Police Officers.* Effective July 1, 2001, and in accordance with the rules established by the County, each participant who is a Police Officer shall make contributions to the plan equal to 11.6 percent of his or her compensation.

The participant contributions referred to in this section 1.426A shall be picked up by the County, as described in Section 414(h)(2) of the Internal Revenue Code, deducted from the pay of the contributing participants as salary reduction contributions, and paid by the County to the trustees with reasonable promptness after the total of such contributions during any month has been determined, and in any event by the end of the succeeding month. The contributions made pursuant to this section 1.426A shall be made a part of the participant's employee contributions benefit, that is, a part of his or her accrued benefit.

- (iii) If a participant on leave of absence for military service receives differential wage payments as defined in Section 3401(h) of the Internal Revenue Code from the County, the participant's pick-up contributions shall be deducted from the participant's differential wage payments.
- (2) *Transfer of pick-up contributions from other Government employers.* Pursuant to the provisions of section 1.417A or subsection 1.419A(d), the trust may accept a transfer of monies directly from another Government employer retirement plan. Such transfer shall consist of contributions made by the participant, but characterized by such other Government employer as employer pick-up contributions, plus earnings previously credited upon such contributions. Such amounts shall be made a part of the participant's employee contributions benefit, that is, a part of the participant's accrued benefit.
- (3) *Purchase of service pick-up contributions.* Pursuant to the provisions of subsection 1.419A(e), a participant may enter into a payroll deduction authorization with the County pursuant to which the participant may purchase credit for service. The participant contributions referred to in this subsection 1.426A(a)(3) shall be:
 - (i) Picked up by the County, as described in Section 414(h)(2) of the Internal Revenue Code;
 - (ii) Deducted from the pay of the contributing participant as salary reduction contributions; and
 - (iii) Paid by the County to the trustees with reasonable promptness after the total of such contributions during any month has been determined, and in any event by the end of the succeeding month.
- (b) *Suspension of Contributions.* Except as provided in subsection 1.426A(a)(1)(III), a participant's salary reduction contributions shall be automatically suspended for any payroll period during which the participant is not a covered employee or during which he or she is on an unpaid leave of absence. Moreover, a participant's contributions pursuant to subsection 1.426A(a)(1) (but not subsection 1.426A(a)(2) or subsection 1.426A(a)(3)) shall no longer be required for any period after which the participant has received credit for 30 years of creditable service, and, unless otherwise required by subsection 1.437A(g)(2), the participant's salary reduction contributions pursuant to subsection 1.426A(a)(1) (but not subsection 1.426A(a)(2) or subsection 1.426A(a)(3)) shall be suspended as of such date.
- (c) *Withdrawals of Pick-Up Contributions.* The employee contributions benefit shall be returned to a participant who has reached his or her termination date as provided in subsections (e) and (f) of section 1.432A. A cash-out shall constitute full payment of all benefits due to such participant under the plan.
- (d) *Forfeiture of Remaining Accrued Benefit.* In the event of a cash-out to a participant pursuant to subsection (e) or (f) of section 1.432A, then, subject to restoration provided in section 1.408A, the participant shall forfeit the entire remaining portion of his or her participant's accrued benefit.
- (e) *Vesting of Pick-Up Contributions.* Notwithstanding any provisions of this plan to the contrary, participant contributions, picked up either by the County or by other Government employers and made or transferred to the plan, shall be fully vested at all times.
- (f) *Payment of Benefits.* Subject to the limitations described in subsections (e) and (f) of section 1.432A, the benefits purchased from the participant's contributions shall be payable at the same time, in the same manner, and, in the event of the participant's death, to the same beneficiary or beneficiaries, as is the remainder of his or her accrued benefit.

- (g) *Plan Termination.* In the event of a termination of the plan, distribution to each participant of the portion of the participant's accrued benefit attributable to his or her contributions picked up by the County shall, notwithstanding any other provisions of section 1.469A, be treated as a priority distribution ahead of any other distribution to participants based upon the remainder of the trust, other than those attributable to contributions made pursuant to section 1.427A.

(C.B. 83, 1995; C.B. 10, 2001; C.B. 7, 2004, § 2; C.B. 8, 2004, § 1; C.B. 25, 2006, § 3; C.B. 13, 2013, § 3)

Sec. 1.427A. - Participant contributions.

Under limited circumstances, as described below, other participant contributions may be accepted by the plan.

- (a) *Characterization.* The contributions made pursuant to this section shall be distinct from those made pursuant to section 1.426A as to the character of such contributions. Whereas section 1.426A contributions shall be classified as County, or other Government employer, contributions picked up from the pay of participants, contributions made pursuant to this section shall be after-tax contributions either made directly by the participant or, in some cases, transferred from another Government employer retirement plan.
- (b) *Limitations.* A participant may elect to make contributions pursuant to this section, or to have contributions previously made to another Government Employer Retirement Plan transferred to this plan, within the following limitations:
- (1) A covered employee who elects to participate in the plan during the period following the effective date until June 30, 1990, as provided in section 1.407A(a), shall make contributions to the plan equal to two percent of his or her compensation.
 - (2) An individual who is a covered employee as of the effective date but who does not elect to participate in the plan until July 1, 1990, as provided in subsection 1.407A(b), shall make a lump sum contribution to the plan equal to two percent of his or her compensation in effect on July 1, 1989, plus five percent interest thereon.
 - (3) A participant who elects to restore credit for service and benefits, as described in subsection 1.408A(d), shall pay over to the plan the amount of any cash-out previously made to the participant, with interest thereon.
 - (4) A participant who is on an unpaid leave of absence, as described in section 1.414A(f), and who elects to contribute to the plan during the leave of absence, shall make contributions to the plan equal to the following:
 - (i) *General.* 7.7 percent of his or her compensation in effect on the July 1 preceding the date such leave of absence began.
 - (ii) *Special rule for Police Officers.* Effective July 1, 2001, with respect to a participant who is a Police Officer, 11.6 percent of his or her compensation in effect on the July 1 preceding the date such leave of absence began.
 - (5) The trustees shall accept a direct transfer of after-tax participant contributions, together with interest thereon, from another Government employer, provided such contributions were made by a covered employee who elects to transfer service from another Government Employer Retirement Plan, as described in section 1.417A or 1.419A.
 - (6) A covered employee who elects to purchase credit for service performed with another Government employer shall pay over to the plan the actuarial equivalent of his or her accrued benefit, as described in section 1.417A or 1.419A.

- (c) *Procedures.* All participant contributions or transfers made pursuant to this section shall be paid to the trust or, in the case of payroll deductions required under this section, withheld by the County and remitted to the trustees.
- (d) *Separate Accounting.* participant contributions, whether made directly or transferred from another retirement plan, as aforesaid, shall be made a part of the participant's employee contributions benefit, which shall be a part of the accrued benefits of the respective participants.
- (e) *Withdrawals of Participant Contributions.* The employee contributions benefit shall be returned to a participant who has reached his or her termination date as provided in subsections (e) and (f) of section 1.432A. A cash-out shall constitute full payment of all benefits due to such participant under the plan.
- (f) *Forfeiture of Remaining Accrued Benefit.* In the event of a cash-out to a participant pursuant to subsection (e) or (f) of section 1.432A, then, subject to restoration provided in subsection 1.408A(d), the participant shall forfeit the entire remaining portion of his or her accrued benefit.
- (g) *Vesting of Participant Contributions.* Notwithstanding any provisions of this plan to the contrary, participant contributions made to the plan shall be fully vested at all times.
- (h) *Payment of Benefits.* Subject to the limitations described in subsections (e) and (f) of section 1.432A, the benefits purchased from the participant's contributions shall be payable at the same time, in the same manner, and, in the event of his or her death, to the same beneficiary or beneficiaries, as is the remainder of his or her accrued benefit.
- (i) *Plan Termination.* In the event of a termination of the plan, distribution to each participant of the portion of the accrued benefit attributable to his or her participant contributions shall, notwithstanding any other provision of section 1.469A, be treated as a priority distribution ahead of any other distribution to participants based upon the remainder of the trust.

(C.B. 83, 1995; C.B. 10, 2001; C.B. 25, 2006, § 3)

Sec. 1.428A. - Normal retirement.

Except as otherwise provided in sections 1.428A through 1.436A, a participant shall retire on his or her normal retirement date.

- (a) *Initial Plan Year.* A participant who retires after the effective date but prior to July 1, 1990 shall be entitled to his or her employee contributions benefit, payable in a single lump sum.
- (b) *After June 30, 1990.*
 - (1) *General.* Except as provided in paragraphs (2) and (3) of this subsection, a participant who retires on his or her normal retirement date, but after June 30, 1990, shall be entitled to receive a monthly retirement income, beginning with the first day of the month coincident with or otherwise next following the participant's normal retirement date and continuing for the remainder of his or her life. Subject to subsection 1.408A(d), and subject to the adjustment set forth in section 1.419A and the limitations set forth in sections 1.416A—1.418A, and 1.433A, the amount of the monthly retirement income shall be equal to two percent of the participant's average compensation multiplied by his or her years of creditable service, not to exceed 30 years, plus the participant's unused sick leave.
 - (2) *Enhanced benefit.*
 - (i) *Eligibility.* Notwithstanding paragraph (1) of this subsection and except as provided in paragraph (3) of this subsection, a participant shall be entitled to receive a monthly retirement income, beginning with the first day of the month coincident with or next following the participant's normal retirement date or, if later, the participant's termination date, and continuing for the remainder of his or her life if the participant is:

- a. A Firefighter and who reaches his or her normal retirement date or, if later, his or her termination date, on or after January 1, 1998; or
 - b. A Police Officer who reaches his or her normal retirement date or, if later, his or her termination date, on or after April 1, 1998.
- (ii) *Benefit amount.* Subject to the provisions of subsection 1.408A(d) of this subtitle, and subject to the adjustment set forth in section 1.419A of this subtitle and the limitations set forth in sections 1.416A—1.418A and 1.433A of this subtitle, the amount of the monthly retirement income shall be equal to:
- a. 2.3 percent of the participant's average compensation multiplied by his or her years of creditable service not to exceed 25 years, plus,
 - b. One and one-half percent of the participant's average compensation multiplied by his or her years of creditable service which exceed 25 years, but do not exceed 30 years.
- (3) *Special benefit effective January 1, 2002.*
- (i) *Eligibility.* A participant shall be entitled to receive a monthly retirement income, beginning with the first day of the month coincident with or next following the participant's normal retirement date or, if later, the participant's termination date, and continuing for the remainder of his or her life if:
- a. The participant reaches his or her normal retirement date or, if later, his or her termination date, on or after January 1, 2002; and
 - b. For a participant who is a Police Officer and wishes to receive benefits under this section on or before April 1, 2002, the participant provides to the Administrator 60 calendar days' prior written notice of his or her intent to receive benefits under this section.
- (ii) *Benefit amount.*
- a. *General.* Subject to the provisions of subsection 1.408A(d) of this subtitle, and subject to the adjustment set forth in section 1.419A of this subtitle and the limitations set forth in sections 1.416A—1.418A and 1.433A of this subtitle, the amount of the monthly retirement income shall be determined by multiplying a percentage of the participant's average compensation by his or her years of creditable service (without regard to credit for unused sick leave with respect to Police Officers). For purposes of this calculation, the percentage of average compensation shall be determined in accordance with the following schedule:

1. *Police Officers.*

Years of Creditable Service	Percentage of Average Compensation
20	50.00
21	53.00
22	57.00
23	62.00
24	68.00

25	75.00
26	76.00
27	77.00
28	78.00
29	79.00
30 or more	80.00

2. *Firefighters.*

Years of Creditable Service	Percentage of Average Compensation
20	50.00
21	53.00
22	56.00
23	59.00
24	62.00
25	65.00
26	66.00
27	67.00
28	68.00
29	69.00
30 or more	70.00

If an employee's years of creditable service contain credit for a fractional year, the participant's monthly retirement income for such fractional year of creditable service shall be determined by (1) calculating the difference, in accordance with the schedule above, between (a) the percentage of average compensation attributable to his or her whole years of creditable service and (b) the percentage of average compensation attributable to his or her whole years of creditable service plus one year of creditable service, (2) multiplying that percentage by the participant's average compensation and (3) multiplying that amount by the fractional year of creditable service.

b. *Unused sick leave.*

1. *Police Officers.* For Police Officers, the monthly benefit provided in subsection 1.428A(b)(3)ii.a.1. shall be increased by an amount equal to two and one-half percent of the participant's average compensation multiplied by his or her years of creditable service attributable to unused sick leave as calculated in accordance with subsection 1.428A(c).
2. *Firefighters.* For purposes of determining the monthly benefit provided in subsection 1.428A(b)(3)ii.a.2. for Firefighters, years of creditable service shall include years of creditable service attributable to unused sick leave as calculated in accordance with section 1.428A(c). Except as provided in paragraph 3, below, if the inclusion of years of creditable service attributable to unused sick leave results in a firefighter being credited years of creditable service in excess of 30, the monthly benefit provided in subsection 1.428A(b)(3)ii.a.2. shall be increased by an amount equal to one percent of the firefighter's average compensation multiplied by his or her years of creditable service attributable to unused sick leave in excess of 30.
3. *Management Firefighters.* Effective for retirements on or after January 1, 2007, if the inclusion of years of creditable service attributable to unused sick leave results in a management firefighter being credited with years of creditable service in excess of 30, the monthly benefit provided in subsection 1.428A(b)(3)ii.a.2 shall be increased by an amount equal to two and one-half percent of the management Firefighter's average compensation multiplied by his or her years of creditable service attributable to unused sick leave in excess of 30.

- (c) *Additional credit unused sick leave.* Solely for purposes of determining the amount of the participant's retirement benefit payable pursuant to sections 1.428A—1.432A, the participant shall receive additional credit for years of creditable service for unused sick leave. Such unused sick leave shall be credited at the rate of one additional month for each 22 days of unused sick time, plus, if at least 12 days remain at his or her termination date, one additional month. The additional retirement benefit attributable to years of creditable service for unused sick leave shall be calculated under the applicable paragraph or subparagraph of this section, with the adjustment, if any, required by subsection 1.406A(c)(2).

(C.B. 83, 1995; C.B. 60, 1997; C.B. 79, 1997; C.B. 10, 2001; C.B. 15, 2001; C.B. 21, 2002, § 2; C.B. 72, 2006, § 4)

Sec. 1.429A. - Early retirement.

- (a) *Early Retirement Date.* Except as provided in subsection (b) of this section, a participant may elect to retire on any date on or after the first date which qualifies as an early retirement date, in which case the date of retirement shall be deemed to be his or her early retirement date and the participant shall be entitled to a monthly early retirement benefit equal to the benefit computed pursuant to

section 1.428A (based upon the participant's actual years of creditable service and average compensation at his or her early retirement date), but subject to the appropriate actuarial reduction, if any.

- (b) *Calculation of Benefit.* The retirement benefit of a Firefighter who elects to retire on or after January 1, 1998 or a Police Officer who elects to retire on or after April 1, 1998, on any date which qualifies as an early retirement date, shall be equal to:
 - (1) 39.1 percent of the participant's average compensation; plus
 - (2) 3.68 percent of the participant's average compensation multiplied by his or her years of creditable service in excess of 20 years (but not in excess of 25 years) other than his or her years of creditable service for unused sick leave; plus
 - (3) 2.3 percent of the participant's average compensation multiplied by his or her years of creditable service for unused sick leave, as provided in subsection 1.428A(c), subject to the appropriate actuarial reduction, but only to the extent that such years of creditable service, when combined with the years of creditable service recognized under paragraphs (1) and (2) above do not exceed 25 years; plus
 - (4) One and one-half percent of the participant's average compensation multiplied by his or her years of creditable service remaining (if any) for unused sick leave, as provided in subsection 1.428A(c), subject to the appropriate actuarial reduction, if any.
- (c) *Commencement of Early Retirement Benefits.* Early retirement benefits shall commence on the first day of the month coincident with or otherwise next following the participant's normal retirement date, unless the participant elects to have the benefits commence on the first day of any prior month coincident with or following his or her early retirement date.
- (d) *Form of Payment.* Except as otherwise provided in subsection 1.443A(d), the benefits payable pursuant to this section shall be payable in the normal form provided by section 1.428A, unless an optional form of payment has been elected pursuant to section 1.442A.
- (e) This section shall remain effective until January 1, 2002 and, with no further action required by the County Council, shall be abrogated and of no further force and effect.

(C.B. 83, 1995; C.B. 60, 1997; C.B. 79, 1997; C.B. 10, 2001; C.B. 15, 2001)

Sec. 1.430A. - Deferred retirement.

- (a) In the event a participant remains a covered employee after his or her normal retirement date, then, subject to the limitations set forth in section 1.433A, and except as otherwise provided in section 1.443A, the participant shall be entitled to receive, commencing on the first day of the month coincident with or otherwise next following his or her termination date, the benefit to which the participant would have been entitled pursuant to section 1.428A if he or she had retired at his or her normal retirement date, but adjusted by including any additional years of creditable service which have accrued since his or her normal retirement date (up to the maximum number of years described in section 1.428A), and (notwithstanding any provision in the definition of average compensation to the contrary) by taking into account any increases in average compensation which may be generated by increases in compensation earned since his or her normal retirement date.
- (b) As of the date such participant completes 30 years of creditable service, contributions picked up by the County and made on the participant's behalf to the plan, pursuant to subsection 1.426A(a)(1) but not 1.426A(A)(3), shall be discontinued.

(C.B. 83, 1995; C.B. 10, 2001)

Sec. 1.431A. - Disability benefits.

The Plan shall pay disability benefits determined in accordance with the following provisions:

- (a) *Ordinary Disability.* If a participant reaches a termination date by reason of total and permanent disability, the participant shall be entitled to receive a monthly disability benefit equal to the greater of the amount determined in accordance with paragraph (1) or paragraph (2), as follows:
 - (1) If the participant has completed at least five years of creditable service, the monthly benefit payable pursuant to this paragraph (1) shall be 20 percent of the participant's average compensation.
 - (2) If the participant has completed at least five years of creditable service, the monthly benefit payable pursuant to this paragraph (2) shall be the participant's accrued benefit (based upon the participant's actual years of creditable service and average compensation at his or her termination of employment), without actuarial reduction and, notwithstanding the provisions of subsection (c) of this section, without reduction for any benefits payable under the Workers' Compensation Law of Maryland.
- (b) *Line of Duty Disability.*
 - (1) Except as provided in paragraphs (2) and (3) of this subsection, a participant (regardless of his or her length of service) who terminates employment by reason of total and permanent disability, incurred as a result of an accident or injury which has been sustained as an active covered employee and which has been ruled compensable under the Workers' Compensation Law of Maryland, shall be entitled to receive a monthly benefit equal to the greater of:
 - (i) The benefit determined pursuant to (a) above; or
 - (ii) The lesser of:
 - a. A monthly amount which, when combined with any Social Security disability benefits the participant is entitled to receive, equals 100 percent of his or her compensation determined, as of the onset of the participant's disability; or
 - b. 66 2/3 percent of the participant's compensation.
 - (2) Except as provided in paragraph (3) of this subsection, a participant, regardless of his or her length of service, who is a Firefighter who terminates employment after December 31, 1997 or a Police Officer who terminates employment after March 31, 1998 by reason of a line of duty disability shall be entitled to receive:
 - (i) If the line of duty disability is a catastrophic disability, as defined in subparagraph (iv) below, a monthly benefit equal to 66 2/3 percent of the participant's compensation; or
 - (ii) If the line of duty disability is a noncatastrophic disability, as defined in subparagraph (v) of this paragraph, a monthly benefit equal to 50 percent of the participant's compensation.
 - (3) A participant who is receiving a monthly benefit pursuant to paragraph (1) of this subsection may make a one-time irrevocable election to cease his or her receipt of benefits under paragraph (1) of this subsection in exchange for benefits under paragraph (2)(ii) of this subsection. Such election shall be made between the effective date of this amendment and November 30, 2000 and shall take effect on January 1, 2001.
 - (4) In paragraphs (2) and (3) of this subsection the following terms have the meanings indicated:
 - (i) *Line of duty disability* means a total and permanent disability which, as determined in accordance with rules established by the Committee, is incurred as a result of an accident or injury which has been sustained as a result of service as an active covered employee and which has been ruled compensable under the Workers' Compensation Law of Maryland.
 - (ii) *Catastrophic disability* means a line of duty disability:

- a. By reason of which the participant will be permanently prevented from engaging in any substantial gainful employment; or
 - b. Which severely limits one or more major life activities. Substantial gainful employment means the ability to perform a moderate amount of work with reasonable regularity, without reference to the type of work performed by the participant before his or her termination date. Major life activities include caring for one's self, walking, seeing, hearing, speaking, breathing or learning.
- (iii) *Noncatastrophic disability* means a line of duty disability which is not a catastrophic disability.
- (c) *Payments Considered in the Nature of Workers' Compensation Payments.* Any payments made to Police and Fire employees for injuries received in the line of duty pursuant to any retirement disability provisions of this plan shall be considered to be in the nature of Worker's Compensation payments made pursuant to Title 9 of the Labor and Employment Article of the Annotated Code of Maryland.
- (d) *Adjustments to Compensation.* For purposes of (b) above, "compensation" includes adjustments to the legislated base annual salary for employees in the same position classification as the participant at the time of the onset of the participant's disability through the date the participant's disability benefits commence. In addition, such participant shall be entitled to receive individual health insurance coverage under the health plan in effect for covered employees as of the participant's termination date (or if the plan is no longer offered by the County, coverage under the most comparable health plan offered by the County). The premiums for such health insurance coverage will be paid by the County.
- (e) *General Provisions Relating to Disability.*
 - (1) *Commencement of disability benefits.* Disability benefits shall commence on the first day of the month coincident with or otherwise next following the determination of disability by the County; provided, however, that benefits payable pursuant to this section shall be reduced by any benefits payable from workers' compensation.
 - (2) *Forms of benefit.* The benefits payable pursuant to this section shall be payable in the normal form provided by section 1.428A, unless an optional form of payment has been elected pursuant to section 1.442A.
 - (3) *Definition.*
 - (i) Total and permanent disability shall mean a medically determinable physical or mental impairment which can be expected to be permanent or result in death, and by reason of which the participant will be prevented from performing the usual duties of his or her position with the County as required by the County Code.
 - (ii) Such total and permanent disability must be evidenced by a certificate of a physician selected or approved by the County.
 - (iii) However, total and permanent disability shall not include any injury or disease which:
 - a. Resulted from or consists of chronic alcoholism or addiction to narcotics;
 - b. Was contracted, suffered or incurred while the participant was engaged in, or resulted from his or her having engaged in, a criminal enterprise;
 - c. Was intentionally self-inflicted; or
 - d. Arose as a result of willful negligence on the part of the participant.
 - (4) *Continuing disability.*
 - (i) Until a participant who has reached a termination date by reason of disability attains his or her normal retirement date, the continuation of the participant's right to receive disability benefits shall depend on the participant's continued survival, and the case

shall be subject to periodic review in accordance with rules established by the County to determine the participant's employment status, including the requirement that the participant furnish to the County a copy of his or her Federal income tax return each year.

- (ii) In the event a disabled participant ceases to submit to such review, prior to his or her normal retirement date, the disability benefits payable pursuant to this section shall cease.
 - (iii) Except as provided in subparagraph (iv) of this paragraph, if, during a calendar year, the amount of a participant's earned income, worker's compensation benefits, and disability benefits paid to the participant pursuant to this section for such year exceed the participant's annualized average compensation at his or her termination date plus \$3,000.00 (adjusted for c/l increases), effective as of the first day of the next following plan year, the disability benefit payable under the plan shall be reduced, dollar for dollar, to the extent of the excess.
 - (iv) Subparagraph (iii) of this paragraph does not apply to participants who retire pursuant to the provisions of subsection (b)(2) of this section.
- (5) *Death of disabled participant.* In the event of the death of a disabled participant, no benefits with respect to the participant shall be payable except as otherwise provided in sections 1.439A and 1.440A.
 - (6) *Termination of employment after normal retirement date.* Notwithstanding any of the foregoing provisions, if a participant terminates employment with the County on a date at which he or she would be entitled to benefits pursuant to section 1.428A, the participant shall be deemed to have elected retirement and shall receive the benefits provided under section 1.428A, as the case may be; provided, however, that if the participant qualifies for benefits payable pursuant to this section 1.431A the participant may elect to receive disability benefits under this section 1.431A in lieu of benefits under section 1.428A.
 - (7) A participant who reaches a termination date by reason of a disability incurred while the participant is on a leave of absence, including a leave of absence for military service, shall be eligible to apply for ordinary disability benefits under subsection (a) of this section 1.431 but shall not be eligible to apply for line-of-duty disability benefits under subsection (b) of this section 1.431.

(C.B. 83, 1995; C.B. 60, 1997; C.B. 79, 1997; C.B. 21, 2000; C.B. 10, 2001; C.B. 7, 2004, § 2; C.B. 22, 2008, § 1; C.B. 13, 2013, § 4)

Sec. 1.432A. - Other terminations of employment.

(a) *Amount of Termination Benefit.*

- (1) *General.* If a participant reaches a termination date for any reason other than death, retirement or disability, the participant shall be entitled to a monthly termination benefit equal to a vested percentage (determined as set forth below) of the benefit computed pursuant to section 1.428A (based upon the participant's actual years of creditable service and average compensation at his or her termination of employment).
- (2) *Effective January 1, 2002.* Effective January 1, 2002, if a participant reaches a termination date for any reason other than death, retirement, or disability, the participant shall be entitled to a monthly termination benefit equal to a vested percentage (determined in accordance with subsection (d) of this section) of his or her monthly retirement income equal to two and one-half percent of the participant's average compensation multiplied by his or her years of creditable service.

- (b) *Commencement of Termination Benefits.* Benefits payable pursuant to this section shall commence on the first day of the month coincident with or otherwise next following the participant's normal retirement date, unless the participant elects to receive a cash-out of his or her employee contributions benefit, as provided in section 1.442A, in which case, such cash-out may be made at any time following the termination date, at the election of the participant.
- (c) *Form of Benefits.* Except as otherwise provided in subsections (e) and (f) of this section 1.432A, the benefits payable pursuant to this section shall be payable in the normal form provided by section 1.428A, unless an optional form of payment has been elected pursuant to section 1.442A.
- (d) *Vested Percent of the Accrued Benefit.* Subject to section 1.408A, the vested percentage of the accrued benefit to which the participant is entitled shall be equal to the greater of:
- (1) One hundred percent of the participant's employee contributions benefit; or
 - (2) A percentage of the participant's accrued benefit, determined on the basis of the participant's years of eligibility service and in accordance with the following schedule:

Years of Eligibility Service	Percentage Vested
Less than 5	0
5 or more	100

- (e) *Cash-Out Option.* Notwithstanding the other provisions of this section 1.432A;
- (1) A participant who has reached his or her termination date after having been credited with at least five years of eligibility service may elect, at any time, to receive a cash-out of his or her employee contributions benefit, by filing a written notice of such election with the coordinator.
 - (2) A participant who (i) has an employee contributions benefit that equals or exceeds \$1,000.00, and (ii) has reached his or her termination date on or after December 4, 2006, regardless of the number of his or her years of eligibility service may elect, at any time, to receive a cash-out of his or her employee contributions benefit, by filing a written notice of such election with the coordinator.
 - (3) In either case, such cash-out shall constitute full payment of all benefits due to such participant under the plan.
- (f) *Mandatory Cash-Out.* Notwithstanding the other provisions of this section 1.432A;
- (1) A participant who has reached his or her termination date prior to December 4, 2006 after having been credited with less than five years of eligibility service shall automatically have a cash-out of the participant's employee contributions benefit paid to him or her as soon as administratively feasible following the later of the effective date of this amendment or the participant's termination date.
 - (2) A participant who (i) has an employee Contributions Benefit that does not exceed \$1,000.00, and (ii) has reached his or her termination date on or after December 4, 2006 after having been credited with less than five years of eligibility service shall automatically have a cash-out of the participant's employee contributions benefit paid to him or her as soon as administratively feasible following the termination date.
 - (3) In either case, the cash-out shall constitute full payment of all benefits due to such participant under the plan.

(C.B. 83, 1995; C.B. 10, 2001; C.B. 15, 2001; C.B. 25, 2006, § 3)

Sec. 1.433A. - Maximum limitation on benefits.

Notwithstanding any plan provisions to the contrary:

- (a) *Maximum Benefit.* To the extent necessary to prevent disqualification under Section 415 of the Internal Revenue Code, and subject to the remainder of this section 1.433A, the maximum benefit (exclusive of any benefit attributable to either employee contributions or rollover contributions) to which any participant may be entitled in any limitation year (which shall be the calendar year) pursuant to sections 1.428A—1.432A and section 1.435A of this subtitle (hereafter referred to as the "maximum benefit") shall be equal to the amount set forth in Section 415(b)(1)(a) of the Internal Revenue Code applicable as of the participant's benefit commencement date, as adjusted by c/l increases in all years subsequent to a participant's benefit commencement date. Such limit is hereafter referred to as the annual dollar limit".
- (b) *Actuarial Adjustment of Annual Dollar Limit.* The annual dollar limit shall be subject to actuarial adjustment as follows:
 - (1)
 - (i) Except as provided in subparagraph (ii) below, if the benefit is payable in any form other than a single life annuity or a qualified joint and survivor annuity (as defined for purposes of Section 415 of the Internal Revenue Code), the annual dollar limit shall be reduced so that it is the actuarial equivalent of the annual dollar limit applicable to a single life annuity.
 - (ii) No adjustment will be required to a benefit that is paid in the form that is not a straight life annuity or a qualified joint and survivor annuity to take into account the inclusion in that form of an automatic benefit increase which meets the requirements set forth in Treasury Regulation section 1.415(B)-1(C)(5).
 - (2)
 - (i) With respect to a benefit beginning before age 62, the annual dollar limit shall be reduced to the actuarial equivalent of a benefit in the amount of the annual dollar limit beginning at age 62.
 - (ii) Notwithstanding the foregoing, however, in no event shall the annual dollar limit applicable to benefits beginning before age 62 be reduced for participants who have earned at least 15 years of eligibility service as a covered employee, including military service.
 - (3) With respect to a benefit beginning after age 65, the annual dollar limit shall be increased so that it is the actuarial equivalent of the annual dollar limit applicable to a benefit beginning at age 65.
 - (4) For purposes of this section, actuarial equivalent shall be as defined in section 1.406A, except that the interest rate assumption for purposes of a computation under paragraph (1) or (2) above shall not be less than five percent or any higher rate specified in the definition, and for purposes of a computation under paragraph (3) above, shall not be greater than five percent or any lower rate specified in the definition.
 - (5) *Applicable Mortality Table.* This subsection shall apply to distributions with annuity starting dates on or after December 31, 2002.
 - (i) Notwithstanding any other provision of this subtitle to the contrary, the applicable mortality table used for purposes of adjusting any benefit or limitation under Section 415(b)(2)(B), (C), or (D) of the Internal Revenue Code and the applicable mortality table used for purposes of satisfying the requirements of Section 417(e) of the Internal Revenue Code is the table prescribed in Revenue Ruling 2001-62.
 - (ii) For any distribution with an annuity starting date on or after the effective date of this section and before the adoption date of this section, if application of the amendment as of the annuity starting date would have caused a reduction in the amount of any distribution, such reduction is not reflected in any payment made before the adoption date of this

section. However, the amount of any such reduction that is required under Section 415(b)(2)(B) of the Internal Revenue Code must be reflected actuarially over any remaining payments to the participant.

- (c) *Reducing Annual Dollar Limit.* The annual dollar limit shall be reduced (but not by more than 90 percent) by 1/10th for each year of eligibility service less than ten, considering only those years of eligibility service during any part of which the participant was participating in the plan (including those periods for which he or she elected to transfer service pursuant to sections 1.416A—1.418A).
- (d) *Other Reductions in Maximum Benefit.* In addition to the foregoing, the maximum benefit shall be reduced, and the rate of benefit accrual shall be frozen or reduced accordingly, to the extent necessary to prevent disqualification of the plan under Section 415 of the Internal Revenue Code, with respect to any participant who is also a participant in:
 - (1) Any other tax-qualified pension plan maintained by the County, including a defined benefit plan in which an individual medical benefit account (as described in Section 415(1) of the Internal Revenue Code) has been established for the participant;
 - (2) Any welfare plan maintained by the County in which a separate account (as described in Section 419A(d) of the Internal Revenue Code) has been established to provide post-retirement medical benefits for the participant; and/or
 - (3) Any retirement or welfare plan, as aforesaid, maintained by a related employer, as described in Section 414(b), (c), (m) or (o) of the Internal Revenue Code.

(C.B. 83, 1995; C.B. 10, 2001; C.B. 21, 2002, § 2; C.B. 7, 2004; C.B. 22, 2008; C.B. 16, 2011, § 1)

Sec. 1.434A. - Post termination changes.

Any change in benefits provided for by amendment to the plan shall not apply to any participant whose termination date with the County occurred prior to the effective date of such amendment, except as otherwise specifically provided for in the plan or in such amendment.

(C.B. 83, 1995)

Sec. 1.435A. - Cost of living adjustments.

- (a) *Monthly Retirement Income Subject to Cost-of-Living Adjustment.* Notwithstanding the foregoing, but subject to the limitations set forth in section 1.433A, the monthly retirement income, as otherwise computed pursuant to section 1.428A, of any participant shall be subject to the cost of living adjustment described in this section.
- (b) *Computation of Cost-of-Living Adjustment.*
 - (1) As of each July 1 (hereafter referred to as the "valuation date") which occurs during the period beginning on the first valuation date occurring at least 12 months subsequent to the participant's benefit commencement date and ending on the date of death, the participant's then monthly retirement income shall be multiplied by a fraction:
 - (i) The numerator of which is the consumer price index (as defined in (c) below) as of such valuation date; and
 - (ii) The denominator of which is the lesser of the numerator or the consumer price index (as defined in (c) below) as of the immediately preceding valuation date.
 - (2) Provided, however, no such cost of living adjustment shall cause a participant's monthly retirement income to exceed an amount equal to the participant's monthly retirement income as of his or her benefit commencement date compounded at the annual rate of two percent as of

each of the valuation dates (including the valuation date for which the adjustment is being made) which have occurred subsequent to his or her benefit commencement date.

(c) *Definition of Consumer Price Index.*

- (1) The consumer price index to be used is the index for "All Urban Consumers (CPI-U) Washington-Baltimore, DC-MD-VA-WV—All items—November 1996=100" published by the Bureau of Labor Statistics; and the Consumer Price Index as of any valuation date means the index reading on the last day of March preceding such valuation date.
- (2) In the event the Bureau of Labor Statistics abandons publication of the index for "All Urban Consumers (CPI-U) Washington-Baltimore, DC-MD-VA-WV—All items—November 1996=100" the County shall adopt any other index which, in its judgment, provides an accurate measure of cost-of-living changes.

(d) *Monthly Disability and Survivor Benefits Subject to Cost-of-Living Adjustments.* All disability or survivor benefits payable pursuant to sections 1.431A and 1.440A (but only if payable in the form of a monthly income) shall be granted the cost of living adjustments provided in this section.

(C.B. 83, 1995; C.B. 15, 2012, § 1)

Sec. 1.436A. - Refundable contributions benefit.

In addition to any other benefits payable under this plan, a participant who retires or otherwise reaches a termination date shall be entitled to receive a lump sum distribution of his or her refundable contributions benefit, if the participant is entitled to the benefit.

(C.B. 83, 1995)

Sec. 1.437A. - Deferred Retirement Option Program I.

(a) *Definitions.* In this section, the following words have the meanings indicated:

- (1) *DROP I* means the Deferred Retirement Option Program established pursuant to this section and in effect between May 1, 2004 and January 1, 2015.
- (2) *DROP I account* means the account established for the DROP participant in accordance with subsection (h).
- (3) *DROP I effective date* means May 1, 2004.
- (4) *DROP I participant* means a participant in the Howard County Police and Fire Employees' Retirement Plan who:
 - a. Is eligible to participate in DROP I as provided in this section 1.437A; and
 - b. Elects to participate in DROP I as provided in this section.

(b) *Eligibility.* A participant in the Howard County Police and Fire Employees' Retirement Plan is eligible to participate in DROP I if the participant:

- (1) Is a Police Officer; and
- (2) Either:
 - a. Has completed at least 25 years of creditable service as of May 1, 2004 or
 - b. Has not completed 25 years of creditable service as of May 1, 2004 but completes 25 years of creditable service, 26 years of creditable service, or 27 years of creditable service before January 1, 2015.

For purposes of this subsection, years of creditable service attributable to unused sick leave that may otherwise be credited pursuant to subsection 1.428A(c) shall not be counted. All other years of creditable service are counted for purposes of this subsection.

- (c) *Election.* An eligible participant may elect to participate in DROP I for a period of either:
- (1) Four years, or
 - (2) Three years.
- Any such election shall be made by November 1, 2014.
- (d) *Application.* An eligible participant who elects to participate in DROP I shall:
- (1) Complete and submit a written election form to the retirement coordinator, on a form approved by or acceptable to the Retirement Plan Committee, stating:
 - a. The participant's intention to participate in DROP I;
 - b. The date, which shall be no later than December 1, 2014, when the participant desires to begin to participate in DROP I;
 - c. The period that the participant desires to participate in DROP I, as provided in subsection (c) of this section; and
 - d. Such other information required by the Retirement Plan Committee to implement DROP I with respect to the participant, including a binding letter of resignation accepted by the County Executive, or the Executive's designee, setting forth the date the participant intends to terminate employment following completion of the elected DROP I period.
 - (2) Submit the application to the retirement coordinator by one of the following dates, provided that if the applicable due date falls on a Saturday, Sunday or day when the county's offices are closed, the due date shall be the next day during which the county's offices are open:
 - a. If the participant will have completed at least 25 years of creditable service as of May 1, 2004, the application is due to be submitted no later than March 1, 2004, but no earlier than February 3, 2004.
 - b. If the participant has not earned 25 years of creditable service as of May 1, 2004, the application is due to be submitted no later than one month before the first day of the month coincident with or next following the date the participant earns 25 years of creditable service, 26 years of creditable service, or 27 years of creditable service and no earlier than three months before the first day of the month coincident with or next following the date the participant earns 25 years of creditable service, 26 years of creditable service, or 27 years of creditable service.
 - c. An application to participate in DROP I will not be accepted after November 1, 2014.
- (e) *Irrevocability of Election/Failure to Elect.*
- (1) A participant's election to participate in DROP I is irrevocable on the 15th day following the date the election to participate is delivered to the retirement coordinator.
 - (2) Failure to elect to participate in DROP I at a time prescribed in subsection (d)(2) when eligible to participate in DROP I in accordance with subsection (b) is deemed to be an election not to participate in DROP I at that time.
 - (3) Failure to elect to participate in DROP I at the last time prescribed in subsection (d)(2) when eligible to participate in DROP I in accordance with subsection (b) is deemed to be an irrevocable election not to participate in DROP I.
- (f) *Termination of Participation.* Participation in DROP I terminates if the DROP I participant:
- (1) Reaches a termination date;

- (2) Elects to transfer to *DROP II* described in section 1.438A as provided in subsection (k) of this section; or
 - (3) Dies.
- (g) *Extension of Employment Beyond Scheduled DROP I Period.*
- (1) A DROP I participant may remain in the employ of the county as a covered employee for a period of not less than six months, but for no longer than one year beyond the last day of DROP I participation provided for in subsection (d), by submitting an application to extend county employment as a covered employee no later than the first day of the month that is three months prior to the date DROP I participation is scheduled to end. The application shall be made on a form approved by or acceptable to the Retirement Plan Committee and shall be contingent on the approval of the County Executive, or his or her designee. A DROP I participant may accept employment with the county in a position other than that of a covered employee without submitting the application and receiving the approval of the County Executive, or his or her designee, as described in this subsection 1.437A(g)(1).
 - (2) If a DROP I participant who had elected a four-year DROP period receives approval to remain in the employ of the county beyond the last day of DROP I participation provided for in subsection (d), the DROP I participant's compensation will be subject to pick-up contributions pursuant to section 1.426A, except as provided in subsection 1.426A(b). For purposes of determining whether a participant has earned 30 years of creditable service under subsection 1.426A(b), creditable service shall not include any period of DROP I participation, even if the DROP I participant's compensation was subject to the county pick up contributions during the period of DROP I participation under subsection (h)(4)(a) below.
 - (3) If the Chief of Police ("Chief") is a DROP I Participant, the Chief may remain in the employ of the county as the Chief beyond the last day of the DROP I participation as provided under subsection (l) of section 1.438A.
- (h) *Payment of Retirement Benefit, Accrual of Service Credit, Disposition of Other Benefits During DROP I Participation.*
- (1) As of the effective date of participation in DROP I, the Retirement Plan Committee shall determine the DROP I participant's normal retirement benefit as provided for in section 1.428A, without the adjustment for unused sick leave pursuant to subsection 1.428A(c).
 - (2) During the period of the DROP I participant's participation in DROP I, the trustees shall:
 - a. Credit the DROP I participant's monthly retirement income determined pursuant to section 1.428A, without the adjustment for unused sick leave pursuant to subsection 1.428A(c), to a DROP I account for the benefit of the DROP I participant; and
 - b. Adjust the DROP I participant's credit under subsection (h)(2)a. for cost of living increases in accordance with section 1.435A.
 - (3) A DROP I participant will not accrue credit for years of creditable service during the period of DROP I participation.
 - (4) A DROP I participant's compensation during the period of DROP I participation:
 - a. Shall be subject to the county pick up contributions provided for in section 1.426A until such time as the provisions of subsection 1.426A(b) apply to the DROP I participant assuming, solely for purposes of this subsection (h)(4)a., that the DROP I participant continues to earn years of creditable service while a DROP I participant; and
 - b. Shall not be used to increase the DROP I participant's average compensation.
 - (5) If during the period of a DROP I participant's participation in DROP I, or an extension granted pursuant to subsection (g)(2), the participant reaches a termination date by reason of total and permanent disability in accordance with section 1.431A, the participant, individually, or by a

representative if the participant is unable to make an election due to the disability, may elect to receive one of the following benefits:

- a. The benefit calculated pursuant to section 1.431A, based upon the participant's actual years of creditable service, if applicable, and average compensation earned through the termination date and calculated as if the DROP I participant had not elected to participate in DROP I. A DROP I participant who elects the benefit provided for in this subsection (h)(5)a. will forfeit his or her DROP I account; or
 - b. The sum of:
 - (i) One hundred percent of the balance of the DROP I participant's DROP I account as of the DROP I participant's termination date, paid in the form described in subsection 1.437A(i)(1)a. or 1.437A(i)(1)b., plus
 - (ii) The monthly benefit which, when combined with 100 percent of the balance of the DROP I participant's DROP I account described in subsection (h)(5)b.(i), is the actuarial equivalent of the monthly benefit described in subsection (h)(5)a.
- (6) If during the period of a DROP I participant's participation in DROP I or an extension granted pursuant to subsection (g)(2) the participant reaches a termination date by reason of death, one of the following benefits will be paid:
- a. The participant's beneficiary will receive:
 - (i) The general benefit described in subsection 1.439A(a)(1), plus
 - (ii) One hundred percent of the balance of the DROP I participant's DROP I account as of the DROP I participant's termination date, paid in the form described in subsection 1.437A(i)(1)a. or 1.437A(i)(1)b., or
 - b. The participant's surviving spouse or surviving children, as applicable, will receive:
 - (i) One hundred percent of the balance of the DROP I participant's DROP I account as of the DROP I participant's termination date, paid in the form described in subsection 1.437A(i)(1)a. or 1.437A(i)(1)b., plus
 - (ii) The monthly benefit determined pursuant to subsection 1.439A(a)(2) or 1.439A(b) based upon the participant's actual years of creditable service and average compensation earned through the date of death and calculated as if the DROP I participant had not elected to participate in DROP I.
- Benefits will be paid to the DROP I participant's surviving spouse or surviving children only to the extent the requirements of subsections 1.439A(a)(2) and 1.439A(b)(2) or 1.439A(b)(3) are met. If the requirements of subsections 1.439A(a)(2) and 1.439A(b)(2) or 1.439A(b)(3) are not met, the DROP I participant's surviving spouse or surviving children, as applicable, will receive the benefit described in subsection (h)(6)a.
- (7) During the period of a DROP I participant's participation in DROP I, and any extension of participation in DROP I granted pursuant to subsection 1.437A(g), the DROP I participant shall continue to be eligible to participate in any Health and Welfare Plan and Deferred Compensation Plan, and receive any other benefits otherwise available to county employees who are Police Officers and shall continue to be subject to the personnel laws, regulations and policies applicable to an employee.
- (8) The DROP I account is maintained solely for purposes of accounting for the DROP I participant's benefit from DROP I. The trustees shall be under no obligation to segregate funds from the trust for the participant's DROP I account.
- (i) *Payment of Retirement Income and DROP I Account at Termination Date.*
- (1) Upon the termination of a DROP I participant's employment with the county no earlier than the end of the DROP I participation period pursuant to subsection (d), the trustees shall pay to the

participant, or to the DROP I participant's beneficiary, if the participant has died, the applicable percentage of the amount accrued in the DROP I account for the DROP I participant, determined in accordance with subsection (j) and as adjusted for unused sick leave, determined at the end of the DROP I participant's participation in DROP I, without regard to an extension granted pursuant to subsection 1.437A(g)(2), in the form of:

- a. An eligible rollover distribution, pursuant to section 1.444A;
- b. A lump sum distribution, reduced by any withholding taxes remitted to the Internal Revenue Service or other taxing authority;
- c. The normal form of monthly benefit specified in section 1.428A if the participant's monthly income is payable in the normal form of monthly benefit specified in section 1.428A; or
- d. The form of monthly benefit elected by the DROP I participant in accordance with section 1.442A with respect to the DROP I participant's monthly income.

The form of payment shall be at the election of the DROP I participant or the DROP I participant's beneficiary, as applicable. In the event the DROP I participant or the DROP I participant's beneficiary elects payment in the form described in subsection c. or d. of this subsection 1.437A(i), the monthly benefit shall be the actuarial equivalent of the balance of the DROP I account as of the date benefit payments commence.

- (2) Upon the termination of a DROP I participant's employment with the county no earlier than the end of the DROP I participation period pursuant to subsection (d), but subject to the provisions pertaining to extension of employment pursuant to subsection (g), the participant will receive the monthly retirement income determined in accordance with section 1.428A or 1.442A, as adjusted for cost of living increases pursuant to section 1.435A and as adjusted for unused sick leave, pursuant to subsection 1.428A(c).
- (3) If the DROP I participant reaches a termination date, other than by reason of disability determined pursuant to section 1.431A or death, prior to the end of the DROP I participation period pursuant to subsection (d), without regard to whether the termination of employment is voluntary by the participant or involuntary and at the request of the county:
 - a. The participant's DROP I account shall be forfeited; and
 - b. The participant's monthly retirement income shall be determined in accordance with section 1.428A including the years of creditable service and compensation earned while the participant was a DROP I participant.
 - c. Notwithstanding the foregoing:
 - (i) Subsections 1.437A(i)(3)a. and b. do not apply if the DROP I participant is:
 - (A) The Chief of Police and reaches a termination date as a result of his or her removal by the County Executive; or
 - (B) A Police Major and reaches a termination date as a result of his or her removal by the Chief of Police.
 - (ii) If the Chief of Police or a Police Major is removed by the DROP I participant's appointing authority prior to completing four years of DROP I participation, the DROP I participant, or the DROP I participant's beneficiary if the DROP I participant has died, will receive, without regard to the period the participant elected to participate in DROP I pursuant to subsection (d), the following:
 - (A) A percentage of the DROP I account determined in accordance with subsection (j) as if the DROP I participant had elected a three-year DROP period pursuant to subsection (d) and remained in the employ of the county as a covered employee for the greater of:
 - i. Three years; or

ii. The actual number of years and months of DROP I participation, plus

(B) The benefit determined in accordance with subsection 1.437A(i)(2).

(4) *Extension of employment beyond four-year DROP I period.* A DROP I participant who elected a four-year DROP period pursuant to subsection (c) and who receives approval to remain in the employ of the county beyond the DROP I period pursuant to subsection (g)(1) and who remains in the employ of the county for at least six months beyond the DROP I period, will receive the following benefit upon his or her termination date:

- a. The balance of the DROP I account, determined pursuant to subsection (i) as adjusted for interest at five percent per year, compounded annually, from the date of the expiration of the DROP I period pursuant to the participant's original election to participate in DROP I, through the DROP I participant's termination date, compounded annually; plus
- b. The monthly retirement income pursuant to section 1.428A or 1.442A as of the date of the participant's participation in DROP I, as adjusted for unused sick leave pursuant to subsection 1.428A(c) and cost of living adjustments pursuant to section 1.435A; plus
- c. An additional monthly retirement income equal to one percent multiplied by the participant's average compensation determined as of the participant's termination date and including, as applicable, periods of participation in DROP I, multiplied by the years of creditable service earned between the date of the expiration of the DROP I period pursuant to the participant's original election to participate in DROP I and the participant's termination date, to the extent that the additional credit for years of creditable service pursuant to this subsection (i)(4)c. does not cause the participant's total years of creditable service to exceed 30 years. The foregoing limit does not include additional credit for accrued sick leave determined at the participant's termination date.

If the DROP I participant reaches a termination date for reasons other than death or disability prior to completing at least six full months of service for the county as a Police Officer after the four-year DROP I period shall receive benefit described in subsection (i).

(5) *Extension of employment beyond three-year DROP period.* A DROP I participant who elected a three-year DROP period pursuant to subsection (c) and who receives approval to remain in the employ of the county beyond the DROP I period pursuant to subsection (g)(1) shall receive one additional deposit to his or her DROP I account pursuant to subsection (h)(2), for each additional full month of employment for the county as a Police Officer to a maximum of 12 additional deposits. Notwithstanding the foregoing, if the DROP I participant reaches a termination date for reasons other than death or disability prior to completing at least six full months of service as a Police Officer, any additions to the DROP I participant's DROP I account described in this subsection (i)(5) made during the period of extension of employment shall be forfeited.

(j) *Percentage of DROP I Account Payable.*

- (1) The applicable percentage of the DROP I account payable to a DROP I participant who elects and completes a four-year DROP I participation period in accordance with subsection (c) shall be 100 percent.
- (2) The applicable percentage of the DROP I account payable to a DROP I participant who elects and completes a three-year DROP I participation period in accordance with subsection (c) shall be determined in accordance with the following table:

Creditable Service at DROP I Entry Date	Applicable Percentage
25 years	89

More than 25 years	87
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- (3) Notwithstanding the provisions of subsection (j)(2) and subject to subsection (j)(4), if a DROP I participant who elected a three-year DROP participation period in accordance with subsection (c) continues in the employ of the county as a Police Officer for at least six months beyond the three-year period, in accordance with subsection (g), the applicable percentage will be increased in accordance with the following table, but will not increase to more than 100 percent:

Applicable Percentage	Increase per Full Month of Employment as a Police Officer After Expiration of Three-Year DROP Period
89 percent	.9167
87 percent	1.083

- (4) Notwithstanding the provisions of subsections (j)(2) and (j)(3), with respect to a DROP I participant who elected a three-year DROP participation period in accordance with subsection (c) and who elected to continue in the employ of the county as a Police Officer for at least six months beyond the three-year DROP participation period, in accordance with subsection (g), but reached a termination date for reasons other than death or disability prior to completing six full months of service as a Police Officer beyond the three-year DROP participation period, the increase in the applicable percentage shall be zero.

(k) *Election to Transfer to DROP II .*

- (1) A DROP I participant who is a covered employee on January 1, 2015, including a covered employee who is in the employ of the county beyond the last day of his or her DROP I participation as permitted by subsection (g), may elect to participate in DROP II. If the DROP I participant makes such an election:

- a. The DROP I participant's DROP account shall be recalculated as if he or she elected to participate in DROP II for the entire period of his or her DROP I participation;
- b. The date of resignation set forth in the DROP I participant's binding letter of resignation, as provided in subsection (d)(1)d. shall no longer be binding;
- c. The DROP I participant shall be subject in all respects to section 1.438A; and
- d. The applicable interest rate for periods prior to January 1, 2015 shall be 3.5 percent.

- (2) Any election under this subsection (k) shall be irrevocable when made and shall be made no later than April 1, 2015.

- (l) *Adjustment for Maximum Limitations on Benefits.* The benefits payable pursuant to this section 1.437A shall be adjusted, if necessary, to conform to the limitations on the accrual of benefits pursuant to section 1.433A.

(C.B. 8, 2004, § 1; C.B. 22, 2008, § 1; C.B. 51, 2014, § 1)

Sec. 1.438A. - Deferred Retirement Option Program II.

(a) *Definitions.* In this section, the following words have the meanings indicated:

- (1) *DROP II* means the Deferred Retirement Option Program established under this section 1.438A, pursuant to which a participant agrees to delay receipt of retirement benefits while the participant continues to work.
- (2) *DROP II participant* means a participant who is eligible and who elects to participate in DROP II.
- (3) *DROP II participation period* means the time during which a participant participates in DROP II while actively employed by the county. DROP II participation periods may begin on the first day of any month on or after January 1, 2015.
- (4) *DROP II account* means the account established for a DROP II participant in accordance with subsection (h) into which the participant's employee contributions and retirement benefits plus interest are paid while the participant continues to work for the county.
- (5) *DROP II effective date* means January 1, 2015.
- (6) *Applicable interest rate* means 3.5 percent per annum; provided, however, that if the assumed rate of return (net of investment expenses) on the Plan's investments ("investment return rate") as most recently adopted by the Committee changes from the current investment return rate of 7.5 percent, the applicable interest rate shall be the investment return rate minus 4.0 percent; but further provided that the applicable interest rate shall not be less than 1.5 percent.

(b) *Eligibility.*

- (1) Except as provided in paragraphs (2) and (3) of this subsection (B), a participant in the Plan is eligible to participate in DROP II if the participant has completed at least 25 years of creditable service.
- (2) A participant in DROP I who has not reached the last day of his or her DROP I participation period as of January 1, 2015 is eligible to participate in DROP II under the transfer provisions of section 1.437A(k) of this subtitle.
- (3) A covered employee who, on January 1, 2015, has accrued 33 or more years of creditable service will be allowed until April 1, 2015 to elect to enter DROP II for a DROP II participation period of two years which will begin as of January 1, 2015 and end on December 31, 2016.
- (4) For purposes of this subsection, years of creditable service attributable to unused sick leave that may otherwise be credited pursuant to subsection 1.428A(c) shall not be counted. All other years of creditable service are counted for purposes of this subsection.

(c) *Term of DROP II Participation.* The term of DROP II participation shall be determined by the DROP II participant; provided, however, that, except as provided in subsection (b)(3) of this section, the minimum DROP participation period is two years and the maximum DROP participation period is five years. A participant who enters DROP II but does not complete the minimum participation period of two years before his or her termination date shall have his or her retirement income recalculated as if he or she never entered DROP. In such a case, the participant's DROP II account will be zero dollars. For purposes of this subsection (c), DROP participation period is the total of a participant's DROP I participation period plus his or her DROP II participation period.

(d) *Application.* An eligible participant who elects to participate in DROP II shall:

- (1) Complete and submit a written election to the coordinator on a form approved by or acceptable to the Committee, stating:
 - a. The participant's intention to participate in DROP II;
 - b. The date when the participant intends to begin to participate in DROP II; and

- c. Such other information required by the Committee to implement DROP II with respect to the participant.
 - (2) Except as provided in paragraphs (3) and (4) of this subsection (d), submit the application to the coordinator between 90 and 30 days prior to the date the participant intends to begin to participate in DROP II.
 - (3) A participant who transfers from DROP I to DROP II pursuant to section 1.437A(k) of this subtitle shall submit an application to the coordinator no later than April 1, 2015.
 - (4) A covered employee who, as of January 1, 2015, has accrued 33 or more years of creditable service and elects to participate in DROP II shall submit an application to the coordinator no later than April 1, 2015.
- (e) *Termination of Participation.* Participation in DROP II terminates if the DROP II participant:
- (1) Reaches a termination date by reason of death, disability or termination of employment;
 - (2) Accrues 35 years of creditable service (except as provided in subsection (b)(3), or
 - (3) Reaches the fifth anniversary of his or her DROP participation date.
- (f) *Termination of DROP II Participation Period.*
- (1) A DROP II participant shall provide at least 18 months' written notice to the coordinator of his or her intent to terminate employment and end the DROP participation period prior to the date he or she accrues 35 years of creditable service or reaches the fifth anniversary of his or her DROP participation date. This notice shall be irrevocable 60 days after the notice is received by the coordinator.
 - (2) *Termination of DROP II participation .* Except as provided in subsection (l) of this section 1.438A, the termination date of a DROP II participant shall be the last day of his or her DROP II participation period. The DROP II participant will begin receiving a retirement benefit as of the first day of the month following the end of the DROP II participation period. The termination date of a participant who fails to submit the documents requesting retirement shall be the date he or she completes five years as a DROP participant.
 - (3) *Penalty for Early Termination .* A DROP II participant who has completed two years of DROP II participation and terminates employment prior to completion of the 18 month period provided in the notice described in subsection (f)(1) of this section shall forfeit a portion of the interest accrued in the previous months. The number of months of interest forfeited is equal to the lesser of (a) 12 months or (b) 18 minus the number of full calendar months actually served after written notice of intent to terminate employment and end the DROP participation period was provided to the coordinator. If a DROP II participant fails to give any notice, the interest penalty shall be 12 months. There shall be no penalty under this subsection (f)(3) with respect to a DROP II participant who (i) transfers from DROP I to DROP II pursuant to subsection (k) of section 1.437A after having completed three or more years of DROP I participation, (ii) terminates DROP II on the date he or she accrues 35 years of creditable service or reaches the fifth anniversary of his or her DROP participation date, or (3) is subject to an involuntary termination of employment.
 - (4) *Extension of Participation .* A DROP II participant who has declared his or her written intent to terminate employment and end his or her DROP II participation may request a one-time extension of not more than six months. Approval of the extension shall be at the discretion of the County Executive or his or her designee. No extension shall extend the length of DROP participation to more than five years.
- (g) *Status During Participation.*
- (1) *Plan participant .* A DROP II participant will remain a participant in the Plan until the last day of his or her DROP II participation period.

- (2) *Application of Cost of Living Adjustments* . During the DROP II participation period, the monthly retirement income of DROP II participants which is accumulated in their DROP II accounts will not be subject to cost of living adjustments under section 1.435A.
 - (3) A DROP II participant will not accrue credit for years of creditable service during the period of DROP II participation.
 - (4) A DROP II participant's compensation during the DROP II participation period:
 - a. Shall be subject to the county pick up contributions provided for in section 1.426A until such time as the provisions of subsection 1.426A(b) apply to the DROP II participant assuming, solely for purposes of this subsection (g)(4)a., that the DROP II participant continues to earn years of creditable service while a DROP II participant; and
 - b. Shall not be used to increase the DROP II participant's average compensation.
 - (5) During the period of a DROP II participant's participation in DROP II, the DROP II participant shall continue to be eligible to participate in any Health and Welfare Plan and Deferred Compensation Plan, and receive any other benefits otherwise available to County employees who are Police Officers or Firefighters (as applicable) and shall continue to be subject to the personnel laws, regulations and policies applicable to Police Officers or Firefighters (as applicable).
- (h) *DROP II Account.*
- (1) As of the effective date of participation in DROP II, the coordinator shall establish and maintain a DROP II account for each DROP II participant. The DROP II account is maintained solely for purposes of accounting for the DROP II participant's benefit from DROP II. The Committee shall be under no obligation to segregate funds from the trust for the participant's DROP II account.
 - (2) During the period of the DROP II participant's participation in DROP II, the coordinator shall credit each month the following amounts to the DROP II participant's DROP II account:
 - a. The DROP II participant's monthly retirement income determined pursuant to section 1.428A, as of the participant's DROP II participation date without the adjustment for unused sick leave pursuant to subsection 1.428A(c), and without adjustment for cost of living increases provided to retirees under section 1.435A of this subtitle and subsection (g)(4)a of this section.
 - b. Subject to subsection (g)(4)a of this section, an amount equal to the participant's compensation as defined in section 1.406A(k) of this subtitle multiplied by the contribution rate applicable to the participant under section 1.426A of this subtitle. Solely for the purposes of this subparagraph, the contribution rate will be zero percent for every month following the date the participant has attained 30 years of creditable service.
 - c. Interest on the amounts described in subparagraphs a. and b. in accordance with the following rules:
 - (i) Interest compounded monthly, but with an effective annual rate equal to the applicable interest rate, will be applied to the balance of the DROP II account as of the last day of each month during the Drop II participation period.
 - (ii) No interest will be applied to additions to the account made during the current calendar month.
 - (3) *Statement of account balance* . At least once a year, the coordinator shall provide to a *DROP participant* a statement of the account balance credited to the *DROP account* as described in paragraph (2).
- (i) *Disability during DROP II participation.* If during the period of a DROP II participant's participation in DROP II, the participant reaches a termination date by reason of total and permanent disability in accordance with section 1.431A, the participant, individually, or by a representative if the participant is unable to make an election due to the disability, may elect to receive one of the following benefits:

- (1) The benefit calculated pursuant to section 1.431A, based upon the participant's actual years of creditable service, if applicable, and average compensation earned through the termination date and calculated as if the DROP II participant had not elected to participate in DROP II. A DROP II participant who elects the benefit provided for in this subsection (i)(1) will forfeit his or her DROP II account; or
 - (2) The sum of:
 - a. The balance of the participant's DROP II account as of the participant's termination date, paid in the form described in subsection 1.438A(k)(2)a. or 1.438A(k)(2)b., plus
 - b. The monthly benefit calculated pursuant to section 1.431A, based upon the participant's actual years of creditable service, if applicable and average compensation earned through the day before he or she became a DROP participant.
- (j) *Death during DROP II participation.*
- (1) If during the period of a DROP II participant's participation in DROP II, the participant reaches a termination date by reason of death, one of the following benefits will be paid:
 - a. The participant's beneficiary will receive:
 - (i) The general benefit described in subsection 1.439A(a)(1), plus
 - (ii) One hundred percent of the balance of the participant's DROP II account as of the DROP II participant's termination date, paid in the form described in subsection 1.438A(k)(2)a. or 1.438A(k)(2)b., or
 - b. The participant's surviving spouse or surviving children, as applicable, will receive:
 - (i) One hundred percent of the balance of the participant's DROP II account as of the DROP II participant's termination date, paid in the form described in subsection 1.438A(k)(2)a. or 1.438A(k)(2)b., plus
 - (ii) The monthly benefit determined pursuant to subsection 1.439A(a)(2) or 1.439A(b) based upon the participant's actual years of creditable service and average compensation earned through the date of death and calculated as if the DROP II participant had not elected to participate in DROP II.
 - c. Benefits will be paid to the DROP II participant's surviving spouse or surviving children only to the extent the requirements of subsections 1.439A(a)(2) and 1.439A(b)(2) or 1.439A(b)(3) are met. If the requirements of subsections 1.439A(a)(2) and 1.439A(b)(2) or 1.439A(b)(3) are not met, the DROP II participant's surviving spouse or surviving children, as applicable, will receive the benefit described in subsection (j)(1).
- (k) *Retirement Benefits of DROP II Participants.* On the first day of the month following the DROP II participant's termination date, the DROP II participant, or to the DROP II participant's beneficiary, if the participant has died before benefits commence, shall be entitled to receive the following benefits under the Plan:
- (1) *Monthly income* . A monthly retirement income determined in accordance with section 1.428A or 1.442A, adjusted for unused sick leave, pursuant to subsection 1.428A(c).
 - (2) *DROP payment*. The amount accrued in the participant's DROP II account, determined in accordance with subsection (h) at the end of the DROP II participant's participation, in the form of:
 - a. An eligible rollover distribution, pursuant to section 1.444A; or
 - b. A lump sum distribution, reduced by any withholding taxes remitted to the Internal Revenue Service or other taxing authority;
 - c. The normal form of monthly benefit specified in section 1.428A if the participant's monthly income is payable in the normal form of monthly benefit specified in section 1.428A and the

form of annuity selected shall be consistent with the form elected for the base pension amount; or

- d. The form of monthly benefit elected by the DROP II participant in accordance with section 1.442A with respect to the DROP II participant's monthly income and the form of annuity selected shall be consistent with the form elected for the base pension amount.

(l) *Employment of Chief of Police and Chief, Fire and Rescue Services following conclusion of DROP II Participation.*

- (1) If the Chief of Police or the Chief, Fire and Rescue Services (Chief) is a DROP II Participant, the Chief may remain in the employ of the County as the Chief beyond the last day of DROP II participation period with the written approval of the County Executive or his or her designee.
- (2) The compensation of the Chief during and after his or her DROP I or DROP II participation period shall not be included in the determination of his or her DROP I or DROP II account balance or the determination of average compensation under subsection 1.406A(f).
- (3) If the Chief participates in DROP II for any portion of his or her DROP participation period, the Chief's DROP II Account shall accrue interest in the manner described in subsection (h)(2)c from the first day of his or her DROP participation period until the date county employment is terminated.
- (4) An individual's compensation during periods prior to July 1, 2015 shall be included in determining the individual's average compensation under subsection 1.406A(f) if the individual:
 - (i) Holds the position of Chief and is participating in DROP II on July 1, 2015;
 - (ii) Does not voluntarily terminate employment in the position of Chief prior to December 31, 2018; and
 - (iii) Is not terminated for cause prior to December 31, 2018.

(C.B. 51, 2014, § 1; C.B. 41, 2015, § 1)

ARTICLE IVA. - DEATH BENEFITS

Sec. 1.439A. - Death benefits.

Upon a participant's death, those persons designated pursuant to section 1.448A shall receive a lump sum distribution of the participant's refundable contributions benefit, if the participant was entitled to the benefit. The only additional benefits payable under the plan in the event of the death of a participant shall be paid to those persons designated in accordance with this section 1.448A as follows:

- (a) *Ordinary Death Benefit.* In the event of the death of a participant prior to his or her benefit commencement date, while not in the line of duty, the participant's beneficiary shall be entitled to receive one of the following benefits, as applicable:
 - (1) *General benefit.* The beneficiary shall be entitled to receive:
 - (i) The participant's employee contributions benefit, payable in one or more installments over a period which meets the requirements of section 1.440A and which is designated by the participant, or, if the participant has made no designation, by his or her beneficiary; plus,
 - (ii) An amount, payable as a single lump sum, equal to the participant's annualized compensation determined as of the date of death; provided, however, that the benefit provided by this subparagraph (ii) shall be payable only if the participant had died while a covered employee and after completing at least one year of creditable service. For purposes of this subparagraph, a participant who dies during military service is considered to have died as a covered employee.

(2) *Surviving spouse annuity benefit.*

- (i) If all of the following conditions are met, then the surviving spouse of a deceased participant shall be entitled to receive a survivor annuity, in lieu of any other plan benefit:
 - a. The participant is married on the date of death;
 - b. The participant's death occurs before the participant's benefit commencement date;
 - c. The participant has designated the participant's surviving spouse as his or her only primary beneficiary;
 - d. The participant would have been eligible to receive normal retirement benefits pursuant to section 1.428A had the participant retired the day before his or her death;
 - e. The participant has not died in the line of duty as described in subsection 1.439A(b); and
 - f. The spouse does not elect to receive the benefit provided in (a)(1) above.
- (ii) For purposes of this subsection, a survivor annuity is a monthly income commencing in the month next following the participant's death, and continuing for the remainder of the spouse's life, in an amount equal to the actuarial equivalent of the benefit the spouse would have received under an immediate joint and survivor annuity pursuant to section 1.442A (with a 100 percent survivor benefit) had the participant retired on the day before death.

(b) *Line of Duty Death Benefit.* In the event of the death of a participant, prior to the participant's benefit commencement date, while in the line of duty (as defined below), the participant's beneficiary shall be entitled to receive the benefits described in subparagraphs (1), (2) or (3), as applicable.

(1) *General benefit.* The beneficiary shall be entitled to receive:

- (i) The participant's employee contributions benefit, payable in one or more installments over a period which meets the requirements of section 1.440A and which is designated by the participant, or, if the participant has made no designation, by his or her beneficiary; plus.
- (ii) An amount, payable as a single lump sum, equal to the participant's annualized compensation determined as of the date of death; provided, however, that the benefit provided by this subparagraph (ii) shall be payable only if the participant had died while a covered employee.

(2) *Surviving spouse benefit.*

- (i) If all of the following conditions are met, then the surviving spouse of a deceased participant shall be entitled to receive a survivor benefit, in lieu of any other plan benefit:
 - a. The participant is married on the date of death;
 - b. The participant's death occurs before the benefit commencement date;
 - c. The participant has designated the participant's surviving spouse as his or her beneficiary;
 - d. The participant has died in the line of duty as described in this subsection 1.439A(b); and
 - e. Upon the death of the participant, the spouse does not elect to receive the benefits provided in subsection 1.439A(b)(1).
- (ii) a. For purposes of this subsection, the line of duty survivor benefit is a monthly income commencing in the month next following the participant's death and continuing for the remainder of the spouse's life in an amount equal to 66 2/3 percent of the participant's compensation determined as of the day before the participant's death.

- b. In the event of the death of the spouse following the death of the participant, a monthly benefit equal to 50 percent of such compensation shall be paid, in the aggregate, to the participant's surviving children who are named as contingent beneficiaries.
- c. The monthly benefits payable to any child of the participant pursuant to this subsection shall continue until the first day of the month preceding the earlier of:
 - 1. The death of the child; or
 - 2. The later of the child's:
 - i. Attainment of age 18, or
 - ii. Attainment of age 23, but only so long as the child remains a full-time student.

(3) *Surviving children's benefit.*

- (i) If all of the following conditions are met, then the surviving children of a deceased participant shall receive a survivor benefit, in lieu of any other plan benefit:
 - a. The participant's death occurs before the benefit commencement date;
 - b. The participant has designated one or more of the participant's children as his or her only primary beneficiaries; and
 - c. The participant has died in the line of duty as described in this subsection 1.439A(b).
- (ii) a. For purposes of this subsection, the line of duty survivor children's benefit is a monthly income commencing in the month next following the participant's death in an amount equal to 50 percent of the participant's compensation determined as of the day before the participant's death and paid, in the aggregate, to the participant's surviving children who are named as primary beneficiaries.
- b. The monthly benefits payable to any child of the participant pursuant to this subsection shall continue until the first day of the month preceding the earlier of:
 - 1. The death of the child; or
 - 2. The later of the child's:
 - i. Attainment of age 18; or
 - ii. Attainment of age 23, but only so long as the child remains a full-time student.

(4) *Line of duty definition.* For purposes of this section, the term line of duty means death from an injury or illness which has been sustained as an active covered employee and which has been ruled compensable under the Workers' Compensation Law of Maryland. Line of duty does not include death from an injury or illness which has been sustained during military service.

(c) *Benefits Payable after Benefit Commencement Date.* If a participant dies after the participant's benefit commencement date, the benefits, if any, to which his or her beneficiary shall be entitled shall depend upon the form in which the participant's benefits were payable at the time of death, under the applicable form of benefit described in sections 1.441A—1.444A.

(C.B. 83, 1995; C.B. 10, 2001; C.B. 7, 2004, § 2; C.B. 13, 2013, § 5; C.B. 56, 2017, § 1)

Sec. 1.440A. - Limitations.

All death benefits payable pursuant to section 1.439A shall be distributed only in accordance with final regulations published by the Internal Revenue Service under Section 401(a)(9) of the Internal Revenue Code. To the extent required thereby, such benefits shall be distributed in full not later than the

last day of the calendar year containing the fifth anniversary of the death of the participant, except as follows:

- (a) *Distributed over Lifetime of Beneficiary.* Unless the participant or the participant's beneficiary irrevocably elects pursuant to any elective provision which may be then present in the plan (which election must be prior to the earliest date on which distribution would be otherwise required pursuant to this section) to have the aforesaid five-year limit apply, benefits payable to or for the benefit of the participant's beneficiary, and which begin not later than the last day of the calendar year containing the first anniversary of the participant's death, may be distributed over the life of the beneficiary or a period certain not extending beyond the life expectancy of the beneficiary, under a method of distribution which meets the requirements of section 1.443A (but with life expectancy based upon the beneficiary's attained age as of the beneficiary's birthday in the calendar year in which falls:
 - (1) The date on which nonannuity benefits are required to commence pursuant to this subsection, or
 - (2) If earlier, the date on which annuity benefits actually commence).
- (b) *Surviving Spouse.* If the participant's beneficiary is the participant's surviving spouse, then, unless the participant or the participant's spouse irrevocably elects pursuant to any elective provision which may be then present in the plan (which election must be prior to the earliest date on which distribution would be otherwise required pursuant to this section) to have the aforesaid five-year limit apply, benefits payable to or for the benefit of the spouse, and which begin not later than the later of the last day of the calendar year containing the first anniversary of the participant's death, or the last day of the calendar year in which the participant would have reached age 70½, may be distributed over the life of the spouse or a period certain not extending beyond the life expectancy of the spouse, under a method of distribution which meets the requirements of section 1.443A (but with life expectancy based upon the spouse's attained age as of the spouse's birthday in the calendar year in which falls:
 - (1) The date on which nonannuity benefits are required to commence pursuant to this subsection, or
 - (2) If earlier, the date on which annuity benefits actually commence).
- (c) *Surviving Spouse Dies Prior to Commencement of Benefits.* If benefits are payable in accordance with subsection (b) above, and the surviving spouse dies after the participant but prior to:
 - (1) The date on which nonannuity benefits are required to commence pursuant to subsection (b) above, or
 - (2) The date on which annuity distributions meeting the requirements of subsection (b) above actually commence,

Then, in either case, the aforesaid five-year limit, and the alternate limit set forth in subsection (a) above, are to be applied as if the spouse were the participant, so that such limits shall be measured from the death of the spouse.

- (d) *When Annuity Benefits Commence before Participant's Death.* If annuity benefits meeting the requirements of section 1.443A had commenced prior to the participant's death, then, in either case, the death benefits payable pursuant to sections 1.439A—1.440A may be distributed without regard to the aforesaid five-year limit, but must be distributed at least as rapidly as they would have been under the pre-death method of distribution.

(C.B. 83, 1995; C.B. 22, 2008, § 2)

Sec. 1.441A. - Method of payment.

- (a) All benefit distributions shall be in cash (or in annuity contracts as provided herein).

- (b) The County shall determine, in its discretion, whether the distribution shall be funded through periodic payments made directly from the trust, or through the purchase of annuity contracts, or whether a combination of such methods of distribution shall be used, and the County shall give to the trustees such directions and information as may be necessary for the trustees to carry out the decision of the County.
- (c) If the County shall determine that the whole or any part of the distribution is to be funded through purchase of an annuity contract for a participant, the County shall select such form of contract (including a variable annuity) to be so purchased and shall direct the trustees to pay the premium of such contract to the issuing company.
- (d) The County shall direct that all right, title and interest in such contract shall remain in the trustees under the terms of the plan and the participant shall have no right, title or interest therein except to receive the payments therefrom as provided therein, and to change the beneficiary from time to time.
- (e) Alternatively, the County may direct that the contract shall be purchased in the name of the participant and distributed to the participant free and clear of the trust, in which case:
 - (1) The contract shall be issued so as to be nontransferable;
 - (2) It shall not contain a death benefit in excess of the greater of the reserve or the total premiums paid for annuity benefits; and
 - (3) It shall not contain provisions that expand upon, change or eliminate any plan provisions applicable to distributions in annuity form.

(C.B. 83, 1995)

Sec. 1.442A. - Optional forms of benefit.

A participant, subject to the conditions hereinafter set forth, may elect to receive, in lieu of the normal monthly form of retirement income described in section 1.428A, a benefit, which is its actuarial equivalent, payable in any of the following forms:

- (a) *Joint and Survivor Option.*
 - (1) The joint and survivor option is a monthly income payable during the participant's lifetime and continuing after the participant's death at either 50 percent or 100 percent (as elected by the participant) of the rate to his or her beneficiary for the remainder of such beneficiary's life.
 - (2) If the participant's beneficiary dies before the date on which the participant's benefits have commenced (whether before or after his or her termination date), the election shall thereupon become void.
 - (3) If the participant's beneficiary dies after the date on which the participant's benefits have commenced, or the participant becomes divorced from the beneficiary, but before the death of the participant, the election shall remain effective and the participant shall continue to receive the reduced retirement income payable to him or her in accordance with the option.
- (b) *Pop-Up Option.*
 - (1) The pop-up option is a monthly income payable during the participant's lifetime and continuing after the participant's death at either 50 percent or 100 percent (as elected by the participant) of the rate to his or her beneficiary for the remainder of the beneficiary's life.
 - (2) If the participant's beneficiary dies before the date on which the participant's benefits have commenced (whether before or after his or her termination date), the election shall thereupon become void.
 - (3) If the participant's beneficiary dies, or if the participant becomes divorced from the beneficiary, after the date on which the participant's benefits have commenced, but before the death of the participant, the election shall likewise become void, and the participant shall receive,

commencing on the first day of the month following the beneficiary's death (or divorce), the monthly benefit which the participant would have received had his or her benefits originally been payable as a life only option, as described in subsection 1.442A(c); and such benefit shall thereafter be payable as a life only option.

- (c) *Life Only Option.* The life only option, which is the normal form of benefit under the plan, is a monthly income payable during the participant's lifetime, with no payments to be made after the last payment prior to the participant's death.
- (d) *Lump Sum Option.* The lump sum option is a cash-out of the participant's employee contributions benefit in lieu of all other benefits under the plan, as described in subsections (e) and (f) of section 1.432A.

(C.B. 83, 1995; C.B. 25, 2006, § 4)

Sec. 1.443A. - General provisions applicable to options.

- (a) *Minimum Distribution Requirements.* Notwithstanding any other provision in the plan to the contrary, distribution shall be made only in accordance with final regulations published by the Internal Revenue Service under Section 401(a)(9) of the Internal Revenue Code. To the extent required thereby, distribution of benefits shall comply with the following limitations:
 - (1) (i) Except as otherwise provided below, distribution shall begin not later than April 1 following the later of (a) the calendar year (hereinafter referred to as the "commencement year") in which the participant reaches age 70½ and (b) the year in which he or she subsequently retires.
 - (ii) Distribution shall be made:
 - a. Over the life of the participant or the lives of the participant and the participant's beneficiary; and/or
 - b. Over a period certain not extending beyond the life expectancy of the participant or the joint life and last survivor expectancy of the participant and his or her beneficiary, or, if shorter, the alternate period, all as described in Treasury Regulation Section 1.401(a)(9)-6.
 - (2) A required distribution shall be deemed to have been made during the commencement year if actually made by the following April 1, but such delayed distribution shall not change the amount of such distribution, and the distribution otherwise required during the subsequent calendar year shall be calculated as if the first distribution had been made on the last day of the commencement year.
 - (3) Benefits paid prior to the commencement year shall reduce the aggregate amount subject to (but shall not otherwise negate) the minimum distribution requirements described herein.
 - (4) Nothing contained in this subsection shall prevent distribution of annuity benefits providing for nonincreasing (except as otherwise permitted in Treasury Regulation 1.401(a)(9)-6) payments beginning not later than the commencement year (except as provided in subsection (3) above) and payable at least annually over a period permitted by this subsection (for which purpose, if benefit commencement under the annuity precedes the commencement year, each relevant life expectancy shall be based on the individual's attained age as of his or her birthday occurring in the calendar year in which benefit commencement occurs). Any benefits accruing after the commencement year shall be treated as a separate identifiable component distributable in accordance with this subsection beginning in the payment year following the year of accrual.
 - (5) If the provisions of this subsection require the commencement of benefits to a participant who has not yet terminated employment, distribution shall be made or commenced in accordance with sections 1.441A—1.444A as if the participant had retired on the last day of the commencement year. However, notwithstanding the commencement of benefits pursuant to this

subsection, all other aspects of the participant's plan participation shall continue in accordance with the remaining provisions of the plan. The actuarial equivalent of any additional benefits which may accrue to the participant pursuant to section 1.430A after the participant's benefits have been paid or commenced by reason of this subsection shall increase the amount of periodic benefit payments being received by the participant under the plan.

- (b) *Election Procedures.* An election of any optional form of benefit described in section 1.442A must be made by a participant in writing, on a form supplied by or acceptable to the County. Upon the participant's benefit commencement date, such election (including the designation of a beneficiary) shall be irrevocable.
- (c) *Effect of Death.* In the event of the death of a participant prior to the date on which the participant's benefits are due to commence under the terms of the plan, no benefits shall be payable to the participant's spouse or other beneficiary except as provided in sections 1.439A and 1.440A, regardless of whether or not the participant has elected an optional form of benefit pursuant to sections 1.441A—1.444A.
- (d) *Timing of Benefit Commencement.* Notwithstanding any other plan provision to the contrary, in no event (unless the participant otherwise elects pursuant to any elective provision which may be then present in the plan) shall benefits begin later than the 60th day after the close of the plan year in which occurs the latest of:
 - (1) The date on which the participant attains age 62 (or any earlier normal retirement age which may be then specified in the plan); or
 - (2) The termination of the participant's employment with the County.

(C.B. 83, 1995; C.B. 7, 2004, § 2; C.B. 22, 2008, § 2)

Sec. 1.444A. - Eligible rollover distributions.

This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(a) *Definitions.*

- (1) *Eligible rollover distributions.* An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:
 - (i) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;
 - (ii) Any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).
- (2) *Eligible retirement plan.*
 - (i) An "eligible retirement plan" is:
 - a. An individual retirement account described in Section 408(a) of the Internal Revenue Code;

- b. An individual retirement annuity described in Section 408(b) of the Internal Revenue Code; or
 - c. A qualified trust described in Section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution.
- (ii) For distributions made after December 31, 2001, an eligible retirement plan also includes:
 - a. An annuity contract described in Section 403(b) of the Internal Revenue Code.
 - b. An eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a State, political subdivision of a State, or any agency or instrumentality of a State or political subdivision of a State and which agrees to separately account for amounts transferred into such plan from this plan.
 - (iii) For distributions made after December 31, 2007, an eligible retirement plan also includes a Roth IRA described in Section 408a of the Internal Revenue Code.
 - (iv) However, in the case of an eligible rollover distribution to the surviving spouse of a participant or former participant, an eligible retirement plan is an individual retirement account or individual retirement annuity. However, for distributions made after December 31, 2001, the definition of eligible retirement plan as defined in subsection (i) shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Internal Revenue Code.
- (3) *Distributee.* A "distributee" includes a participant or former participant. In addition, the participant's or former participant's surviving spouse and the participant's or former participant's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code, are distributees with regard to the interest of the spouse or former spouse.
 - (4) *Direct rollover.* A "direct rollover" is a payment by the plan to the eligible retirement plan specified by the distributee.
 - (5) *Spouse.* For purposes of this section 1.444A, spouse means spouse as defined under Federal law.

(C.B. 83, 1995; C.B. 7, 2004, § 2; C.B. 22, 2008, § 2; C.B. 15, 2013, § 2)

Sec. 1.445A. - Distributions to nonspouse beneficiaries.

This section applies to distributions made on or after July 1, 2008. Notwithstanding any provision of the plan to the contrary that would otherwise limit the options of the beneficiary of a deceased participant who is not a distributee (within the meaning of section 1.444A of this subtitle), the Administrator shall, upon the request of such a beneficiary transfer a lump sum distribution to the trustee of an individual retirement account established under Section 408 of the Internal Revenue Code in accordance with the provisions of Section 402(c)(11) of the Internal Revenue Code.

(C.B. 22, 2008, § 2; C.B. 15, 2013, § 3)

Secs. 1.446A—1.447A. - Reserved.

ARTICLE VA. - TRUSTEES AND BENEFICIARIES

Sec. 1.448A. - Designation of Beneficiaries.

- (a) *Participant Designates Beneficiary.* Each participant may designate a beneficiary or beneficiaries (who may be named contingently or successively) to receive such benefits as may be payable under the plan upon or after his or her death, and, subject to the provisions of sections 1.441A—1.444A, such designation may be changed from time to time by the participant by filing a new designation. Each designation will revoke all prior designation by the same participant, shall be in form prescribed by the County, and will be effective only when filed in writing with the County during the participant's lifetime.
- (b) *Absence of Valid Beneficiary Designation.* In the absence of a valid beneficiary designation (except in conjunction with the election of a form of benefit payment which does not require the designation of a specific beneficiary), or if, at the time any benefit payment is due to a beneficiary, there is no living beneficiary eligible to receive the payment, validly named by the participant, the County shall direct the trustees to distribute any such benefit payment to:
 - (1) The participant's spouse, if then living; otherwise to
 - (2) The participant's then living descendants, if any, per stirpes; otherwise to
 - (3) The participant's then living parent or parents, equally; otherwise to
 - (4) The participant's estate.
- (c) *Question Regarding Right of a Person to Receive a Benefit Payment.* In determining the existence or identity of anyone entitled to a benefit payment, the County and the trustees may rely conclusively upon information supplied by the participant's personal representative. In the event of a lack of adequate information being supplied to the County, or in the event that any question arises as to the right of any person to receive a benefit payment as aforesaid, or in the event that a dispute arises with respect to any such payment, then, notwithstanding the foregoing, the County, in its sole discretion, may, in complete discharge of the County and the trustees, and without liability for any tax or other consequences which might flow therefrom, direct the trustees to:
 - (1) Distribute the payment to the participant's estate;
 - (2) Retain such payment, without liability for interest, until the rights thereto are determined; or
 - (3) Deposit the payment into any court of competent jurisdiction.

(C.B. 83, 1995)

Sec. 1.449A. - Location of participants and beneficiaries.

- (a) *Notice to Last Post Office Address.* Any communication, statement or notice addressed to a participant or beneficiary at the last post office address filed with the County, or if no such address was filed with the County, then at the last post office address as shown on the County's records, shall be binding on the participant or beneficiary for all purposes of the plan. Except for the County's sending of a registered letter to the last known address, neither the trustees nor the County shall be obliged to search for any participant or beneficiary.
- (b) *Distribution to Next of Kin if Participant or Beneficiary Fails to Claim Amount.* If the County notifies any participant or beneficiary that he or she is entitled to an amount under the plan and the participant or beneficiary fails to claim such amount or make his or her location known to the County within three years thereafter, then, except as otherwise required by law, if the location of one or more of the next of kin of the participant, including the participant's surviving spouse, is known to the County, it may direct distribution of such amount to any one or more or all of such next of kin, and in such proportions as the County determines.
- (c) *If Location of Participant, Beneficiary, or Next of Kin Cannot Be Determined.* If the location of none of the foregoing persons can be determined, the County shall have the right to direct that the amount payable shall be deemed to be a forfeiture and treated in accordance with section 1.424A, except that the dollar amount of the forfeiture, unadjusted for gains or losses in the interim, shall be

reinstated if a claim for the benefit is made by the participant or beneficiary to whom it was payable. If any benefit payable to an unlocated participant or beneficiary is subject to escheat pursuant to applicable State law, neither the trustees nor the County shall be liable to any person for any payment made in accordance with such law.

(C.B. 83, 1995)

Sec. 1.450A. - Investment of funds.

- (a) All contributions under the plan shall be paid to the trustees and deposited in the trust.
- (b) Such contributions, all investments made therewith and proceeds thereof and all earnings and profits thereon, less the authorized disbursements therefrom, shall constitute the trust, which trust, and the agreement under which it is maintained, shall in all respects constitute a part of the plan.
- (c) The County reserves the right to select, and from time to time to change, the trustees, to amend the trust with the consent of the trustees, or to adopt a different funding vehicle.

(C.B. 83, 1995)

Sec. 1.451A. - Prohibiting against diversion of funds.

It shall be impossible by operation of the plan or trust, by natural termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by other means, for any part of the corpus or income of the trust, or any funds contributed thereto, to inure to the benefit of the County or otherwise be used for or diverted to purposes other than providing benefits to participants and beneficiaries and defraying reasonable expenses of administering the plan, except as otherwise set forth in the trust with respect to the conditions under which trust assets may be returned to the County.

(C.B. 83, 1995)

Sec. 1.452A. - Prohibition against assignment of benefits.

- (a) Except as provided below, no benefit payable at any time under this plan may be anticipated, assigned (either at law or in equity), alienated or subject to attachment, garnishment, execution, levy or other legal and equitable process.
- (b) However, the prohibitions of the preceding sentence shall not apply to, and the trustees shall fully recognize the creation, assignment or recognition of a right to any benefit payable with respect to a participant pursuant to a "qualified domestic relations order."
- (c) For the purposes hereof, a qualified domestic relations order shall mean a judgment, decree or order made pursuant to a State domestic relations law which relates to the provision of child support, alimony payments or marital property rights and:
 - (1) Which clearly specifies:
 - (i) The names, Social Security numbers, dates of birth and last known mailing addresses of the participant and each payee covered by the order;
 - (ii) The amount or percentage of the participant's benefits to be paid by this plan to each payee (or the manner in which such amount or percentage is to be determined);
 - (iii) The number of payments or period to which such order relates;
 - (iv) The name of the plan and plan Administrator;

- (2) Which specifically provides that:
 - (i) Upon the death of the payee while benefits are in pay status and prior to the death of the participant, the payments being made to the payee will thereafter be paid to the participant; and
 - (ii) No portion of any death benefit under section 1.439A of this subtitle will be paid to the payee upon the death of the participant prior to commencement of benefit payments if a surviving spouse annuity benefit is payable to the then-surviving spouse of the participant; and
- (3) Which does not:
 - (i) Require this plan to provide increased benefits;
 - (ii) Require the payment to the same benefits to any payee which are payable to another payee pursuant to a prior qualified domestic relations order.
 - (iii) Require the plan to provide a type of form of benefit or benefit option not otherwise provided under the plan;
 - (iv) Provide for payment of benefits to a payee which commence before the commencement of benefit payments to the participant;
 - (v) Provide for payment of benefits to a payee over a period longer than the lifetime of the participant;
 - (vi) Allow a payee to designate a beneficiary to receive payments following the death of the payee;
 - (vii) Provide for the designation of the payee as the surviving spouse for purposes of receipt of all or a portion of any surviving spouse annuity benefit provided under subsection 1.439A(b) of this subtitle;
 - (viii) Provide for payment to the payee of all or any portion of any ordinary or noncatastrophic line of duty disability benefits payable to the participant before the date the participant would otherwise begin receiving service retirement benefits from the plan. But for the disability; or
 - (ix) Provide for payment to the payee of all or a portion of any catastrophic line of duty disability benefits payable to the participant.

(C.B. 83, 1995; C.B. 21, 2002, § 2)

Sec. 1.453A. - Administrative authority.

- (a) *Sole Responsibility and Control.* Except as otherwise specifically provided herein, the County shall have the sole responsibility for and the sole control of the operation and administration of the plan.
- (b) *Powers, Duties and Responsibilities.* The County shall have the power and authority to take all action and to make all decisions and interpretations which may be necessary or appropriate in order to administer and operate the plan, including, without limiting the generality of the foregoing, the power, duty and responsibility to:
 - (1) Resolve and determine all disputes or questions arising under the plan, including the power to determine the rights of employees, participants and beneficiaries, and their respective benefits, and to remedy any ambiguities, inconsistencies or omissions;
 - (2) Adopt such rules of procedure and regulations as in its opinion may be necessary for the proper and efficient administration of the plan and as are consistent with the plan;
 - (3) Implement the plan in accordance with its terms and such rules and regulations;

- (4) Direct the trustees with respect to the eligibility of any employee as a participant and the crediting and distribution of the trust, which are to be made only upon the basis of instructions from the County pursuant to the terms of the plan; and
 - (5) Establish and carry out a funding policy and method consistent with the objectives of the plan, pursuant to which the County shall determine the plan's liquidity and financial needs and communicate them to the trustees (or other fiduciaries who are charged with determining investment policy).
- (c) *Act through County Executive.* Subject to the power to delegate in the manner described in section 1.454A, the County shall act through the County Executive.

(C.B. 83, 1995)

Sec. 1.454A. - County administration.

The plan shall be operated and administered on behalf of the County by an Administrator shall be governed by the following:

- (a) *Powers of the Administrator.* In the absence of any designation to the contrary by the County, the Administrator shall be the retirement plan Committee established pursuant to section 1.455A. Except as the County shall otherwise expressly determine, the Administrator shall have the following powers:
- (1) To make and enforce rules and regulations as it shall deem necessary or proper for the efficient administration of the plan;
 - (2) To make and enforce procedures to be followed by employees in filing applications for benefits and for furnishing the evidence necessary to establish the employees' right to benefits;
 - (3) To make and enforce determinations concerning the rights of employees applying for or receiving benefits;
 - (4) To make and enforce procedures which afford a mechanism for adjusting complaints of an employee dissatisfied with determinations of the Administrator;
 - (5) To make and enforce procedures for determining the service credit of employees which affords employees an opportunity to object, in writing, and to establish service credit in advance of retirement;
 - (6) To make and enforce procedures for authorizing disbursements from the fund created under the plan and to authorize disbursements from the trustees of the fund in accordance with the plan documents;
 - (7) To make and enforce procedures and standards and make determinations concerning total and permanent disability in accordance with the plan documents;
 - (8) To compute the amount of benefits that shall be payable to any person in accordance with the plan documents;
 - (9) To interpret the plan;
 - (10) To otherwise decide questions concerning the eligibility of any employee to participate in the plan or to receive benefits from the plan;
 - (11) To employ or engage actuaries to make actuarial evaluations of the liabilities under the plan, to recommend the mortality and other tables and interest rates to be used from time to time in actuarial and other computations for any purpose of the plan, to recommend the amounts of contributions to be made by the County and to perform such other services as the Administrator shall deem necessary or desirable in connection with the administration of the plan;

- (12) To employ or engage accountants as it shall deem necessary or desirable in connection with the administration of the plan;
 - (13) To employ or engage legal counsel as it shall deem necessary or desirable in connection with the administration of the plan;
 - (14) To employ or engage any other experts as it shall deem necessary or desirable in connection with the administration of the plan;
 - (15) To determine the mortality and other tables and interest rates to be used from time to time in actuarial or other computations for any purpose of the plan;
 - (16) To recommend to the County the amounts of contributions to be made by the County, from time to time, under the provisions of the plan; and
 - (17) To act for the County before all persons in any matter directly pertaining to the plan.
- (b) *Limits on Power.* The Administrator shall have no power to:
- (1) Amend or terminate the plan;
 - (2) Determine County contributions;
 - (3) Exercise authority to direct the trustees with respect to the investment of the trust;
 - (4) Affect the employer-employee relationship between the County and any employee; or
 - (5) Retain and/or discharge the trustees,
- all of which powers are reserved to the County unless expressly granted to the Administrator.
- (c) *Fiduciary Powers, Duties and Responsibilities.* Fiduciary duties, powers and responsibilities (other than those reserved to the trustees, with respect to management or control of trust assets) may be allocated among the fiduciaries (if there be more than one) to whom such duties, powers and responsibilities have been delegated, so long as such allocation is pursuant to action of the County or by written agreement executed by the involved fiduciaries and approved by the County in which case, such fiduciary shall have any liability, with respect to any duties, powers or responsibilities not allocated to him, for the acts or omissions of any other fiduciary. Any person may serve in more than one fiduciary capacity under the plan, including those of Administrator and trustee.
- (d) *Specialized Advice or Assistance.*
- (1) *Appoint persons or firms; rely upon advice.*
 - (i) The Administrator may appoint any persons or firms, or otherwise act to secure specialized advice or assistance, as it deems necessary or desirable in connection with the administration and operation of the plan.
 - (ii) The Administrator shall be entitled to rely conclusively upon, and shall be fully protected in any action or omission taken by it in good faith reliance upon, the advice or opinion of such firms or persons.
 - (2) *Delegate duties, powers or responsibilities to County employee.*
 - (i) The Administrator shall have the power and authority to delegate from time to time by written instrument all or any part of its duties, powers or responsibilities under the plan, both ministerial and discretionary, as it deems appropriate, to the specified employee of Howard County, Maryland, who shall be designated by the Personnel Administrator of the County to assist the Administrator (the "coordinator"), and in the same manner to revoke any such delegation of duties, powers or responsibilities.
 - (ii) Any action of the coordinator in the exercise of such delegated duties, powers or responsibilities shall have the same force and effect for all purposes hereunder as if such action had been taken by the Administrator.

- (iii) Further, the Administrator may authorize the coordinator to execute any certificate or document on behalf of the Administrator, in which event any person notified by the Administrator of such authorization shall be entitled to accept and conclusively rely upon any such certificate or document executed by such person as representing action by the Administrator until such third person shall have been notified of the revocation of such authority.
 - (iv) The Administrator shall not be liable for any act or omission of any person to whom the Administrator's duties, powers or responsibilities have been delegated, nor shall any person to whom any duties, powers or responsibilities have been delegated have any liabilities with respect to any duties, powers or responsibilities not delegated to him.
- (e) *Liability.* All representatives of the County, and/or members of the retirement plan Committee shall use ordinary care and diligence in the performance of their duties pertaining to the plan, but no such individual shall incur any liability:
- (1) By virtue of any contract, agreement, bond or other instrument made or executed by the individual or on his or her behalf in the individual's official capacity with respect to the plan;
 - (2) For any act or failure to act, or any mistake or judgment made, in his or her official capacity with respect to the plan, unless resulting from the individual's gross negligence or willful misconduct; or
 - (3) For the neglect, omission or wrongdoing of any other person involved with the plan.

The plan shall indemnify and hold harmless each such individual from the effects and consequences of the individual's acts, omissions and conduct in his or her official capacity with respect to the plan, except to the extent that such effects and consequences shall result from the individual's own willful misconduct or gross negligence; provided, however, that any person who shall claim the right to any payment or damage as a result of the actions of any individual in connection with the performance of their duties pertaining to the plan, shall be entitled to look only to the trust fund created by the plan for payment. Such individual shall have no other right, claim or demand therefor against the County.

(f) *Liability Insurance.*

- (1) The plan may purchase, from plan assets, as an expense of the plan, liability insurance for the plan and/or for its fiduciaries to cover liability or losses occurring by reason of an act or omission of a fiduciary, providing such insurance contract permits recourse by the insurer against the fiduciary in the case of breach of fiduciary obligation by such fiduciary.
- (2) Any fiduciary may purchase, from and for his or her own account, insurance to protect the fiduciary in the event of a breach of fiduciary duty and the County may also purchase insurance to cover the potential liability of one or more persons who serve in a fiduciary capacity with regard to the plan.

(g) *Fiduciary's Benefits.* Nothing in the plan shall be construed so as to prevent any fiduciary from:

- (1) Receiving any benefit to which he or she may be entitled as a participant or beneficiary; or
- (2) Receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly incurred in the performance of his or her duties under the plan (except that no person so serving who receives compensation as an employee shall receive compensation from the plan, except for reimbursement of expenses properly incurred); or
- (3) Serving as a fiduciary in addition to being an officer, employee, agent, or other representative of the County or any related entity.

However, the fiduciary shall not be entitled to vote or act upon, or execute on behalf of the plan documents specifically relating to, his or her own participation in the plan.

(C.B. 83, 1995)

Sec. 1.455A. - Retirement Plan Committee.

There shall be a Committee, to be known as the Retirement Plan Committee, which in the absence of any designation to the contrary by the County, shall serve as Administrator. Except to the extent that the County has retained any power or authority, or allocated duties and responsibilities to another Administrator or other fiduciary, said Committee shall have full power and authority to administer and operate the plan in accordance with its terms and in particular the authority contained in sections 1.453A—1.461A, and, in acting pursuant thereto, shall have full power and authority to deal with all persons in any matter directly connected with the plan, including, but not limited to, the trustees, other fiduciaries, insurance companies, investment advisors, other advisors and specialists, participants, Beneficiaries and their representatives, in accordance with the following provisions:

- (a) *Individuals Serving on the Committee.* The Committee shall consist of those individuals who hold the following positions:
 - (1) Chief Administrative Officer or designee;
 - (2) Director of Finance or designee;
 - (3) Budget Administrator or designee;
 - (4) Human Resources Administrator as chairman;
 - (5) Representative of Lodge 21 of the Howard County Police Officers' Association;
 - (6) Representative of Local 2000 International Association of Firefighters;
 - (7) Representative of the Howard County Police Department supervisory employees who shall be entitled to vote only during fiscal years which end in an even number; and
 - (8) Representative of Howard County Fire and Rescue Services supervisory employees who shall be entitled to vote only during fiscal years which end in an odd number.
- (b) *Compensation, Acceptance of Duties and Responsibilities.* Subject to his or her right to resign at any time, each member of the Committee shall serve without compensation at the pleasure of the County, and the County may appoint, and may revoke the appointment of, additional members to serve with the Committee as may be determined to be necessary or desirable from time to time. Each member of the Committee, by accepting appointment to the Committee, shall thereby be deemed to have accepted all of the duties and responsibilities of such appointment, and to have agreed to the faithful performance of his or her duties thereunder.
- (c) *Organization; Voting.*
 - (1) The Committee shall adopt such formal organization and method of operation as it shall deem desirable for the conduct of its affairs.
 - (2) The Committee shall act as a body, and the individual members of the Committee shall have no powers and duties as such, except as provided herein.
 - (3) The Committee shall act by vote of a majority of its members at the time in office (other than those disqualified from voting pursuant to subsection 1.454A(g), either at a meeting or in writing without a meeting.
- (d) *Decisions Final.* Except as set forth in section 1.461A, the determination of the Committee on any matter pertaining to the plan within the powers and discretion granted to it shall be final and conclusive on the County, the trustees, all participants and beneficiaries and all those persons dealing in any way or capacity with the plan.

(C.B. 83, 1995; C.B. 16, 2011, § 2)

Sec. 1.456A. - Mutual exclusion of responsibility.

Neither the trustees nor the County shall be obliged to inquire into or be responsible for any act or failure to act, or the authority therefor, on the part of the other.

(C.B. 83, 1995)

Sec. 1.457A. - Uniformity of discretionary acts.

Whenever in the administration or operation of the plan discretionary actions by the County, the Administrator or the trustees are required or permitted, such action shall be consistently and uniformly applied to all persons similarly situated, and no such action shall be taken which shall discriminate in favor of highly-compensated employees as defined in Section 414(q) of the Internal Revenue Code.

(C.B. 83, 1995)

Sec. 1.458A. - Fiduciary standards.

The Administrator and all other persons in any fiduciary capacity with respect to the plan shall discharge their duties with respect to the plan:

- (a) Solely in the interest of the participants and beneficiaries and for the exclusive purposes of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering and operating the plan;
- (b) With the care, skill, prudence and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and
- (c) In accordance with the documents and instruments governing the plan.

(C.B. 83, 1995)

Sec. 1.459A. - Litigation.

In any action or judicial proceeding affecting the plan and/or the trust, except as may be otherwise required by law, no participant or beneficiary shall be entitled to any notice or service of process, and any final judgment entered in such action shall be binding on all persons interested in, or claiming under, the plan.

(C.B. 83, 1995)

Sec. 1.460A. - Payment of administration expenses.

Expenses incurred in the Administration and operation of the plan shall be paid by the trustees out of the trust unless the County, in its discretion, elects to pay them.

(C.B. 83, 1995)

Sec. 1.461A. - Review procedure.

An employee aggrieved by a decision of the Administrator may request that the Administrator review its decision, and the Administrator shall review its decision. The decision of the Administrator following such review upon request of an employee shall be final and conclusive.

(C.B. 83, 1995)

Secs. 1.462A—1.464A. - Reserved.

ARTICLE VIA. - AMENDMENTS; TERMINATION OF PLAN

Sec. 1.465A. - Right to amend.

- (a) Except as provided in sections 1.401A—1.484A of this subtitle, all rights, benefits and obligations of officers or employees of the County with respect to pensions or retirement are provided under the terms of this plan, and this plan supersedes and prevails over the terms of any rules, regulation, resolution or ordinance concerning such matters.
- (b) The County shall have the right to amend the plan, at any time, by amendment to the Howard County Code and all parties thereto or claiming any interest thereunder shall be bound thereby. Notwithstanding any other provision of County law, no County resolution or ordinance which relates to the subject matter of the plan or conflicts with, narrows, or expands any term of this plan shall be effective unless the County acts by ordinance which specifically amends the provisions of this subtitle and which has been passed in accordance with the proceedings set forth in subsection 1.482(c)(2) hereof. No amendment which affects the rights, duties, responsibilities or immunities of the trustees shall be binding upon the trustees in the absence of their consent thereto.
- (c) Notwithstanding the provisions of this section, the plan and trust may be amended at any time, by amendment to the Howard County Code, retroactively if required, if found necessary in order to conform to the provisions and requirements of the Internal Revenue Code or any similar act or any amendments thereto or regulations promulgated thereunder; no such amendment shall be considered prejudicial to any interest of a participant or beneficiary hereunder.

(C.B. 83, 1995)

Sec. 1.466A. - Right to terminate.

It is the present intention of the County to maintain the plan throughout the County's existence. Nevertheless, the County reserves the right, at any time, to permanently discontinue further contributions to the trust or to terminate the entire plan and trust.

(C.B. 83, 1995)

Sec. 1.467A. - Automatic termination of contributions.

The liability of the County to make contributions to the trust shall automatically terminate upon liquidation of the County, upon its adjudication as a bankrupt or upon the making of a general assignment for the benefit of creditors.

(C.B. 83, 1995)

Sec. 1.468A. - Allocation and distribution.

- (a) *Causation.*
 - (1) This section shall become operative in any of the following events:
 - (i) A complete termination of the County's liability to make further contributions to the trust;
 - (ii) A complete discontinuance of contributions by the County to the trust; or

- (iii) A complete termination of the plan.
- (2) The provisions of this section shall also become operative in the event of a partial termination of the plan, but only with respect to that portion of the plan attributable to the participants to whom the termination is applicable.
- (b) *Effective Date Set by Resolution of the County.* The effective date of any termination or discontinuance of contributions shall be as set forth in a resolution adopted by the County.
- (c) *Actions upon Termination or Discontinuance of Contributions.*
 - (1) Upon the effective date of any such event, then, notwithstanding any other provisions of the plan, subject to the remainder of this section.
 - (i) No persons who were not theretofore participants shall be eligible to become participants;
 - (ii) No further benefits shall accrue; and
 - (iii) The accrued benefits of all participants not theretofore vested, and not theretofore forfeited shall immediately become fully vested.
 - (2) The accrued benefits of all participants and beneficiaries shall be determined and distributed to them, as soon as is practicable after such termination or discontinuance, in accordance with sections 1.428A—1.436A and sections 1.441A—1.444A.
 - (3) The assets in the trust shall be allocated for the purposes set forth below and in the order set forth below, to the extent the assets are sufficient therefor. The allocations may be implemented by distribution of trust assets, or by the purchase and distribution by the trustees of insurance company annuity contracts, or by a combination of these methods.

(C.B. 83, 1995)

Sec. 1.469A. - Priorities for allocation of trust assets.

Upon termination of the trust, the trustees shall liquidate all assets remaining in the trust. After deduction of estimated expenses in liquidating and distributing the trust, and any reasonable compensation for the trustees agreed upon with the County, the balance of the trust assets shall be allocated so as to provide the accrued benefits otherwise payable under the plan pursuant to the following order of priorities:

- (a) *Participants in First Priorities.* To provide accrued benefits for each participant who:
 - (1) Had begun to receive benefits at least three years prior to the effective date of the termination of the plan;
 - (2) Would have begun to receive retirement or disability benefits at least three years prior to the effective date of the termination of the plan but for the fact that commencement of benefits was deferred; or
 - (3) Would have been eligible to receive retirement benefits at least three years prior to the effective date of the termination of the plan but for the fact that the participant did not actually retire; and
- (b) *Other Participants.* To provide accrued benefits for all other participants, in the following order of preference:
 - (1) For each participant who would have qualified under subsection (a) above, but for the fact that the entitling event occurred or would have occurred within three years of the effective date of the termination of the plan, and
 - (2) For all other participants in this subsection (b).
- (c) *Trust Assets Utilized According to Priority.*

- (1) Trust assets shall be utilized under a particular priority only after all accrued benefits set forth in all preceding priorities shall have been fully provided for.
 - (2) For purposes of the allocation of funds within each priority, as set forth above, funds will be credited to each participant to provide the accrued benefits to which the participant is so entitled, but only to the extent that such accrued benefits have not been provided under a preceding priority.
 - (3) Any reductions in accrued benefits within a particular priority (or within any particular preference set forth within a priority) as set forth above, due to insufficient trust assets, shall be allocated pro rata among the participants within that priority (or preference) on the basis of their present values of the respective accrued benefits described in that priority (or preference) for each such participant.
 - (4) Any reference to accrued benefits payable to participants shall also be deemed to include accrued benefits payable to beneficiaries of deceased participants.
 - (5) If any balance of trust assets remains after all of the allocations described above, and after all liabilities with respect to participants and retired participants and their beneficiaries, if any, are satisfied, then the balance shall be returned to the County, and the trust shall terminate. Upon making such distribution, the trustees shall be discharged from all obligations under the trust and no participant shall have any further right or claim therein.
- (d) *Death of Participant after Effective Date of Termination.* Notwithstanding any provision to the contrary in section 1.468A or this section 1.469A, if a participant dies or otherwise terminates employment with the County during the interim between the effective date of termination and the distribution of trust assets, and if the participant's benefit commencement date had not yet occurred as of the effective date of termination, the amount distributable to the participant or to his or her beneficiary, and the timing thereof, shall be determined pursuant to sections 1.439A and 1.440A.

(C.B. 83, 1995)

Sec. 1.470A. - Alternative to immediate distribution of the trust.

- (a) *Event Entitling Participant to Benefit.* As an alternative to immediate distribution of the trust, the County, in its discretion, and subject to its option at any time to require the complete distribution of the trust to the then participants in accordance with section 1.468A, may defer commencement of benefits to each participant until such participant reaches an event which would otherwise entitle him or her to benefit commencement pursuant to sections 1.428A—1.432A, at which time the provisions of sections 1.441A—1.444A shall become applicable.
- (b) *Separate Account.* During the interim period, there shall be established and maintained a separate account in the name of each participant, based upon the values established pursuant to sections 1.468A—1.472A. The separate account shall thereafter define and measure the amount available for benefits distributable to the participant, and there shall be credited or charged thereto any income, expenses, gains or losses (whether or not realized, based upon fair market value of invested assets) attributable or allocable thereto as of each trust valuation date (or the date of complete distribution of the trust) with respect to the period since the last valuation date.

(C.B. 83, 1995)

Sec. 1.471A. - Modification of allocation provisions.

The provisions set forth in sections 1.468A—1.470A shall be subject to such modification, retroactively if required, without necessity of formal amendment to the plan, as may be necessary in order to cause the termination of the plan and/or trust, and any distributions made pursuant thereto and to conform to any requirements which may be imposed by the Internal Revenue Service to prevent

disqualification of the plan and/or trust, and no such modification shall be deemed prejudicial to the interest of any participant or beneficiary.

(C.B. 83, 1995)

Sec. 1.472A. - Benefits for highly compensated employees and restricted participants.

Notwithstanding any provision in the plan to the contrary, the benefits provided by the County's contributions for those individuals (herein referred to as "restricted participants") who fall within the category of participants whose anticipated annual benefit provided by such contributions will exceed \$1,500.00, but applicable only to the 25 highest paid employees as of the time of the establishment of the plan (including any such highest paid employees who are not participants at the time but may later become participants), shall be subject to the following conditions:

- (a) Such benefits shall be paid in full which have been provided by the County's contributions not exceeding the larger of the following amounts:
 - (1) Twenty thousand dollars; or
 - (2) An amount equal to 20 percent of the first \$50,000.00 of the participant's annual compensation multiplied by the number of years (up to ten) between the date of the establishment of the plan and the first to occur of the date that the plan terminates or the date that benefits first become payable to the restricted participant.
- (b) If the plan is terminated within ten years after its establishment, the benefits which a restricted participant may receive from the County's contributions shall not exceed the benefits set forth in subsection (a) above, except that:
 - (1) If the value of the trust assets is not less than the present value of all accrued benefits (whether or not vested) as of the date of termination, then no participant (whether or not a restricted participant) shall be restricted by the operation of this subsection from entitlement to a distribution of trust assets equal to the present value of his or her accrued benefit (provided that the benefit formula set forth in section 1.428A would not be discriminatory if the plan had not terminated).
 - (2) If the value of the trust assets exceeds the present value of all accrued benefits (whether or not vested) as of the date of termination, the County shall, in its sole discretion:
 - (i) Cause the excess to revert to the County, but only if provided in the trust, or
 - (ii) Amend the plan to provide a new benefit structure which would be non-discriminatory if the plan were not terminated, and whereby the present value of the revised accrued benefits (whether or not vested) as of the date of termination equals the value of the trust assets, and distribute to, or otherwise apply for the benefit of, each participant (whether or not a restricted participant) trust assets equal to the present value of his or her revised accrued benefit.
 - (3) If the value of the trust assets is less than the present value of all accrued benefits (whether or not vested) as of the date of termination, the provisions of sections 1.468A—1.471A shall be modified by subjecting certain trust assets to the rule of proportion. The rule of proportion is that trust assets shall be allocated, between and within priorities so that, to the extent possible, employees who are not officers, shareholders or highly compensated shall receive at least the same proportion of the present value of their accrued benefits (whether or not vested) as employees who are.
- (c) If a restricted participant leaves the employ of the County or withdraws from participation in the plan, the benefits which the restricted participant may receive from the County's contributions shall not, at any time within the first ten years after the date of the establishment of the plan, exceed the benefits set forth in subsection (a) above.

- (d) These conditions shall not restrict the full payment of any insurance, death or survivor's benefits on behalf of any participant (whether or not a restricted participant) who dies while the plan is in effect.
- (e) These conditions shall not restrict the current payment of full retirement or disability benefits called for by the plan for any restricted participant while the plan is in effect; provided, however, that a lump sum representing the restricted participant's entire interest in the plan may not be paid unless there is adequate provision and security for repayment of any part of the distribution representing the restricted portion in the event of a termination of the plan during the restricted period.
- (f) In the event the plan is changed at any time subsequent to its inception so as to increase substantially the benefits of the plan, then the provisions of this section shall be applied in accordance with the following principles:
 - (1) All restrictions to limit benefits applicable to the plan before the change, as provided by this section, will apply to all benefits as if the plan had not been changed, so that, in the event of termination, all benefits are limited as they would have been upon termination of the plan as it existed before the change; and
 - (2) The restrictions relating to the change of plan shall apply to benefits for each of the 25 highest paid employees on the effective date of the change except that such restrictions need not apply with respect to any employee in this group for whom the anticipated annual normal retirement benefits provided by County contributions prior to that date and during the ensuing ten years, based upon the employee's rate of compensation on that date, could not exceed \$1,500.00. In all other respects, the restrictions contained in this section shall apply to all of the benefits as if they were provided under a plan established on the effective date of the change except that, in place of the limit described in subsection (a) above, there shall be substituted a limit which cannot exceed the greater of the following three amounts:
 - (i) Twenty thousand dollars;
 - (ii) The County contributions which would have been applied to provide the benefits for the participant if the previous plan had been continued without change;
 - (iii) The sum of:
 - a. The County contributions which would have been applied to provide benefits for the participant under the previous plan if it had been terminated the day before the effective date of change; and
 - b. An amount equal to 20 percent of the first \$50,000.00 of the participant's annual compensation multiplied by the number of years (up to ten) between the effective date of the change and the first to occur of the date that the plan terminates or the date that benefits first become payable to the restricted participant.

(C.B. 83, 1995)

Sec. 1.473A. - Plan combinations and transfers.

In the case of any merger or consolidation of the plan with, or transfer of assets or liabilities of the trust to, any other plan, the transaction shall be structured so that each participant in the plan would (if the plan then terminated) receive a benefit immediately after the transaction which is at least equal to the benefit the participant would have been entitled to receive immediately before the transaction (if the plan had then terminated).

(C.B. 83, 1995)

Secs. 1.474A—1.476A. - Reserved.

ARTICLE VIIIA. - LIABILITY OF COUNTY; CONSTRUCTION OF PLAN

Sec. 1.477A. - Limitations on liability of County.

- (a) *No Rights Except as Provided by Law, Plan, Provisions, or Terms of Insurance of Annuity Policy.* Neither the establishment of the plan or trust, nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any participant or other person any legal or equitable right against the County (or any person connected therewith) the trustees or any insurance company, except as provided by law, by any plan provision or by the terms of any insurance or annuity policy.
- (b) *County Does Not Guarantee the Trust.* The County does not in any way guarantee the trust from loss or depreciation, nor does the County guarantee the payment of any money which may be or become due to any person from the trust. Any person having a right or claim under the plan shall look solely to the trust assets, and in no event shall the County (or any person connected therewith) be liable to any person on account of any claim arising by reason of the provisions of the plan or of any instrument or instruments implementing its provisions, or for the failure of any participant, beneficiary or other person to be entitled to any particular tax consequences with respect to the plan, the trust or any contribution thereto or distribution therefrom.
- (c) *County Not Liable for Failure to Make Contributions.* The County shall not be liable to any person for failure on its part to make contributions as provided in section 1.423A nor shall any action lie to compel the County to make such contributions.
- (d) *County Not Liable for Failure of Plan to Qualify under Internal Revenue Code.* The County (or any person connected therewith) shall not have any liability to any person by reason of the failure of the plan to attain and/or maintain qualified status under Section 401(a) of the Internal Revenue Code, or the failure of the trust to attain and/or maintain tax exempt status under Section 501(a) of the Internal Revenue Code, regardless of whether or not such failure is due to any act or omission (willful, negligent or otherwise) of the County (or any person connected therewith).

(C.B. 83, 1995)

Sec. 1.478A. - Construction.

- (a) *Intended to Comply with Requirements for Qualification under Internal Revenue Code.* The Plan is intended to comply with all requirements for qualification under Section 401(a) of the Internal Revenue Code and, if any provision of the plan is subject to more than one interpretation or construction, such ambiguity shall be resolved in favor of that interpretation or construction which is consistent with the plan being so qualified.
- (b) *Severability.* In case any provision of the plan shall be held to be illegal or void, such illegality or invalidity shall not affect the remaining provisions of the plan, but shall be fully severable, and the plan shall be construed and enforced as if said illegal or invalid provisions had never been inserted herein.
- (c) *Laws of State of Maryland Shall Govern.* Except to the extent preempted by the laws of the United States of America, the laws of the State of Maryland shall govern, control and determine all questions arising with respect to the plan and the interpretation and validity of its respective provisions. Participation under the plan will not give any participant the right to be retained in the service of the County nor any right or claim to any benefit under the plan unless such right or claim has specifically accrued hereunder.

(C.B. 83, 1995)

SUBTITLE 4B. - HOWARD COUNTY OTHER POST-EMPLOYMENT BENEFITS TRUST

Sec. 1.400B. - Howard County other post-employment benefits trust.

There is a Howard County other post-employment benefits trust, as set forth in this subtitle.

(C.B. 14, 2008, § 1)

Sec. 1.401B. - Short title.

The Howard County other post-employment benefits trust may be referred to as "the OPEB trust."

(C.B. 14, 2008, § 1)

Sec. 1.402B. - Qualification under the Internal Revenue Code.

The County is a political subdivision of the State of Maryland that is exempt from Federal Income Tax under the Internal Revenue Code of 1986, as amended from time to time. The County intends that contributions to the OPEB trust will qualify as "contributions in relation to the actuarial required contribution" within the meaning of Governmental Standards Board statement Number 45, and that the OPEB trust will qualify as a "trust or equivalent arrangement" within the meaning of Governmental Accounting Standards Board statement Numbers 43 and 45, with the result that the income of the OPEB trust will be exempt from tax under Section 115(1) of the Internal Revenue Code.

(C.B. 14, 2008, § 1)

Sec. 1.403B. - Subject to laws of the State of Maryland; construction of terms; severability.

- (a) The OPEB trust shall be governed and construed in accordance with the laws of the State of Maryland.
- (b) For all purposes of the OPEB trust, where the context admits, the singular shall include the plural, and the plural shall include the singular, and references to persons shall include corporations, partnerships, estates, and trusts. Headings of articles, sections, subsections, and paragraphs are inserted only for convenience of reference and are not to be considered in the construction of the OPEB trust.
- (c) If any terms and conditions of the OPEB trust are held to be invalid or unenforceable as a matter of law, the other terms and conditions of the OPEB trust shall not be affected thereby and shall be construed to effectuate the purpose of the OPEB trust.

(C.B. 14, 2008, § 1)

Sec. 1.404B. - Definitions.

The following terms, as used herein, unless a different meaning is clearly implied by the context, shall have the following meanings:

- (a) *Board* means the Board of Trustees created pursuant to section 1.408B of the OPEB trust.
- (b) *County* means Howard County, Maryland.
- (c) *Dependent* means any person who is either described in Section 152(a) of the Internal Revenue Code of 1986, as may be amended from time to time, or is defined as a dependent in a program sponsored by an employer.

- (d) *Employee* means an individual who performs services for an employer, and who has been designated as eligible to participate in and receive benefits under an other post-employment benefits program.
- (e) *Employer* means the County or any other unit of government, including the Howard County Board of Education, the Howard Community College, the Howard County Board of Library Trustees, the Howard County Economic Development Authority, the Howard County Housing Commission, or the Howard Soil Conservation District.
- (f) *Trust fund* shall mean the trust estate of the OPEB trust which shall include:
 - (1) All monies received by the Board as employer contributions;
 - (2) All interest and income from investments; and
 - (3) Any other property received and held by the Board for the uses and purposes set forth in the OPEB trust.
- (g) *OPEB trust* means the Howard County other post-employment benefits trust established by this subtitle, as may be amended from time to time;
- (h) *Other Post-Employment Benefits* means non-pension benefits paid on behalf of a former employee or a former employee's dependent after the employee's retirement from service under a program.
- (i) *Participant* means an employee of an employer who satisfies the requirements for participation in an other post-employment benefits program sponsored by an employer.
- (j) *Program* shall mean any schedule of benefits sponsored or maintained by an employer to provide other post-employment benefits.

(C.B. 14, 2008, § 1; C.B. 12, 2016, § 1; C.B. 13, 2018, § 1)

Sec. 1.405B. - Purpose and scope of trust.

- (a) *Standards on Accounting and Reporting.* In statements 43 and 45, the Governmental Accounting Standards Board set forth standards on accounting and reporting for post-employment benefits (other than pensions) by governmental entities, which require that such entities report other post-employment benefits on an actuarial basis during an employee's employment, rather than on a pay-as-you-go basis during retirement.
- (b) *Scope .* The County provides other post-employment benefits for retirees of the County, and has provided funding for other post-employment benefits for retirees of the Howard County Board of Education, the Howard Community College, the Howard County Board of Library Trustees, the Howard County Economic Development Authority, the Howard County Housing Commission, and the Howard Soil Conservation District. The OPEB trust may include participating employers as provided in section 1.411B of this subtitle.
- (c) *Purpose; Interpretation.* The OPEB trust is established exclusively for the purpose of funding other post-employment benefits to which employees and their dependents may be eligible under any employer's program. Nothing in the OPEB trust shall be construed to define or grant to any employee or their dependent any rights or privileges to any other post-employment benefits, or to any asset in the OPEB trust. The rights and privileges of an employee or their dependent, if any, shall be governed by the terms of the respective program which is provided by an employer participating in the OPEB trust. The OPEB trust may be, but is not required to be, the sole source of funding for any program.

(C.B. 14, 2008, § 1; C.B. 12, 2016, § 1; C.B. 13, 2018, § 1)

Sec. 1.406B. - Trust fund.

The trust fund shall consist of all contributions paid or otherwise delivered to it, all investment income, and realized and unrealized gains and losses.

(C.B. 14, 2008, § 1)

Sec. 1.407B. - Trust conditions.

- (a) *Trust Assets.* The assets comprising the trust fund shall be irrevocable; shall be preserved, invested, and expended solely pursuant to and for the purposes stated in the OPEB trust; and shall not be loaned, transferred, or used for any other purpose. The assets of the trust fund shall be expended solely to:
 - (1) Make payments for other post-employment benefits pursuant to and in accordance with the terms of any program; and
 - (2) Pay the costs associated with administering the trust fund.
- (b) *Claims.* All assets, income, and distributions of the trust fund shall be protected against the claims of creditors of the County, employers, employees, participants, or their dependants, and shall not be subject to execution, attachment, prior assignment, garnishment, the operation of bankruptcy, insolvency laws, or other process, and any such assignment shall not be enforceable in any court for the benefit of any creditor or third person.

(C.B. 14, 2008, § 1)

Sec. 1.408B. - Board of Trustees.

- (a) *Voting Members Serving on the Board of Trustees.* Except to the extent that the County is given or has retained any power and authority under the OPEB trust, the general administration and responsibility for the proper operation of the OPEB trust shall be governed by a Board of Trustees, which shall consist of the following voting members:
 - (1) The County's Chief Administrative Officer, or designee;
 - (2) The County's Director of Finance, or designee; and
 - (3) The County's Budget Director, or designee.
- (b) *Additional Voting Members.* The County Executive may designate up to two additional voting members to represent employers participating in the OPEB trust.
- (c) *Compensation; Acceptance of Duties and Responsibilities.* Each member of the Board shall:
 - (1) Serve without compensation;
 - (2) Accept all duties and responsibilities imposed upon the Board under the OPEB trust; and
 - (3) Agree to the faithful performance of the duties and responsibilities thereunder.
- (d) *Organization.* The Board shall:
 - (1) Adopt such formal organization and method of operation as the Board shall deem desirable for the conduct of the Board's affairs; and
 - (2) Act as a body and the individual members of the Board shall not have powers and duties as individuals.
- (e) *Voting.* A majority of the members of the Board shall constitute a quorum for the transaction of business at a meeting of the Board. Voting upon action taken by the Board shall be conducted by a majority vote of the voting members present.

(C.B. 14, 2008, § 1)

Sec. 1.409B. - Powers and duties of the Board.

- (a) *General Authority.* In addition to the powers granted by any other provisions of the OPEB trust, the Board shall have the power and authority to take all action and to make all decisions necessary or appropriate in order to carry out the purposes and objectives of the OPEB trust including, but not limited to, the power, duty, and responsibility to:
- (1) Establish an investment policy and guidelines which are appropriate for the trust fund and in conformity with the requirements of Article 95, Section 22(b)(2) of the Annotated Code of Maryland;
 - (2) Change the investment policy and guidelines as necessary;
 - (3) Contract for the provision of all or any part of the services necessary for the management and operation of the OPEB trust, including, but not limited to, investment management services;
 - (4) Contract with financial consultants, auditors, actuaries, attorneys, and other consultants as necessary to carry out its responsibilities under the provisions of the OPEB trust;
 - (5) Contract with an actuary or other consultants for the benefit of the County and employers in determining the level of funding necessary by the employers to fund other post-employment benefits offered by any or all other post-employment benefit programs;
 - (6) Prepare annual financial reports, including audited financial statements, following the close of each fiscal year relating to the activities of the OPEB trust that shall:
 - (i) Contain all information required by the Board; and
 - (ii) Be prepared in accordance with the standards established by the Governmental Accounting Standards Board;
 - (7) Invest the assets of the trust fund in accordance with this subsection;
 - (8) Hold, purchase, sell, assign, transfer, or dispose of any securities or investments in which the assets of the trust fund have been invested, as well as the proceeds of the investments and any moneys belonging to the trust fund;
 - (9) Provided that assets of the trust fund are equal to or greater than the amounts requested, pay or reimburse the costs of other post-employment benefits which are provided or paid by employers on a current basis;
 - (10) Manage the trust fund to provide a reserve to accumulate funds for future participants and dependents who may become covered by a program; and
 - (11) Authorize and contract with others for the investment of funds in an investment pool.
- (b) *Transfer Agents.* All of the Board's business shall be transacted, all of the assets of the trust fund shall be invested, any payments made, and all of the cash, securities, and other property of the trust fund shall be held in the name of the Board as trustee or in such names or forms as may be authorized by the Board for the timely transaction of business in a manner consistent with recognized standards in the investment community.
- (c) *Fiduciary Standards.* Members of the Board shall discharge their duties with respect to the OPEB trust:
- (1) Solely in the interest of participants and dependents;
 - (2) For the exclusive purpose of providing benefits to participants and dependents and defraying reasonable expenses of administering and operating the OPEB trust;

- (3) With the same care, skill, prudence, and diligence under the circumstances that a prudent person acting in a similar capacity and familiar with such matters would use in the conduct of an enterprise of a similar character and with similar goals; and
 - (4) In accordance with the terms and conditions governing the OPEB trust.
- (d) *Liability.* A member of the Board shall not incur any liability:
- (1) For the administration of a program, for its validity or effect, or for the qualification of the OPEB trust under Section 115(1) of the Internal Revenue Code;
 - (2) By virtue of any contract, agreement, or other instrument made or executed by the member or on the member's behalf in the member's official capacity with respect to the OPEB trust;
 - (3) For any act or failure to act, or any mistake or judgment made in the member's official capacity with respect to the OPEB trust, unless resulting from the member's gross negligence or willful misconduct; or
 - (4) For the neglect, omission, or wrongdoing of any other person involved with the OPEB trust.
- (e) *Duty to Indemnify and Hold Harmless.* The OPEB trust shall indemnify and hold harmless each member of the Board from the effects and consequences of the member's acts, omissions, and conduct in the member's official capacity with respect to the OPEB trust, except to the extent that such effects and consequences shall result from the member's own willful misconduct or gross negligence; provided, however, that any person who shall claim the right to any payment or damage as a result of the actions of any member in connection with the performance of the member's duties pertaining to the OPEB trust shall:
- (1) Be entitled to seek payment only from the OPEB trust; and
 - (2) Have no other right, claim, or demand therefore against the County.
- (f) *Ethics.* The Board is subject to title 22, subtitle 2 of this Code. A Board member shall not:
- (1) Have any personal interest in the gains or profits of any investment made by the Board; or
 - (2) Directly or indirectly in any manner, for a member or as an agent, use any gains or profits of any investment made by the Board except to make any necessary and current payments as are authorized by the Board.
- (g) *Purchasing.* Title 4, subtitle 1 of this Code shall not apply to the procurement of goods and services by the Board for the OPEB trust.

(C.B. 14, 2008, § 1)

Sec. 1.410B. - Contributions to the trust.

Notwithstanding subsection 1.409B(a)(5) of this subtitle, it shall be the sole and exclusive responsibility of the County to determine the level of contribution an employer will be required to make to the OPEB trust for the purpose of financing other post-employment benefits made available by an employer to its respective employees. Neither the OPEB trust nor the Board shall be responsible for collecting or otherwise determining the level of contributions needed by an employer to finance any other post-employment benefits offered by an employer.

(C.B. 14, 2008, § 1)

Sec. 1.411B. - Employers.

- (a) *Employers.* If an employer is eligible to participate under Internal Revenue Code Section 115 and elects to participate in the OPEB trust, the employer may be approved by the County to participate in the OPEB trust.
- (b) *Employer Obligations.* Each employer participating in the OPEB trust shall:
 - (1) Execute an agreement in a form satisfactory to the County's Chief Administrative Officer; and
 - (2) Submit any and all information which the County's Chief Administrative Officer requires.
- (c) *County Liability.* Except for any obligation to refund assets that may be provided for by agreement between the County and any employer, legal liability shall not accrue to the County by including any employer in the trust fund or to any employer by participating in the trust fund.
- (d) *Termination by Employers.* If a participating employer decides to terminate participation in a program or the OPEB trust, the employer shall notify the County's Chief Administrative Officer in writing. The County's Chief Administrative Officer and the employer shall agree on a date to end the employer's participation. Any transfer of assets from the trust fund resulting from the termination of an employer's participation shall comply with the Internal Revenue Code and the agreement between the County and the employer.

(C.B. 14, 2008, § 1)

Sec. 1.412B. - Amendment or termination of OPEB trust.

- (a) *Amendments Authorized.* The County shall have the right at any time and from time to time to amend, in whole or in part, any or all of the provisions of the OPEB trust, including the right to approve, on a retroactive or prospective basis, any amendments that may be required to obtain or retain the continued exclusion of OPEB trust income from Federal taxation, and to amend and cancel any amendment for any such purpose.
- (b) *Prohibited Amendments.* An amendment shall not be made to:
 - (1) Authorize any part of the trust fund to be used for purposes other than as stated in the OPEB trust; or
 - (2) Except on termination of the OPEB trust, cause or allow any part of the OPEB trust to revert to or become the property of the County.
- (c) *Termination.* The County reserves the right to terminate the OPEB trust for any reason, at any time, and upon such termination, the assets of the trust fund:
 - (1) Shall be transferred:
 - (i) To one or more trust funds provided such trust funds are for the purpose of providing health and welfare benefits consistent with the purposes of the OPEB trust; or
 - (ii) To another tax-exempt entity; and
 - (2) In any event, shall not be transferred to an entity that is not a State, a political subdivision of a State, or an entity the income of which is excluded from taxation under Section 115 of the Internal Revenue Code.

(C.B. 14, 2008, § 1)

SUBTITLE 5. - APPEALS

Sec. 1.500. - Appeals to the Personnel Board.

- (a) *Scope.* Pursuant to section 705(a) of the Howard County Charter, an aggrieved applicant to or employee in the classified service may appeal an action to the Personnel Board if the action is:
 - (1) An action of the Personnel Officer pertaining to an eligibility list for appointment or promotion;
 - (2) A disciplinary action that results in the loss of a job, suspension, demotion, reduction in pay, or suspension of leave accrual;
 - (3) An action of an appointing authority that results in the denial of the minimum salary increase granted to all employees, as allowed by law;
 - (4) A personnel action that allegedly violates Federal, State, or County human rights law; or
 - (5) An employee performance evaluation or appraisal.
- (b) *Procedures.*
 - (1) A classified employee may appeal a dismissal from the classified service as a result of a disciplinary action by filing an appeal within 15 days of the date the dismissal becomes effective.
 - (2) The procedures for prosecuting an appeal under this section, after approval by the Personnel Board, shall be as provided in the employee manual.
 - (3) Procedures under this paragraph shall conform to the requirements of the Howard County Administrative Procedure Act for contested cases and shall include:
 - (i) A requirement that the appellant be given adequate notice of the date, time, and place of the hearing;
 - (ii) The right of an appellant to be represented by counsel, to present witnesses and evidence, and to cross-examine witnesses; and
 - (iii) That an appellant who is appealing an action has the burden of proving by a preponderance of the evidence that the action being appealed was clearly erroneous, arbitrary and capricious, or contrary to law.
- (c) *Appeal from Dismissal.* On appeal from a dismissal of an employee from the classified service, the Personnel Board:
 - (1) Shall issue a decision and order, which shall be consistent with applicable law; and
 - (2) May modify or amend the penalty initially imposed.
- (d) *Action of Personnel Board Final.* In a case involving an appeal under section 705(a) of the Howard County Charter:
 - (1) An action of the Personnel Board is the final administrative remedy; and
 - (2) A person aggrieved by an action of the Personnel Board may seek judicial review of the action under Title 7, Chapter 200 of the Maryland Rules.

(C.B. 52, 1997)

Sec. 1.501. - Appeals to appointing authority and Personnel Officer.

- (a) *Scope.* Pursuant to section 705(c) of the Howard County Charter, an Applicant to or employee in the classified service may appeal an action to an appointing authority or to the Personnel Officer if The Applicant or employee is aggrieved by the action.
- (b) *Procedures.* The procedures for prosecuting an appeal under this section, after approval by the Personnel Board, shall be as provided in the employee manual.

(c) *Action of Appointing Authority or Personnel Officer Final.* Except as provided in section 705(c) of the Howard County Charter, the decision and order of the appointing authority or the Personnel Officer is final.

(C.B. 52, 1997)

Sec. 1.502. - Arbitration, collective bargaining units.

An employee may elect to appeal an action of an appointing authority or the Personnel Officer through utilization of binding arbitration as contained in a collective bargaining agreement.

(C.B. 52, 1997)

SUBTITLE 6. - EMPLOYEES' RELATIONS^[7]

Footnotes:

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Editor's note— C.B. 50, 1980, passed July 7, 1980, approved at a referendum Nov. 2, 1982, added subtitle 6, §§ 6.100—6.111 to tit. 1. The editor has redesignated the sections 1.600—1.611 to retain the style of numbering of the Code. The editor has changed the word "law" or words of similar import to "subtitle."

Sec. 1.600. - statement of policy and purpose.

In order to promote harmonious and cooperative relationships between the County and its employees and to protect the public by assuring at all times the orderly and uninterrupted operations of the County Government, the Howard County Council declares that it is the public policy of this County, subject to the limitations of the Constitution and the applicable laws of the State of Maryland, that County employees be permitted to participate effectively in the determination of the terms and conditions of their employment. It is further declared that if the employees choose to be represented by an employee organization, that the existing relationships between the County, its employees and their representatives, be strengthened by imposing on each the obligation to enter into negotiations with affirmative willingness to reach agreement in matters of wages, hours, working conditions, and other terms of employment with due regard for, and subject to, the provisions of the Howard County Charter governing public employment and fiscal procedures.

(C.B. 50, 1980)

Sec. 1.601. - Definitions.

- (a) *Appropriate representation unit* means a grouping of classified positions in the County service which, by the application of the provisions of this subtitle, has been deemed appropriate for purposes of collective negotiations.
- (b) *Arbitration* means a procedure whereby parties, unable to agree on a solution to a problem, indicate their willingness to be bound or advised by the decision of a third-party as provided for in this subtitle.
- (c) *Budget submission date* means the date by which, under the law, the proposed budget of the County for the ensuing year is submitted by the County Executive to the County Council.

- (d) *Confidential employee* means an employee who, as a functional responsibility, assists and acts in a confidential capacity to County officials who formulate, determine and effectuate policies in the field of employee relations.
- (e) *County* means Howard County, Maryland.
- (f) *County administration* means the County Executive and all officers and agents under his supervision and authority.
- (g) *County employees* means all persons occupying classified positions as defined in section 702 of the Charter of Howard County.
- (h) *County officials* means the County Executive, the County Administrator and all Department and office heads appointed in accordance with the Charter and laws of Howard County.
- (i) *Employee organizations* means any lawful association, labor organization, federation, council or brotherhood, the primary purpose of which is to represent County employees concerning terms and conditions of employment and having a local constitution or bylaws and a roster of officers duly elected in accordance with said constitution or bylaws; such terms shall not include any organization which (1) advocates the overthrow of the constitutional form of government in the United States, or (2) discriminates with regard to the terms or conditions of membership because of race, color, creed, sex, sexual preference, age, national origin or political affiliation.
- (j) *Exclusive representative* means an employee organization which has been certified as the collective negotiating agent for an appropriate representation unit for the purpose of representing all County employees within that unit, regardless of employee organization membership.
- (k) *Grievance* means any formal complaint by an employee or by an employee organization concerning some aspect of the employment relationship with the County or of the interpretation, application or implementation of this subtitle.
- (l) *Intervenor employee organization* means an employee organization which has complied with the provisions of this subtitle which permit it to be included with the petitioning organization as one of the choices on the ballot in a representation election.
- (m) *Lockout* means the temporary withholding of work, by means of shutting down an operation or function of the County, from a group of employees in order to bring pressure on them or on their representatives to accept a change in compensation or rights, privileges, obligations or other terms and conditions of employment.
- (n) *Management employee* means any individual having authority, in the interest of the employer, (1) to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees; or (2) responsibility to direct them; or (3) to adjust their grievances; or (4) effectively recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment; provided, however, that the exercise of any single function of authority enumerated above shall not necessarily require the conclusion that the individual so exercising that function is a management employee within the meaning of this subtitle. In identifying a management employee, class titles alone shall not be the basis for determination; but, in addition, the nature of the work, including whether or not a major portion of the working time of a management employee is spent as part of a crew or team with nonmanagement employees, shall be considered. In the event that any individual employee or employee organization is in disagreement with the County administration's designation of any employee or group of employees as a management employee(s), such individual employee or employee organization may submit the issue to arbitration using the procedure found in subsection 1.604(c) of this subtitle.
- (o) *Mediation* means the process whereby the parties to an impasse seek to reconcile their differences through the services of a third who acts as an intermediary in bringing the parties together and actively seeks to assist the parties in reaching a settlement, by making suggestions, providing background information, and noting avenues open to the parties for settlement.

- (p) *Professional employee* means an employee engaged in work which is predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work; which involves the consistent exercise of discretion and judgment in its performance; which is of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and which requires knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes.
- (q) *Strike* means by individual or concerted action, the failure to report for duty, the willful absence from one's position, the stoppage or slowdown of work or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment for the purpose of inducing, influencing, coercing or preventing a change in compensation or rights, privileges, obligations or other terms and conditions of employment.

(C.B. 50, 1980; C.B. 11, 1984)

Sec. 1.602. - County employee rights.

- (a) County employees, excluding confidential and management employees as defined herein and nonclassified exempt employees as defined in the Howard County Charter, shall have the right to form, join, assist and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employee relations. County employees also shall have the right not to join any employee organizations or participate in their activities, and shall have the right to represent themselves individually or designate their personal representative in their employment relations with the County.
- (b) Notwithstanding any other provision in this subtitle, an individual employee may present a grievance at any time to the County without the intervention of an employee organization, provided that the exclusive representative is advised in advance of said grievance and is notified of the specific disposition of the matter and, provided further, that any adjustment made shall not be inconsistent with the terms of any applicable collective bargaining agreement; and such employee or employees who utilize this avenue of presenting personal complaints to the County shall not do so under the name, or by representation of an employee organization.

(C.B. 50, 1980)

Sec. 1.603. - County rights.

Notwithstanding any other provisions contained herein, it is the exclusive right of the County to determine the purposes and objectives of each of its constituent offices and Departments; set standards of services to be offered to the public; to determine the methods, means, personnel and other resources by which the County's operations are to be conducted and exercise control and discretion over its organization and operations. It is also the right of the County, subject to applicable provisions of any memorandum of agreement hereafter executed and which is not in abrogation of law, to direct its employees, to hire, promote, transfer, assign or retain employees and to establish reasonable work rules; also to demote, suspend, discharge or take any other appropriate disciplinary action against its employees for just cause, and in accordance with the County Charter and other applicable laws; and to relieve its employees from duty because of lack of work or other legitimate reasons. The provisions of this section shall be deemed to be part of every memorandum of agreement executed between the County administration and an employee organization; provided, however, that nothing contained in this section shall be deemed to deny the right of any employee to submit a grievance pursuant to procedures provided by law or in this subtitle.

(C.B. 50, 1980)

Sec. 1.604. - Recognition and certification of an employee organization.

- (a) (1) An employee organization which seeks formal recognition for purposes of collective negotiations as an exclusive representative of employees in an appropriate representation unit shall file a petition for certification with the Personnel Officer containing the following information and documentation:
 - (i) A certified copy of the organization's constitution or bylaws along with a roster of officers duly elected in accordance with such constitution or bylaws, and a delineation of all interorganizational affiliations.
 - (ii) A statement that the employee organization has, as a purpose, the representation of employees in their employment relations with the County.
 - (iii) A statement that the employee organization has no terms or conditions of membership which discriminate with regard to race, color, creed, sex, sexual preference, age, political affiliation or national origin.
 - (iv) A request that the County recognize the employee organization as the exclusive representative of the employees in the unit claimed to be appropriate.
 - (v) A written list containing each job class title to be included in the proposed representation unit.
 - (vi) A statement that the employee organization has in its possession written proof, dated after January 1, 1979, for the petitions filed between the effective date of this subtitle and September 30, 1980, and in subsequent years, dated within six months of the date upon which the petition is filed, to establish that at least 30 percent of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the County. Said showing of interest shall be verified by the Maryland State Department of Licensing and Regulation, Division of Labor and Industry or any other impartial agency selected by the mutual agreement of the parties.
- (2) Such a petition may be received by the Personnel Officer only during the time period beginning with the date this subtitle takes effect and October 20 of the same calendar year. In subsequent years, such petitions may be received only during the month of September.
- (b) (1) Upon receipt of such petition, the Personnel Officer shall give adequate and timely notice of the filing to the employees in the proposed unit and shall, within 30 days of the filing date of the petition, determine either that the proposed unit is an appropriate representation unit, or that an alternative unit is the appropriate representation unit. In making this determination of appropriate representation unit, the following factors, among others, shall be considered:
 - (i) Which unit will assure employees the fullest freedom in the exercise of rights described in this subtitle.
 - (ii) The community of interest among employees in the proposed unit, involving such criteria as similarity of job duties, skills, wages, educational requirements, supervision and working conditions.
 - (iii) The history of employee relations within the County.
 - (iv) The effect on the existing classification structure of dividing a single classification among two or more units.
 - (v) The effect of the unit on the over-fragmentation of the classified service to the detriment of mutually beneficial relationships between the County and the employees.
 - (vi) The effect of the unit on the efficient operation of the public service.

- (2) Provided, however, that no unit shall be established solely on the basis of the extent to which employees in the unit have organized, and that professional employees shall not be denied the right to be represented separately from nonprofessional employees.
- (c) In the event that the Personnel Officer and the petitioning employee organization are in disagreement as to the determination of the appropriate representation unit, the issue shall be submitted to arbitration at the request of either party. If the parties are unable otherwise to agree on an arbitrator within five days of the initial request, they shall make their selection from a list of five neutrals submitted by the American Arbitration Association. If the parties are unable to agree upon the selection of one of the arbitrators within three work days after receipt of the list, then the administration and the employee organization shall strike one name from the list alternately until one name remains. The remaining person shall be the duly selected arbitrator. If, for any reason, the selected arbitrator is unable to serve, then the arbitrator shall be appointed directly by the American Arbitration Association. The arbitrator shall render his decision within 30 calendar days after his appointment unless the parties mutually agree to extend the time limit. The arbitrator's decision shall be final and binding on the parties. The cost of arbitration shall be borne equally by the parties involved.
- (d)
 - (1) When an appropriate representation unit has been determined, the Personnel Officer shall give adequate and timely notice of the determination to all employees within the newly established representation unit, and shall arrange for a secret ballot certification election to be conducted by the Maryland State Department of Licensing and Regulation, Division of Labor and Industry, in accordance with the procedures provided in article 89 of the Annotated Code of Maryland (1979 Replacement Volume) as amended, in which the employees in such unit shall be offered a choice between exclusive representation by the petitioning employee organization or of no exclusive representation. Provided, however, that if an intervener employee organization certifies within 30 days that at least ten percent of the employees in the unit have designated it to represent them in their employment relations with the County and if such organization complies with the requirements of section 1.604(A)(1)(i)—(vi), inclusive, then the ballot shall offer a choice among the petitioning employee organization, any intervener employee organization, or of no exclusive representation. An employee organization shall be certified as exclusive representative following an election or run-off election if the employee organization has received the vote of a numerical majority of all valid ballots cast by the employees in the unit in which the election or run-off election is held (i.e., 50 percent plus one of the votes cast by eligible employees). In an election involving three or more choices, where none of the choices receives a majority of the votes cast, a run-off election shall be conducted between the two choices receiving the largest number of votes cast.
 - (2) No election shall be conducted in any representation unit in which an election has been conducted within the preceding two years.
 - (3) The Personnel Officer shall promulgate the results of all elections.

(C.B. 50, 1980)

Sec. 1.605. - Rights and duties of certified employee organizations.

- (a) When an employee organization has been thus certified, the employee organization shall have the right and duty, through appropriate officials and representatives, to negotiate collectively with the County administration in matters related to wages, hours, working conditions and other terms of employment of all employees in the representation unit without discrimination and without regard to any employee organization membership.
- (b)
 - (1) *Deduction of membership dues:* Any employee organization certified as the exclusive representative of employees in a designated unit, upon the presentation of dues deduction authorization cards duly executed by individual employees in said unit, shall be entitled to have such employees' membership dues deducted from their paychecks and remitted to the

designated employee organization; such authorization shall be irrevocable for a period of one year, and automatically renewable from year to year thereafter, unless written notice of termination by the employee is given to the County at least 30 days prior to the anniversary date. An employee organization shall be entitled to such dues deductions only in those units where said employee organization has been certified as the exclusive representative and only during the period that said employee organization continues to be so certified as the exclusive representative.

(2) *Exceptions:* Repealed by C.B. 50, 1989.

(C.B. 50, 1980; C.B. 36, 1988; C.B. 50, 1989)

Sec. 1.606. - Negotiations.

- (a) The County and the exclusive representative shall meet at reasonable times, including meetings in advance of the County's budget-making process, and shall negotiate in good faith with respect to wages, hours and other terms and conditions of employment which are subject to negotiation under this subtitle and which are to be embodied in a written agreement, or any question arising thereunder; but such obligation shall not compel either the County or the exclusive representative to agree to a proposal or require the making of a concession. The County Executive, or his designated authorized representative(s), shall represent the County in collective bargaining, except as otherwise provided herein.
- (b) Because effective and orderly operations of government are essential to the public, it is declared to be in the public interest that in the course of collective bargaining, the County and the exclusive representative shall make every reasonable effort to conclude negotiations no later than March 1 of each year, and shall include provisions in the agreement for an effective date, a reopening date, and an expiration date. With respect to matters requiring the appropriation of funds, the effective date of an agreement shall coincide with the County's fiscal year.
- (c) An agreement may contain a grievance procedure culminating in final and binding arbitration of grievances and disputed interpretations of such agreement to the extent that such procedure is not inconsistent with section 705 of the Charter. The grievance procedure shall set forth requirements for an election of remedies where other avenues of appeal may be equally available. The County is authorized to agree to advisory arbitration with respect to grievances governed by section 705 of the Charter which grants final authority to the Personnel Board.
- (d) Any agreement reached by the negotiators shall be reduced to writing and shall be executed by both parties. Such agreement shall be valid and enforced subject to the provisions of this subtitle and the County Charter.
- (e) A budgetary request for funds necessary to implement such written agreement and a legislative request for approval of any provision of the agreement which is in conflict with any County law, ordinance, rule or regulation, including those adopted by its agents such as the Personnel Board, or other action adopted by the County with the force of law, shall be submitted to the County Council by the County Executive within the time schedule provided in the agreement. The County Council may approve or reject such request as a whole or in part. If any part of the submission is rejected, the entire agreement shall be returned to the parties for further bargaining; and either party may reopen all or part of the agreement. Rejection shall be accompanied by a detailed statement of the reasons therefor, so that the parties may be properly guided when they resume bargaining. Except for the annual budgets appropriation ordinance, such request shall be considered rejected if the Council fails within 65 days after submission to said body to take final action thereon. Failure by the bargaining representative of the County to submit a request within the designated time period shall be considered an unfair labor practice committed by the County.
- (f) If upon approval of the County Council there is a conflict between the collective bargaining agreement and any rule or regulation adopted by the County, including merit system or other

personnel regulations, the terms of such agreement shall prevail, except where specifically precluded by the Charter or State law.

- (g) The County shall have the obligation to bargain on matters which, although otherwise within the scope of bargaining, require action by a body, agency or official other than the County Executive or the County Council. In addition, the County shall have the obligation to bargain on the question of whether it should request such body, agency or official to take such action or support such request; provided, however, that no impasse panel or other third-party neutral utilized for impasse resolution shall be empowered to recommend that the employer make or support such a request.
- (h) If the provisions of the constitution or bylaws of the exclusive representative require ratification of a collective bargaining agreement by its membership, only those members who belong to the bargaining unit involved shall be entitled to vote on such ratification notwithstanding such provisions.

(C.B. 50, 1980)

Sec. 1.607. - Decertification of employee organizations.

- (a)
 - (1) A decertification petition alleging that a certified employee organization is no longer the majority representative of employees in an appropriate representation unit may be filed with the Personnel Officer by an employee, a group of employees or their representative, or an employee organization. Such petition must be accompanied by written proof, dated within six months of the date on which the petition is filed, of employee approval equal to at least 30 percent of the employees within the representation unit.
 - (2) Such a petition may be received by the Personnel Officer only during the month of September of each year following the first full year of exclusive representation, and no decertification petition for the same representation unit shall be received more frequently than every two years. The Personnel Officer shall arrange for verification of the 30 percent employee approval and a secret ballot election to be conducted by the Maryland State Department of Licensing and Regulation, Division of Labor and Industry, in which the employees in such representation unit shall be offered a choice between exclusive representation by the certified employee organization or no exclusive representation. Provided, however, that if an intervener employee organization or organizations comply fully with the requirements set forth in section 1.604 hereof, then the ballot shall offer a choice among the certified employee organization, any intervener employee organization, or of no exclusive representation.
 - (3) The determination of election results shall be made in accordance with the criteria provided in section 1.604(d) of this subtitle. In the absence of decertification, the certification of a recognized employee organization shall continue on a year-to-year basis.
- (b) When a valid memorandum of agreement is in effect on the effective date of decertification of an employee organization which is a party thereto, the County administration and the newly certified employee organization (if there be any) shall be bound by the provisions of that agreement during the remainder of its term.

(C.B. 50, 1980)

Sec. 1.608. - Impasse procedures for employees other than County Police Officers and County career uniformed Firefighters.

- (a) If, after a reasonable period of negotiation over the terms of an agreement, a dispute exists between the administration and the certified employee organization or organizations with whom it is negotiating, the parties may mutually agree that an impasse has been reached; except that if any such dispute exists as of March 1 prior to the final date for submission of the County budget to the County Council, an impasse shall be deemed to have been reached. Whenever an impasse has

been reached, the dispute shall be submitted to mediation. If the parties are unable to otherwise agree on the mediator, the Federal Mediation and Conciliation Service shall be requested to provide a mediator.

- (b) If the impasse is not resolved at least 35 days prior to the budget submission date, a fact-finder shall be selected by mutual agreement between the administration and the employee organization (or organizations as a group, where more than one employee organization is involved in the dispute). If the administration and the employee organization(s) are unable to agree on the selection of the fact-finder before 30 days prior to the budget submission date, they shall make their selection from a panel of neutrals maintained by the American Arbitration Association in accordance with the procedures provided for in subsection 1.604(c) hereof.
- (c) The fact-finder shall meet with the parties and shall make written findings of fact and recommendations for the resolution of the dispute, no later than ten days before the budget submission date. "Fact-finding" as used herein shall include the identification of the major issues in the dispute, review of the position of the parties and the resolution of factual differences.
- (d) The fact-finder, in making his findings and recommendations, shall take into consideration, among other pertinent factors, wages, benefits, hours and other working conditions of other County employees, both in Howard County and in other Maryland political jurisdictions; wages; benefits, hours and other working conditions of employees of private employers in Howard County; the value of other benefits available to or received by County employees as compared with private sector employees in Howard County; cost-of-living data; and the availability of funds. Copies of findings and recommendations shall be sent to the County Executive, the employee organization or organizations involved and to the mediator, who may thereafter assist the parties to effect a voluntary resolution of the dispute.
- (e) The County Executive, after giving due consideration to the fact-finder's recommendations and the mediation results, shall submit his recommendations to the County Council incorporating them in the budget ordinance or in other legislative proposals or executive order, where appropriate. The cost of mediation and fact-finding shall be borne equally by the parties involved in this dispute.
- (f) By mutual agreement of the parties in writing, the limitation periods set forth in this section may be waived provided that the parties certify that they are actively engaged in good faith bargaining and making progress toward an agreement.

(C.B. 50, 1980; C.B. 52, 2007)

Sec. 1.609. - Impasse resolution procedures—Binding arbitration for County Police Officers and County career uniformed Firefighters.

(a) *Definitions.* In this section, the following words have the meanings indicated:

(1) *Party* means:

- (i) The County administration; or
- (ii) The exclusive representative for:
 - a. Sworn classified employees of the Police Department; or
 - b. Uniformed classified employees of the Fire Department.

(2) (i) *Subject area of bargaining* means a subject matter area such as, but not limited to, wages, hours, terms and conditions of employment, shift differential, leave, grievance procedure, safety, and pension benefits;

(ii) Does not include health benefits, so long as the County makes the same health benefits available to all of the County's classified employees; and

- (iii) Does not include matters involving those rights reserved exclusively to the County under section 1.603 of this subtitle.
- (3) *Portion of a subject area of bargaining* means specific areas within the subject area of bargaining.
- (b) *Scope.* This section applies to:
 - (1) Sworn classified employees of the Police Department represented by an exclusive representative; and
 - (2) Uniformed classified employees of the Fire Department represented by an exclusive representative.
- (c) *Waiver of Limitation Periods.* Subject to the requirements of the Howard County Charter, the parties may waive the time limits and dates established in this section by a written mutual agreement.
- (d) *Costs.* Fees, costs, and expenses of the arbitrator shall be shared equally.
- (e) *Arbitrator Selection.*
 - (1) On the first business day of November of each fiscal year the parties shall:
 - (i) Immediately contact the American Arbitration Association; and
 - (ii) Ask the American Arbitration Association to provide a list of 25 labor arbitrators from the Washington-Baltimore Metropolitan area who are familiar with impasse disputes and interest arbitration, unless otherwise agreed to by the parties.
 - (2) A panel of seven arbitrators shall be selected from the list of 25 labor arbitrators, in the following manner:
 - (i) Within 15 business days after receipt of the list, the parties shall alternately strike names and keep track of the order of the strike.
 - (ii) The party striking first shall be agreed to or determined by a coin toss.
 - (iii) The last seven remaining arbitrators on the list shall be considered the arbitration panel for that fiscal year.
- (f) *Impasse Procedure.*
 - (1) If the County administration and the exclusive representative are unable to reach an agreement on wages, hours, or terms and conditions of employment by February first, an impasse will be deemed to exist in the negotiations with the exclusive representative.
 - (2) Within five calendar days after such impasse, the County and the exclusive representative involved shall appoint a member of the arbitration panel to be the arbitrator as follows:
 - (i) The parties shall alternately strike names and keep track of the order of the strikes until there is only one member remaining;
 - (ii) The party striking first shall be agreed to or determined by a coin toss; and
 - (iii) The last remaining arbitrator shall be deemed to be selected by the parties and shall arbitrate the dispute.
 - (3) The arbitrator shall be informed of his or her selection as soon as possible. If for any reason the selected arbitrator is unable or unwilling to serve or meet the deadlines contained in this section, the parties shall immediately notify the last previous strike from the arbitration panel of his or her selection. The process shall continue, if necessary, until a member of the arbitration panel available to serve and meet the deadlines is selected. Within six calendar days after selection of the arbitrator, the County Executive's designee and the exclusive representative shall submit to the arbitration panel member and the other party, a list which sets forth:

- (i) The portion of each subject area of bargaining which the party contends the parties have reached an agreement; and
 - (ii) The portion of each subject area of bargaining which the party contends the parties have not reached agreement and its position in the disputed subject area.
 - (4) Within seven calendar days after receipt of the submissions provided for in subsection (3) above, the arbitrator shall hold a pre-hearing conference, in person or by telephone, with the County Executive's designee and the exclusive representative in order to identify any portion(s) of each subject area of bargaining which the parties:
 - (i) Have reached agreement and the agreement reached; and
 - (ii) Have not reached agreement and the points of disagreement.
 - (5) At the prehearing conference, the arbitrator shall obtain from the County Executive and the exclusive representative, their position regarding any portion(s) of each subject of bargaining as to which the parties have not reached agreement. This position shall be referred to as the party's "final position" and need not be the same as the position set forth in the list submitted pursuant to subsection (3) above.
 - (6) If the impasse is not resolved prior to the conclusion of the prehearing conference, the arbitrator shall schedule a hearing in Howard County to begin as soon thereafter as possible, but in no event more than 14 calendar days after the conclusion of the prehearing conference. The hearing shall not be open to the public and shall be conducted consistent with the procedural rules and regulations of the American Arbitration Association. Each party shall be responsible for the costs of their own attorney and expert witnesses.
 - (7) If the impasse is not resolved prior to the conclusion of the hearing the arbitrator shall prepare a written report, which shall include the arbitrator's separate decision as to each disputed subject area of bargaining as to whether he or she adopts the County or the exclusive representative's final position as to each subject area of bargaining. In reaching his or her decision, the arbitrator shall, where necessary, also resolve any dispute as to the negotiability of a disputed subject of bargaining. In determining whether to include in the memorandum of understanding the final position of the County or the exclusive representative, the arbitrator shall consider the factors described in the following section.
 - (8) The parties are encouraged to enter into nonbinding mediation, the arbitrator may, at any time during the arbitration process, act as a mediator and attempt to mediate a disputed subject area of bargaining prior to the arbitrator's final decision.
- (g) *Arbitrator—Factors to Consider.*
- (1) In making findings under this section, the arbitrator shall take into consideration, among other pertinent factors:
 - (i) The existing terms and conditions of employment of the employees in the bargaining unit within the subject area of bargaining as defined in this subtitle, except that the arbitrator can take into consideration the employees' health benefits;
 - (ii) The wages, and terms and conditions of employment of other employees in other Police and Fire Departments performing similar services in the Washington-Baltimore Metropolitan area;
 - (iii) The wages, hours, or terms and conditions of employment of other Howard County employees;
 - (iv) The last published annual U.S. Department of Labor Consumer Price Indexes for All Urban Consumers, All Items, Washington-Baltimore Index;
 - (v) The special nature of the work performed by the employees in the bargaining unit, including hazards of employment, physical requirements, educational qualifications, job

training and skills, shift assignments and the demands placed upon such employees as compared to other County employees;

- (vi) The interest and welfare of the public;
- (vii) The revenue estimates for the ensuing fiscal year, exclusive of those revenues sufficient to fund the County Executive's proposed capital budget and capital improvement programs;
- (viii) The County's long and short-term liabilities as well as the potential impact of a financial award on the County's credit rating; and
- (ix) Whether the final award will adversely impact the ability of the County to fulfill its duty to provide other governmental services.

(h) *Executive Action.*

- (1) The arbitrator shall submit his or her decision to the County Executive and the exclusive representative within 20 calendar days after the conclusion of the hearing or the date established for the submission of post-hearing briefs, whichever is later, but in no event later than the last Monday in March. The report and proposed memorandum of understanding shall be binding upon the County Executive and the exclusive representative, including the individual employees in the bargaining unit. The County Executive shall submit to the County Council in a timely manner all provisions of the new memorandum of understanding adopted by the arbitrator which require an appropriation of funds or enactment, repeal, or modification of County law, and shall make a good faith effort to have such provisions implemented by Council action.
- (2) The County Executive shall undertake all administrative and Executive action necessary to submit legislation to carry out the decision issued by the arbitrator.
- (3) The submission of legislation to the Council fulfills the obligations of the County Executive under this section.
- (4) This subsection may not be interpreted or construed to require the County Executive to be bound by, or to submit a budgetary request and legislation to implement any decision of an arbitrator that is contrary to:
 - (i) State law;
 - (ii) Provisions of the Howard County Charter governing public employment and fiscal procedures; or
 - (iii) Those rights that are exclusive to the County pursuant to section 1.603 of this subtitle.

(i) *Council Action.*

- (1) The County Council is not bound by the arbitrator's decision made under this section and, after receiving any approval of the Personnel Board that may be required, may act upon the submitted legislation to implement the arbitrator's decision under this section in accordance with the provisions of this subtitle and the Charter.
- (2) This subsection may not be interpreted or construed to require the County Council to implement any decision of an arbitrator:
 - (i) That is contrary to:
 - a. State law;
 - b. Provisions of the Howard County Charter governing public employment and fiscal procedures; or
 - c. Those rights that are exclusive to the County pursuant to section 1.603 of this subtitle; or

- (ii) Where review and approval of proposed legislation is reserved by the County Code or Charter to another entity such as the Pension Oversight Commission or the Personnel Board.
- (j) *Continuing Negotiations.*
 - (1) The parties are strongly encouraged to reach an agreement on all issues whenever possible.
 - (2) On or before May 1, the County Council shall indicate its intention to appropriate funds for or otherwise implement the agreement of the parties or the arbitrator's decision, whichever is applicable, or its intention not to do so, and state its reasons for any intent to reject any part of the agreement or arbitrator's decision. If the Council indicates its intention to reject any part, it shall designate a representative to meet with the parties and present the Council's views in their further negotiations. The parties shall thereafter meet as promptly as possible and attempt to negotiate an agreement acceptable to the Council. The results of the negotiations shall be submitted to the Council on or before May 10th.
 - (3) This section may not be construed to interfere with any efforts the parties may undertake to reach an agreement concerning any disputes at any time.
- (k) *Duration of Agreement.* An arbitrator's award may be for more than one fiscal year. However, the County Council shall only vote on proposed legislation to implement such award one year at a time.
- (l) *Construction of Section.* This section shall be the exclusive procedure for resolving disputes between the parties unless the parties mutually agree to use another or an additional dispute resolution procedure during any period of negotiations.
- (m) *Extension of Memorandum of Understanding.*
 - (1) If the impasse resolution procedures provided for in this section have been invoked and the current memorandum of understanding expires without the implementation of a new memorandum of understanding, the County may not, without the written approval of the exclusive representative. Make any changes in the wages, hours or terms and conditions of employment between the expiration of the current memorandum of understanding and the effective date of the successor memorandum of understanding, except that the County may make changes to health benefits; and
 - (2) The implementation of this subsection may not violate the provisions of the Howard County Charter and may be effective for no longer than one year.

(C.B. 52, 2007)

Sec. 1.610. - Unfair labor practices.

- (a) The County, its agents or representatives, are prohibited from:
 - (1) Interfering, restraining or coercing employees in the exercise of the rights guaranteed by this subtitle;
 - (2) Dominating, interfering or assisting in the formation, existence or administration of any labor organization, or contributing financial or other support to it; except that the County shall not be prohibited from permitting employees to negotiate or confer with it during working hours without loss of time or pay;
 - (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization;
 - (4) Discharging or otherwise discriminating against an employee because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this subtitle;
 - (5) Refusing to bargain collectively in good faith with the exclusive representative as required in subsection 1.608(a);

- (6) Refusing to participate in good faith in the mediation or fact-finding procedures set forth in section 1.608; or
 - (7) Refusing or failing to comply with any provision of this subtitle or any of the rules and regulations established pursuant thereto.
- (b) Employees, labor organizations, their agents or representatives are prohibited from:
- (1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed by this subtitle;
 - (2) Causing or attempting to cause the County to discriminate against an employee in violation of subsection 1.609(a)(3);
 - (3) Refusing to bargain collectively in good faith with the County if they have been designated in accordance with the provisions of this subtitle as the exclusive representative of employees in an appropriate unit;
 - (4) Refusing to participate in good faith in the mediation or fact-finding procedures set forth in section 1.608;
 - (5) Refusing or failing to comply with any provision of this subtitle or any of the rules and regulations established pursuant thereto.
- (c) *Procedure Concerning Unfair Labor Practices:*
- (1) In the event that a claim is made that an unfair labor practice has been committed by either the County or a County employee or an employee organization, no later than six months thereafter the complaining party shall file with the Maryland State Department of Licensing and Regulations, Division of Labor and Industry, or in the event the division is unwilling or unable to so serve, with an equivalent impartial third-party mutually agreeable to the parties to the complaint, a verified complaint setting forth a detailed statement of the alleged unfair labor practice. The party complained of shall have the right to file an answer to the complaint within ten days after service thereof. After investigation, such agency may issue an order dismissing the complaint, or may order a further investigation or a hearing thereon at a designated time and place. Any such hearing shall be conducted pursuant to the evidentiary standards provided in the Administrative Procedure Act of Howard County [title 2, subtitle 1], and a transcript of testimony shall be taken.
 - (2) If upon the preponderance of the testimony taken the independent third-party agency shall be of the opinion that any person named in the complaint has engaged in or is engaging in an unfair labor practice, then the agency shall state its findings of fact and shall issue and cause to be served on such person an order requiring that he cease and desist from such unfair labor practices and to take such affirmative action, including reinstatement with or without back pay, as will effectuate the policies of this subtitle. Such order may further require such person to make reports from time to time showing the extent to which he has complied with the order. The agency may require, in situations where County conduct has destroyed a reasonable opportunity for a fair and free election, that a fair and free election be held.
 - (3) If the preponderance of evidence has not shown that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the agency shall state its findings of facts and shall issue an order dismissing the complaint.
 - (4) Findings of the agency shall be conclusive and binding upon the parties unless a petition for relief, in whole or in part, from the agency's order is filed properly with the clerk of the circuit court for Howard County within 30 days after the issuance of such order and unless said court finds that the agency's decision or order was not supported by substantial evidence. No objection that has not been urged before the agency or any of its agents shall be considered by the court unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

- (5) The complaining party shall have the power to petition the Circuit Court for Howard County for enforcement of the agency's order and for appropriate temporary relief or restraining order. However, such a petition shall not reopen the propriety of the agency's decision and order if appeal for judicial reviews was not timely filed.

(C.B. 50, 1980; C.B. 52, 2007, § 2)

Editor's note— Formerly numbered as § 1.609.

Sec. 1.611. - Prohibition against strikes and lockouts.

- (a) It shall be unlawful for an employee or an employee organization to engage in, initiate, sponsor, support or direct a strike. If an employee or employee organization shall violate the provisions of this section, the County Executive may take any or all of the following actions he deems necessary in the public interest:
- (1) Pursuant to the provisions of this subtitle, imposition of disciplinary action, including removal from County service, of employees engaged in such illegal conduct;
 - (2) Termination of an employee organization's dues deduction privilege, if any;
 - (3) Revocation of exclusive representation certification and disqualification from participation in representation elections for a period up to a maximum of two years.
- (b) Neither the County Administration nor the County Council shall under any circumstance engage in initiate or direct a lockout of County employees.

(C.B. 50, 1980; C.B. 52, 2007, § 2)

Editor's note— Formerly numbered as § 1.609.

Sec. 1.612. - Implementation.

- (a) This subtitle shall take precedence over those portions of all conflicting County laws concerning this subject matter.
- (b) If any provision of this subtitle or the application thereof to any person or circumstance is held invalid, the remainder of this subtitle or the application thereof to persons or circumstances other than those as to which it is held invalid shall not be affected thereby; and to this end, all the provisions of this subtitle are hereby declared to be severable.

(C.B. 50, 1980; C.B. 52, 2007, § 2)

Editor's note— Formerly numbered as § 1.611.

TITLE 2 - ADMINISTRATIVE PROCEDURE

SUBTITLE 1. - ADMINISTRATIVE PROCEDURE ACT¹

Footnotes:

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Editor's note— C.B. 69, 1984, repealed and reenacted title 2, subtitle 1. A new act was adopted by C.B. 10, 1990.

Cross reference— Procedure for hearing to refuse, suspend, or revoke a license § 3.212; certification and withdrawal procedures § 15.410.

ARTICLE I. - GENERAL

Sec. 2.100. - Short title; purpose.

- (a) *Short Title*. This subtitle shall be known and may be cited as the "Howard County Administrative Procedure Act".
- (b) *Purpose*. The purpose of this subtitle is to provide standards and criteria of administrative procedure for administrative rule making and adjudication of contested cases.

Sec. 2.101. - Definitions.

Words and phrases used in this subtitle shall have their usual meanings except as specifically defined as follows:

- (a) *Agency* means a Board, Commission, Department or other unit of County Government which is authorized by law to make rules or adjudicate contested cases.
- (b) *Contested case* means a proceeding in which the legal rights, duties or privileges of a person are required by law or constitutional right to be determined only after an opportunity for a hearing.
- (c) *Open meeting* means a meeting of a public body that the general public is entitled to attend pursuant to the Open Meetings Act, subtitle 5, title 10 of the State Government article of the Annotated Code of Maryland, as amended from time to time.
- (d) *Order* means the whole or any part of an Agency's final disposition of a contested case. An order includes licensing, but does not include rule making. An order may be affirmative, negative, injunctive or declaratory in form.
- (e) *Party* means a person or Agency named or admitted as a party in a contested case, or a person or Agency properly seeking and entitled as of right to be admitted as a party in a contested case. An Agency may admit any person or Agency as a party for limited purposes.
- (f) *Person* means an individual, partnership, corporation, association, or public or private organization. "Person" does not include an Agency.
- (g) *Procedural rules* means the rules that an Agency adopts to govern contested cases.
- (h) *Public body* means a Board, Commission, or other entity of County Government that is a "public body" within the meaning of section 10-502(h) of the Open Meetings Act, subtitle 5, title 10 of the State Government article of the Annotated Code of Maryland, as amended from time to time.
- (i) *Rule* means a statement, or an amendment or repeal of a statement, of general applicability and future effect that is authorized by law to be adopted by an Agency to implement a law that the Agency administers or to govern the Agency's procedures. *Rule* does not include a statement which does not affect the rights of the public or the procedures available to the public and which is solely concerned with the internal management of the Agency. *Rule* does not include an order or declaratory ruling of an Agency.

(C.B. 54, 1993)

Sec. 2.102. - Severability.

If any section, paragraph or provision of this subtitle is held to be invalid or unenforceable for any reason, the invalidity or unenforceability of the section, paragraph or provision shall not affect any of the remaining provision of the subtitle.

ARTICLE II. - ADMINISTRATIVE RULES

Sec. 2.103. - Applicability.

- (a) *General.* Except as provided in subsection (b), the provisions of [this] article II shall apply to and govern the adoption of rules by all County Agencies which are authorized to make rules. In the event of a conflict between this subtitle and a substantive provision of an enabling act of an Agency, the latter shall prevail.
- (b) *This article does not apply to the following Agencies:* The Adult Public Guardianship Review Board, the Advisory Board on Consumer Protection, the Board of Appeals, the Board of Library Trustees, the Board of License Commissioners, the Board of Social Services, the Cable Advisory Committee, the Commission on Aging, the Design Advisory Panel, the Historic Landmarks and Sites Board, the Mental Health Advisory Board, the Plumbing Advisory Board, the Public Works Board, the Recreation and Parks Board, the Alcohol and Drug Abuse Advisory Board, the Commission on Disabilities, the Local Children's Board, and the Soil Conservation District.

(C.B. 23, 2008, § 1; C.B. 24, 2008, § 1; C.B. 12, 2016, § 1; C.B. 13, 2018, § 1; C.B. 49, 2018, § 1; C.B. 12, 2019, § 1)

Sec. 2.104. - Initiation of rules.

An Agency shall initiate adoption of its own rules. Any person may petition an Agency to promulgate, amend, or repeal a rule.

Sec. 2.105. - Public hearing prior to adoption of rules.

- (a) Prior to adopting a rule, the Agency shall hold a public hearing to afford interested persons the opportunity to provide written or oral comments on the proposed adoption.
- (b) A public hearing is not required if the Agency is amending a rule to conform to a change in law.

Sec. 2.106. - Public notice.

- (a) *[Required.]* At least 30 calendar days prior to a public hearing on any proposed adoption of a rule, the Agency shall publish in two local newspapers notice of the public hearing, including a statement sufficient to inform the public of the content of the proposed rule to be adopted.
- (b) *Public Access.* Any proposed rules must be available to the public for review for a period of not less than 30 calendar days prior to the date of the public hearing.
- (c) *Delivery of Proposed Rules.* Any proposed rules must be delivered to the Executive Secretary of the County Council before close of business on the date of first publication of the public notice.

Sec. 2.107. - Filing of rules; maintenance of register.

Each Agency shall file with the County Executive, with a copy being sent to the Executive Secretary of the County Council, a certified copy of each rule it adopts. The County Executive shall maintain a permanent register of each Agency's rules. The register shall be open for public inspection.

Sec. 2.108. - Effective date of rules.

Rules shall become effective when filed with the County Executive unless a later date is required by law or specified in the rules. Rules shall be filed within 30 calendar days of their adoption.

ARTICLE III. - CONTESTED CASES

Sec. 2.109. - Applicability.

- (a) *General.* Except as provided in subsection (b), the provisions of [this] article III shall apply to and govern administrative proceedings and appeals before all County Agencies which are authorized to adjudicate contested cases. In the event of a conflict between this subtitle and a substantive provision of an enabling act relating to any Agency, the latter shall prevail.
- (b) *This article does not apply to the following Agencies:* The Adult Public Guardianship Review Board, the Advisory Board on Consumer Protection, the Board of Appeals, the Board of Library Trustees, the Board of License Commissioners, the Board of Social Services, the Cable Advisory Committee, the Commission on Aging, the Historic Landmarks and Sites Board, the Mental Health Advisory Board, the Plumbing Advisory Board, the Public Works Board, the Recreation and Parks Board, the Alcohol and Drug Abuse Advisory Board, the Commission on Disabilities, the Local Children's Board, and the Soil Conservation District.

(C.B. 12, 2016, § 1; C.B. 13, 2018, § 1; C.B. 49, 2018, § 1; C.B. 12, 2019, § 1)

Sec. 2.110. - Procedural rules.

- (a) *Requirement to Adopt Rules.* Each Agency shall adopt procedural rules that are consistent with this subtitle.
- (b) *Effect of Rule on Lawyers.* No rule shall be construed or implemented so as to interfere with the right of a lawyer to practice before an Agency. The rule may not grant the right to practice law to anyone not legally authorized to do so.

Sec. 2.111. - Notice and hearing.

- (a) *Opportunity for Hearing in a Contested Case.* In any contested case, all parties shall be given an opportunity for hearing. A hearing for the purpose of taking evidence in a contested case shall be public except where otherwise ordered by the Agency as provided by law.
- (b) *Emergency Hearing.* An emergency hearing may be held if the time constraints associated with an ordinary hearing may cause irreparable injury to any party. The Agency may grant the emergency hearing on its own motion or upon the motion of a party showing good cause. When an Agency holds an emergency hearing, it may suspend or alter any provision of this article in order to avoid irreparable injury to a party, provided that the suspension or alteration has the concurrence of two-thirds of the members of the Agency. In such cases, the Agency shall notify all parties of the suspension or alteration.
- (c) *Notice.* The Agency shall give all parties reasonable notice of the hearing. The notice shall indicate the time, place and nature of the hearing. The Agency need not give further notice for continued hearings.

Sec. 2.112. - Right to counsel.

In an Agency proceeding, any party may appear in person. Any party may be represented by counsel. A person compelled to appear in person before an Agency may be accompanied, represented and advised by counsel.

Sec. 2.113. - Subpoenas.

- (a) *Issuance.* An Agency shall not issue subpoenas unless authorized by law. An Agency authorized to issue subpoenas may issue subpoenas on its own initiative and may grant or deny requests by

parties to the proceeding for subpoenas. An Agency authorized to issue subpoenas may rule on petitions to quash subpoenas.

- (b) *Service.* Subpoenas may be served by certified mail, by private process server designated by the Agency, or by anyone who may lawfully serve a subpoena in a judicial proceeding of a civil nature.
- (c) *Enforceability.* The Agency or the party requesting the subpoena may request a court of competent jurisdiction to enforce the subpoena, compelling the attendance of witnesses and requiring the production of books, papers, documents and other materials relevant to the case.

Sec. 2.114. - Conduct of hearing.

- (a) *Quorum Required.* Unless otherwise provided by law, a quorum of the Agency shall be present to conduct a hearing. A majority of the persons constituting the Agency shall constitute a quorum. The quorum requirements shall not apply to hearings conducted by a hearing examiner or hearing officer.
- (b) *Presiding Member.* The presiding member of the Agency shall have full authority to maintain order in the hearing and to limit the hearing to relevant and material facts.
- (c) *Rulings.* The Agency shall rule on motions and offer of proof. Motions, petitions and objections made during the course of a hearing shall be ruled on as received or as soon as practicable. The presiding member shall make all evidentiary rulings which shall stand unless overruled by a majority vote of the members of the Agency present and participating. All nonevidentiary rulings shall be made by a majority of the Agency present and participating.
- (d) *Exhibits.* All exhibits accepted shall be marked and held in the official record. Exhibits which are rejected shall be marked with a notation [indicating] that the material was rejected as an exhibit and held in the official record, or, if requested by the offering party, shall be returned to the offering party.
- (e) *Powers of the Agency.* The Agency may administer oaths and affirmations. The Agency may hold conferences for simplification of the issues. The Agency, upon its own motion or at the request of an affected party, may order that witnesses other than a party be excluded from the hearing room until called to testify. The Agency may dismiss a case for lack of prosecution or action.

Sec. 2.115. - Communications outside of a hearing.

Except as may otherwise be provided by law or procedural rule, outside of the hearing neither the Agency nor any member of the Agency shall communicate *ex parte* with any party or receive any *ex parte* communication from any party to a contested case regarding any matter relevant to the merits or law of a case.

Sec. 2.116. - Order of hearing.

Except as provided by law or procedural rule, the ordinary, but not mandatory, order or procedure for the conduct of a hearing and the presentation of evidence, subject to waiver or reasonable changes ordered by the Agency or by law, is as follows:

- (a) *Disposition of All Outstanding Preliminary Motions and Preliminary Matters.*
- (b) *Opening Statements of Parties.*
- (c) *Order of Presentation of the Case:*
 - (1) The factual case:
 - (i) By the petitioner,
 - (ii) By the responding party,
 - (iii) By interested persons;
 - (2) Rebuttal evidence:
 - (i) By the petitioner,

- (ii) By the responding party,
- (iii) By interested persons;
- (3) Surrebuttal. The Agency may grant requests by the petitioner, followed by the responding party for surrebuttal evidence.

(d) *Closing* *Arguments.*

Sec. 2.117. - Evidence.

(a) *Evidence Which May Be Admitted:*

- (1) *[Generally.]* An Agency may admit and give appropriate weight to evidence commonly accepted by reasonable and prudent persons in the conduct of their affairs. An Agency shall give effect to the rules of privileged communications, such as communications between an attorney and client or other communications made in professional confidence and recognized by law. An Agency may produce evidence at its own request in addition to evidence provided by the parties.
- (2) *Witness testimony.* Before testifying, a witness shall be sworn. An Agency shall permit cross-examination of witnesses by opposing parties or interested persons following the conclusion of the witness's original testimony.
- (3) *Form of documentary evidence.* Documentary evidence may be received in the form of copies, excerpts, photographic reproductions or by incorporation by reference.
- (4) *Official notice.* An Agency may take official notice of commonly cognizable facts and of general, technical, or scientific facts within its specialized knowledge. Either before or during the hearing, the Agency shall notify the parties of material so noticed. The parties shall be given an opportunity to contest the material so noticed.

(b) *Evidence Which May Be Excluded.* An Agency may exclude incompetent, unreliable, irrelevant, or unduly repetitious evidence.

(c) *Evidence Part of the Record.*

- (1) All evidence, including records and documents relevant to the case which belong to the Agency, shall be offered into evidence and made part of the official record.
- (2) *Additional evidence to be part of the record.* An Agency or an Agency member may seek additional evidence provided that it is made part of the record and the parties are given notice and opportunity to respond or comment on the evidence. The Agency may grant a motion by any party or interested person to hold the record open to receive such evidence for a specified period of time following the close of the hearing.

(d) *Evidence Which May Be Considered.* An Agency may consider only the factual information or evidence in the official record when making its decision. The Agency may use its experience, technical competence and specialized knowledge in the evaluation of the evidence.

Sec. 2.118. - Sanctions.

(a) *Right to Impose.* An Agency may impose sanctions against parties and witnesses for failure to abide by the provisions of this article or the Agency's procedural rules. The Agency may also impose sanctions for unexcused delays or obstructions to the prehearing or hearing process.

(b) *Types of Sanctions.* Sanctions may include:

- (1) Suspension or continuance of scheduled hearings;
- (2) Dismissal of actions;
- (3) Assessing the offending party the full cost of verbatim recording and transcription of a hearing delayed or obstructed by the party;

- (4) Assessing the offending party the full cost of readvertisement if notification is required by law or necessary to give notice to interested or affected parties;
- (5) Entry of an order refusing to allow a party to support or oppose claims or defenses; and
- (6) Entry of an order prohibiting a party from introducing evidence.

Sec. 2.119. - Decisions and orders.

- (a) *Voting Requirements.* The same members of the Agency who were present at the hearing shall make the decision on the case, provided that members absent during a hearing shall be considered to be present for voting purposes and may vote if they certify in writing that they have listened to a recording of the hearing or read the transcripts and reviewed the evidence or record. A decision shall have the concurrence of a majority of all members of the Agency unless a greater number of votes are required by law. Absent members shall vote as provided in this subsection if necessary to achieve the number of votes needed to render a decision. Failure to achieve the necessary affirmative votes shall act as a denial of the relief requested.
- (b) *Content.* Decisions of an Agency, except rulings on preliminary matters or on motions or objections, shall be in writing, based on evidence of record. The decisions shall contain findings of facts, conclusions of law, and an appropriate written order or consent decree.
- (c) *Time Limit for Decisions.* The Agency shall issue its decision within 30 calendar days of the closing of the record in the case unless otherwise provided by law or Agency rule. The Agency may extend the time period an additional 60 calendar days if it provides written notification of the extension.
- (d) *Basis of Decisions.* The decisions of the Agency shall be based upon and supported by a preponderance of the evidence of record, except as otherwise provided by law or procedural rule.
- (e) *Notification of Decision.* The decisions of the Agency shall be issued and sent simultaneously to the parties of record.
- (f) *Informal Disposition.* Where appropriate to the nature of the proceedings and the governing laws, informal disposition may be made of a contested case by stipulation, agreed settlement, consent order, or default, without the necessity of a written decision and order.
- (g) *Reconsideration.* Any party to a proceeding may request reconsideration of the final decision and order rendered in the case.
 - (1) *Procedure.* The procedure for filing a request for reconsideration shall be as provided in this subtitle unless otherwise provided by law or Agency rule.
 - (2) *Time for filing request for reconsideration.* A request for reconsideration shall be filed within 15 calendar days of the final decision and order. After 15 calendar days from the final decision and order, a reconsideration may be requested only in the case of fraud, mistake or irregularity.
 - (3) *Content of request for reconsideration.* A request for reconsideration shall be in writing and shall contain the reasons to support a reconsideration. The requesting party shall send copies to all parties of record.
 - (4) *Effect of request for reconsideration.* A request for reconsideration shall not affect the time within which an appeal may be taken. A request for reconsideration shall not stay the operation of an order unless the Agency agrees to the stay.

Sec. 2.120. - Judicial review.

- (a) *Appeal May Be Taken Where Provided by Law.* Where provided by law, a party aggrieved by an affirmative or negative final decision in a contested case may appeal the decision to the Circuit Court for Howard County, Maryland, in accordance with the provisions of the Maryland Rules of Procedure governing administrative appeals.
- (b) *Effect of Appeal.* The filing of a petition for judicial review does not automatically stay the enforcement of the final decision and order.

- (c) *Appeal to Appellate Courts.* A party to the proceeding in circuit court may appeal the circuit court's decision to the appellate courts of Maryland as provided by law.

Sec. 2.121. - Official record.

- (a) The Agency shall prepare and maintain the official record in each case. The official record shall contain the petition or complaint and supporting documents, any response thereto, technical staff reports and recommendations submitted to the Agency, as well as testimony and exhibits submitted during the hearing, a verbatim transcript, if one is made, and a copy of the decision and order issued in the case. The Agency shall make the official record available for inspection by the public prior to a hearing, unless otherwise provided by law. The Chief Administrative Officer for the County shall designate the custodian of the record.
- (b) Upon payment in advance of the costs of transcription and certification, a transcript of the proceedings in a contested case shall be made by the Agency if requested by a party for court review. The transcript shall be certified for accuracy by the transcriber. The County Council shall prescribe by resolution a specification for transcript preparation and a reasonable fee to be charged for the costs of transcription and certification.

(C.B. 15, 1999)

Note— Section 2 of C.B. 15, 1999, declared the bill effective July 3, 1999.

Sec. 2.122. - Conflicts; interpretations.

- (a) *Substantive Provision of Enabling Law Prevails.* If a provision of this article conflicts with a substantive provision of an enabling act relating to an Agency, the provision of the enabling act shall apply.
- (b) *Construe Article as Procedural Rather Than Substantive.* The provisions of this article do not confer different or additional powers or jurisdiction upon Agencies. This article shall be construed to be procedural rather than substantive.
- (c) *Provisions of Article Prevail over Procedural Rules.* If a provision of this article conflicts with an Agency's procedural rule, the Agency's rule shall be amended to conform with this article.
- (d) *Agency Member Not Subject to Investigators or Prosecutors.* An Agency member shall not be responsible to or be supervised by an employee or agent performing investigative or prosecuting functions for the Agency.
- (e) *Investigators or Prosecutors May Not Advise or Participate in Decisions.* A member, employee or agent performing investigations or prosecutions for an Agency in a given case shall not advise or participate in the decision on that case or a factually related case except as witness or counsel in public proceedings.

ARTICLE IV. - DECLARATORY RULINGS

Sec. 2.123. - Petition to the Agency.

A person may petition an Agency for a declaratory ruling as to whether a rule or statute administered or enforced by the Agency applies to the person or situation. Within 30 calendar days following receipt of the petition, the Agency shall issue a decision on the petition. The declaratory ruling, if issued after argument and stated to be binding, shall be binding on the Agency and on the petitioner unless altered or set aside by a court. A declaratory ruling is subject to review in the same manner as review of contested cases.

Sec. 2.124. - Petition to court.

A person may petition the circuit court for Howard County to issue a declaratory ruling as to the validity of any rule when it appears that the actual or potential application of the rule has or may have an adverse effect upon the person's legal rights or privileges. The Agency shall be made a party to the court proceeding. The court shall declare such a rule invalid if it violates constitutional provisions or exceeds the legal authority of the Agency or if it was adopted without substantial compliance with this subtitle. The court may declare a rule invalid whether or not the petitioner has first requested the Agency to pass upon the validity of the rule.

ARTICLE V. - CONDUCT OF OPEN MEETINGS

Sec. 2.125. - Applicability.

This article applies to any public body when it conducts an open meeting, except that it does not apply to the Board of Appeals.

(C.B. 54, 1993)

Sec. 2.126. - Public attendance.

- (a) *Public Invited.* The general public is invited to attend and observe any open meeting of a public body.
- (b) *Participation.* A member of the public may participate in the meeting when public participation is authorized by law or when the public body expressly invites public testimony, questions, comments, or other forms of public participation.

(C.B. 54, 1993)

Sec. 2.127. - Disruptive conduct.

- (a) *Prohibited Conduct.* A person attending an open meeting of a public body may not engage in conduct, including visual demonstrations such as the waving of placards, signs, or banners, that disrupts the meeting or that interferes with the right of members of the public to attend, observe and hear the meeting.
- (b) *Presiding Officer.*
 - (1) If a person persists in conduct prohibited by subsection (a) of this section or violates any other regulation concerning the conduct of the open meeting, the Presiding Officer may order the person to be removed from the meeting and may request police assistance to restore order.
 - (2) The Presiding Officer may recess the meeting while order is restored.

(C.B. 54, 1993)

Sec. 2.128. - Recording, photographing, and broadcasting of open sessions.

- (a) *Recording.* A member of the public, including a representative of the media, may record discussions of a public body at an open meeting by means of a tape recorder or other recording device if the device does not create an excessive noise that disturbs members of the public body or other persons attending the meeting.
- (b) *Photographing.* A member of the public, including a representative of the media, may photograph, film, or videotape the proceedings of a public body at an open meeting with any type of camera, provided that the camera:

- (1) Is operated without excessively bright artificial light that disturbs members of the public body or other persons attending the meeting; and
 - (2) Does not create an excessive noise that disturbs members of the public body or other persons attending the meeting.
- (c) *Broadcasting.* A representative of the media may broadcast or televise the proceedings of a public body at an open meeting provided that the equipment used:
- (1) Is operated without excessively bright artificial light that disturbs members of the public body or other persons attending the meeting; and
 - (2) Does not create an excessive noise that disturbs members of the public body or other persons attending the meeting.
- (d) *Movement.* The presiding officer may restrict the movements of a person who is using a recording device, camera, or broadcasting or televising equipment if the restriction is necessary to maintain the orderly conduct of the meeting.

(C.B. 54, 1993)

Sec. 2.129. - Recordings not part of the record.

A recording of an opening meeting made by a member of the public, or a transcript derived from a recording, may not be deemed a part of the record of the proceeding of the public body.

(C.B. 54, 1993)

SUBTITLE 2. - RULES OF PROCEDURE OF THE BOARD OF APPEALS^[2]

Footnotes:

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Editor's note— C.B. 115, 1981, repealed and reenacted subtitle 2 to read as set out in §§ 2.200—2.218. Formerly, subtitle 2, §§ 2.200—2.220, was derived from C.B.'s 22, 1969; 105, 1980; 113, 1980. Subsequently, subtitle 2 was amended by C.B. 95, 1989 to read as set out in §§ 2.200—2.213. It had been further amended by C.B.'s 18, 1987, and 67, 1988.

State Law reference— Board of appeals, Ann. Code of Md. art. 25A, § 5(U).

Sec. 2.200. - General.

These rules are in addition to the requirements of section 501 of the Howard County Charter; subtitle 3, "Board of Appeals," of title 16 of the Howard County Code; and the Howard County Zoning Regulations. For further information and assistance, applicants may consult the Department of Planning and Zoning.

(C.B. 95, 1989)

Sec. 2.201. - Organization.

- (a) *Chairperson; Vice-Chairperson.* Each January the members shall designate one member to be a Chairperson and one member to be a Vice-Chairperson. The Vice-Chairperson shall assume the

Chairperson's duties if the Chairperson is absent or incapacitated. The Chairperson shall schedule hearings and meetings, issue summons and subpoenas, and rule on procedural matters.

- (b) *Quorum.* A majority of the Board of Appeals (i.e. at least three members), constitutes a quorum. A quorum shall be present before the Board can hold a meeting or hearing.
- (c) *Voting.* The same members of the Board who were present at the hearing shall make the decision on the case, provided that any member who was absent during any portion of the hearing or who was appointed after the hearing commenced shall be considered present for voting purposes and may vote if the member certifies in writing that the member reviewed all of the evidence submitted and listened to a recording of the portion of the hearing for which the member was not present. A decision shall have the concurrence of the majority of all members of the Board. A member who was absent during any portion of the hearing or who was appointed after the hearing commenced shall vote as provided in this paragraph if necessary to achieve the number of votes needed to render a decision unless the member recuses himself for cause. Failure to achieve the necessary affirmative votes shall result in the dismissal of the case.
- (d) *Clerk of the Board.* The Director of Planning and Zoning or the Director's designee shall be the clerk of the Board of Appeals. The clerk of the Board shall be the custodian of the records of proceedings, shall accept petitions, motions and correspondence to the Board, and shall maintain the docket in each case.
- (e) *Secretary.* The Board of Appeals may appoint a secretary who shall record the proceedings, draft and maintain the minutes of board meetings, and perform other secretarial duties as assigned by the Board.
- (f) *Administrative Assistant.* The Board may appoint an administrative assistant who shall perform administrative duties as assigned by the Board.
- (g) *Legal Advisor.* The County Solicitor shall be the legal advisor and drafts person for the Board of Appeals. The County Solicitor shall attend all meetings of the Board unless excused by the Chairperson. The County Solicitor shall provide advice and assistance to any member desiring to publish an independent or minority opinion. With the approval of the Chairperson, the County Solicitor may delegate these duties to an assistant County Solicitor.

(C.B. 95, 1989; C.B. 70, 1997; C.B. 20, 2000)

Sec. 2.202. - Petitions.

- (a) *Form and Contents of Petitions.* The Board of Appeals shall prescribe the form and contents of petitions. A petitioner shall obtain the petition from the Department of Planning and Zoning. The petitioner shall ensure the accuracy and completeness of the information required in the petition. The petition shall be filed with the Clerk of the Board, as defined under subsection 2.201(c). The Department of Planning and Zoning may require corrections to the petition or additional information before the hearing on the petition is scheduled.
- (b) *Amendments to the Petition.* If any amendments to the petition are made before or during the hearing, the Board, either before or during the hearing, may continue the hearing, may suspend or postpone the hearing and remand the amended petition to the Department of Planning and Zoning and the Planning Board for further recommendations.
- (c) *Substantive Amendments to the Petition.* If any substantive amendments to the petition are made before or during the hearing, the Board, either before or during the hearing, shall suspend or postpone the hearing and remand the amended petition to the Department of Planning and Zoning and the Planning Board for further recommendations.
- (d) *Dismissal.* The Board shall dismiss a petition if it lacks jurisdiction to hear the petition. The Board may dismiss a petition if the petitioner fails to request a hearing on the petition within six months of the date a petition is placed on the unscheduled docket or as set forth in subsection 2.204(h).

- (e) *Payment of Fees.* At the time the petition is filed with the Clerk of the Board, the petitioner shall pay the filing and/or hearing fees in accordance with the current schedule of fees adopted by resolution of the County Council. Checks shall be made payable to the Director of Finance of Howard County.
- (f) *Refund of Fees.* On its own motion and with sufficient cause, the Board may order the Director of Finance to refund the filing and/or hearing fees. If the Board of Appeals reverses the decision of an Administrative Agency after an appeal hearing pursuant to this subtitle, the Board shall order the Director of Finance to refund all administrative hearing and filing fees to the appellant.
- (g) *Refund of Security.* After all appeals are exhausted, security posted under section 16.1610 of this Code may be refunded in accordance with that section.

(C.B. 95, 1989; C.B. 49, 1992; C.B. 70, 1997; C.B. 3, 2008)

Sec. 2.203. - Notice to the public.

- (a) *Advertising.* The petitioner, at his or her own expense, shall advertise the date, time and place of the initial hearing in at least two newspapers of general circulation in Howard County. For variances in residential districts, the advertisement shall be published at least 15 days before the hearing. For all other petitions, the advertisement shall be published at least 30 days prior to the hearing. The Department of Planning and Zoning shall approve the proposed advertising before it is published.
- (b) *Posting of Property.* Except in administrative appeals described in subsection 2.203(d), if a petition involves land use, the property involved shall be posted with the time, date and place of the initial hearing. The sign shall include the address of Department of Planning and Zoning's website. For variances in residential districts, the property shall be posted for at least 15 days immediately before the hearing. For all other petitions, the property shall be posted for at least 30 days immediately before the hearing. The poster shall be double-sided and at least 30 inches by 36 inches in size. The poster shall include a three digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be posted by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster. The Department of Planning and Zoning shall determine the number of posters required and their location and the petitioner shall bear the expense of posting. The posters shall be erected perpendicular to the road which serves as the mailing address of the subject property. The Department of Planning and Zoning shall supply the posters. The petitioner shall properly erect and maintain the posters.
- (c) *Filing Affidavit of Posting and Certificates of Advertising.* The petitioner shall file certificates of advertising and an affidavit of posting with the Clerk of the Board or the Secretary of the Board prior to the hearing.
- (d) *Hearings on Administrative Appeal from a Notice of Violation of County Laws or Regulations or On the Record.* The advertising and posting requirements of this section do not apply to hearings on administrative appeals from a notice of violation of County laws or regulations or appeals heard on the record pursuant to subsection 2.210(b).
- (e) *Hearings on Other Administrative Appeals.* If the petitioner cannot post the property because the petitioner does not own the property, then the petitioner shall send a copy of the petition and written notification of the place, time and date of the hearing to the property owner and the adjoining property owners, and shall file an affidavit of written notification with the Clerk of the Board. The petitioner shall comply with the advertising requirements.
- (f) *Hearings for Clarification or Revocation of a Special Exception When the Department of Planning and Zoning is the Petitioner.* When the hearing is for clarification or revocation of a special exception and the Department of Planning and Zoning is the petitioner, the Department of Planning and Zoning shall:
 - (1) Advertise the date, time and place of the initial hearing at least 30 days before the hearing in at least two newspapers of general circulation in Howard County;

- (2) Send written notification of the place, time and date of the hearing to the adjoining and confronting property owners; and
- (3) Attempt to post the property.
- (g) *Responsibility for Assuring Compliance with Advertising and Posting Requirements.* The petitioner is responsible for assuring compliance with the advertising and posting requirements of this subtitle. If any question arises regarding compliance with the advertising and posting requirements, the burden is on the petitioner to prove compliance. If the Board determines that the petitioner has made a good faith effort to comply with the advertising and posting requirements, the Board may give the petitioner a reasonable opportunity to correct the noncompliance or, if the Board determines that the petitioner has substantially complied with the public notice requirement, proceed with the hearing. If the Board determines that the petitioner has not made a good faith effort to comply with the advertising and posting requirements, the Board may dismiss the petition.

(C.B. 95, 1989; C.B. 49, 1992; C.B. 72, 1993; C.B. 70, 1997; C.B. 20, 2000; C.B. 59, 2006; C.B. 16, 2007, § 1)

Sec. 2.204. - Meetings and hearings.

- (a) *Scheduled by Chairperson.* The Board of Appeals shall hold meetings as scheduled by the Chairperson, including preliminary hearings when the Chairperson deems them necessary. The Board of Appeals shall be prohibited from holding meetings which include an opportunity for public testimony on any day on which Rosh Hashanah, Yom Kippur, Eid Ul Fitr or Eid Ul Adha is observed.
- (b) *Open to Public.* The public is invited to attend Board of Appeals meetings and hearings. The individuals attending shall maintain order and refrain from disturbing the orderly process of the meeting or hearing. The Chairperson may clear the room of disruptive individuals, or recess the meeting or hearing.
- (c) *Open Hearings.* Evidence shall be presented to the Board of Appeals only in hearings open to the public. The Board shall not receive written or oral testimony from a party in interest outside of a hearing. Board members and the Boards' staff shall not engage in communications of any kind with anyone other than Board Counsel or staff, or another Board member regarding the merits of a case prior to the issuance of the decision and order.
- (d) *Place and Time of Hearings and Meetings.* Board of Appeals hearings and meetings shall be held in the George Howard Building, Ellicott City, Maryland, every Tuesday and Thursday at 7:30 p.m. unless the Chairperson schedules the hearing or meeting at a different date, time and place. Meetings of the Board of Appeals to deliberate cases and for other matters may be held from time to time, as determined by the Board. Notice of a meeting or hearing shall be posted at the Board's office in the George Howard Building one day prior to the meeting or hearing.
- (e) *Closed Meetings.* The Board of Appeals may close a meeting, subject to the Maryland Open Meetings Act.
- (f) *Signing Up to Testify.* All individuals who are called to testify or desire to testify at a hearing shall sign their own name to the roster in favor of or opposed to the petition before the Board, as the case may be. If a hearing is continued, only individuals who have signed a roster prior to the end of the petitioner's case or are called by the petitioner in rebuttal shall be permitted to testify.
- (g) *Subsequent Hearings.* Cases which have not been concluded at the initial hearing may be continued to a day and time announced by the Board immediately before the initial hearing is suspended. It shall not be necessary to readvertise a continued hearing or repost property.
- (h) *Postponement.* All requests for postponement of the initial hearing date must be received by the Board of Appeals in writing, before the scheduled date of the initial hearing. No requests for postponement of a hearing shall be granted absent compelling circumstances. If a hearing is postponed, the petitioner shall readvertise and repost the property with the new hearing date and

time in accordance with these rules. Upon a third request for postponement of a hearing, the Board may dismiss the petition.

- (i) *Correspondence.* A party filing written correspondence with the Board shall certify in writing that a copy of the correspondence has been served to all parties of record to the case or to their designated spokesperson. The Board may not consider the correspondence as evidence and shall return it if it is not accompanied by that written certification.
- (j) *Cases Pending in Court.* The Board shall not hold a hearing on a petition involving substantially the same issues of a case that has been filed and is pending before a court of law. A hearing may be scheduled when the Board is advised by the petitioner that the court has reached a final decision. The hearing shall be scheduled at the earliest possible date.

(C.B. 95, 1989; C.B. 49, 1992; C.B. 72, 1993; C.B. 70, 1997; C.B. 20, 2000; C.B. 72, 2004; C.B. 81, 2004)

Sec. 2.205. - Record of hearings.

- (a) *Official Record.* The Board of Appeals shall maintain an official record of its proceedings in each case. This record shall include all testimony and exhibits and a recording of the proceedings.
- (b) *Transcription of Testimony.* Transcriptions of testimony shall be made if requested for court review. The transcribed testimony may be obtained from the Secretary of the Board upon payment in advance of the cost of transcribing the record. The transcriber shall certify the accuracy of any transcript. The County Council shall prescribe by resolution the specifications for transcript preparation and a reasonable fee to be charged for the costs of transcription and certification.

(C.B. 95, 1989; C.B. 20, 2000)

Sec. 2.206. - Administrative appeals.

An individual wishing to appeal an administrative decision of a County Agency shall file an appeal on the petition provided by the Department of Planning and Zoning within 30 days of the date of that administrative decision, unless the law provides a different time period for appeal.

(C.B. 95, 1989; C.B. 70, 1997)

Sec. 2.207. - Evidence and motions.

- (a) *Presubmission of Technical Reports.* Any petitioner or proponent wishing to submit a technical report or other similar documentary evidence to the Board at the hearing must file six copies of the report with the Clerk of the Board at least 30 days prior to the date of the initial hearing on the petition. Any opponent or respondent wishing to submit a report or other similar documentary evidence to the Board at the hearing shall file six copies of the report with the Clerk of the Board and send one copy to the petitioner at least ten days prior to the date of the initial hearing on the petition. If technical reports are filed late, the Board may postpone the hearing, to allow the Board Members or other parties' time to review the report, or take any other course of action as determined by the Board. Even if the report or other documentation is timely filed, the Board reserves the right to postpone the hearing and to require additional copies of the material for technical staff review.
- (b) *Rules of Evidence.* Any evidence which would be admissible under the rules of evidence applicable in judicial proceedings in the State of Maryland shall be admissible in hearings before the Board of Appeals. The Board is not bound by the technical rules of evidence but will apply those rules so that probative evidence may be conveniently brought forth. The Board may exclude immaterial or unduly

repetitious testimony and other evidence and may limit the number of witnesses when testimony is cumulative in nature.

- (c) *Materials Received by Reference.* Public records, previous decisions and orders of the Board of Appeals, technical staff reports, Planning Board recommendations and laws and regulations of Howard County which pertain to the particular case shall be received by the Board of Appeals for its consideration.
- (d) *Exhibits.* Exhibits and plats admitted into evidence may not be mounted and shall be folded to a maximum size of nine inches by 14 inches. An exact duplicate of the exhibit may be mounted and used for presentation.
- (e) *Motions.* A party may request the Board to address a preliminary matter prior to the date of the initial hearing by filing the request as a motion to the Board and certifying that a copy was provided to all persons known to have an interest in the case, including but not limited to the petitioner, the property owner, the Administrative Agency, and any person entitled to written notification under Rule 2.203(e) and (f), as the case may be. The certification shall state "any person interested in responding to the motion shall file a written response with the Board within 15 days of the date that the motion was filed." The Board may rule on the motion at any time 15 days after the filing of the motion.

(C.B. 95, 1989; C.B. 49, 1992; C.B. 70, 1997)

Sec. 2.208. - Appearances before the Board of Appeals.

- (a) *Parties.* Except for administrative appeals described in subsections (b) and (c), an individual or any other legal entity may become a party to a proceeding before the Board by:
 - (1) Providing the name, address, and signature of the individual or entity and the legal entity's duly authorized representative on a sign-up sheet provided by the Board;
 - (2) Testifying before the Board and providing it with the name and address of the party and/or legal entity; or
 - (3) Delivering a letter to the Board, received before the close of the record in the case, indicating that the individual or entity is an interested party to the matter before the Board and providing the party's name, address and signature. Such letter may not be considered for any substantive content and will be received into evidence only for identification of parties to the case. In addition, petitions for or against a matter shall not be used for purposes of conferring party status on those individuals signing the petition under this provision.
- (b) *Parties to Administrative Appeals from Notice of Violation.* Parties to an administrative appeal from the issuance of a notice of violation of County laws or regulations are limited to the petitioner and the Administrative Agency issuing the violation notice.
- (c) *Parties to Administrative Appeals On the Record.* Parties to an administrative appeal to be heard by the Board on the record pursuant to subsection 2.210(b) are limited to the Administrative Agency and the parties of record before the Administrative Agency.
- (d) *Who May Appear.* The following individuals may appear before the Board providing that the individual, partnership, corporation, trust, association, political subdivision, body or department they represent is a party to the proceedings before the Board:
 - (1) An individual may appear on his or her own behalf.
 - (2) A member of a partnership may represent the Partnership.
 - (3) A duly authorized representative of a corporation, trust, or association may represent the Corporation, Trust, or Association.
 - (4) A duly authorized representative or employee of a political subdivision, body, or Department may represent the political subdivision, body, or Department.

- (e) *Spokesperson.* When a group of individuals appear in opposition to a petition, the Board may request them to elect a spokesperson who shall have the power to cross-examine witnesses, call witnesses, introduce evidence on behalf of the group, object to the introduction of evidence, make opening and closing statements, and act in a representative capacity solely on behalf of those individuals electing the spokesperson. Those individuals not electing to be represented by a spokesperson may act on their own behalf.
- (f) *Representation by Attorney-at-Law.* Any party in a proceeding may be represented by an attorney-at-law admitted to practice law before the Court of Appeals of Maryland. Before the hearing begins the attorney shall give the Board written notification of the names and addresses of individuals he or she will be representing and his or her own name, address, and telephone number.
- (g) *Representatives of Associations; Number of Members; Geographical Limits.* An individual testifying on behalf of any association shall substantiate that he or she is authorized to speak for and present the views of that association. The authorization may consist of a duly adopted resolution of the association signed by the President or attested by the Secretary. The individual testifying shall state the number of members in the association and its geographic boundaries.
- (h) *Subpoenas.*
 - (1) *Request for subpoena; content of request.* Persons requesting the Board to issue a subpoena shall submit a written request to the Board at least 21 days before the initial hearing. The request shall contain the name and address of the person to be subpoenaed, a brief proffer as to the content and relevance of the person's expected testimony, and a list of all documents to be brought to the hearing by the subpoenaed person. The subpoena shall be issued by the Board at least 14 days prior to the date of the hearing.
 - (2) *Issuance and service of subpoena.* The subpoena shall be signed by the Chairperson of the Board at least 14 days prior to the date of the hearing. The signed subpoena shall be promptly delivered to the person requesting the subpoena who shall be responsible for arranging service of the subpoena at least seven days prior to the date of the hearing. The person serving the subpoena shall certify in writing that the subpoena was served personally or by certified mail.

(C.B. 95, 1989; C.B. 49, 1992; C.B. 70, 1997; C.B. 20, 2000)

Sec. 2.209. - Conduct of Board of Appeals hearings; original jurisdiction.

- (a) *Oath.* An individual testifying shall give his or her name and address and take the following oath given by the Chairperson: "Do you solemnly promise to speak truthfully in the testimony you are about to give?"
- (b) *Order of Presentation.*
 - (1) The County Solicitor introduces reports and official documents pertaining to the case.
 - (2) Opening statements.
 - (3) *Petitioner's presentation.*
 - (i) Direct examination of witnesses.
 - (ii) Cross-examination of witnesses by the opposition, by Board members and by the County Solicitor.
 - a. *Individuals questioning the petitioner's witness.* Normally, the opposition or a spokesperson cross-examines, but any individual wishing to question the petitioner's witness may do so with leave from the Chairperson. The Chairperson may grant this leave after recognizing the individual who wishes to question the petitioner's witness and after that individual has given his or her name, home address, and, if appropriate, its location with reference to the property which is the subject of the hearing.

- b. *Questioning.* Questioning shall be brief, pertain only to statements made by the witness, and shall not be preceded by statements or speeches. The questioning shall be interrogatory in nature and shall not be argumentative, nor make allusions about the personality or motives of the witness. At the discretion of the Chairperson, questions or cross-examination shall be put in written form and asked by the County Solicitor or Assistant County Solicitor advising the Board.
 - (iii) Re-direct examination of petitioner's witness.
 - (iv) Re-cross-examination of petitioner's witnesses.
 - (4) *Opposition's presentation.*
 - (i) Direct examination of opposition's witnesses.
 - (ii) Cross-examination of opposition's witnesses by the petitioner, by the board members, and by the County Solicitor.
 - (iii) Re-direct examination of opposition's witnesses.
 - (iv) Re-cross-examination of opposition's witnesses.
 - (5) *Petitioner's rebuttal.* The petitioner may present evidence to rebut any evidence introduced by the opposition, but no new line of testimony may be introduced at this time.
 - (6) Petitioner's summation.
 - (7) Opposition's summation.
- (c) *Burden of Proof.* The burden of proof is one of a preponderance of the evidence and is on the petitioner to show, by competent, material and substantial evidence, that he or she is entitled to the relief requested and that the request meets all prescribed standards and requirements.
 - (d) *The Board's Action.* At the end of the presentation, the Board of Appeals may grant or deny the petition, stating its findings of fact and conclusions of law, or it may take the case under advisement for further deliberation and later decision. The Board may not consider evidence from either side after the hearing is concluded; however, the Board, on its own initiative or in response to a request by a party, may receive or require legal memoranda summarizing the presentations of the petitioner and the opposition.

(C.B. 95, 1989; C.B. 70, 1997)

Sec. 2.210. - Conduct of administrative appeal hearings.

- (a) *De Novo Appeals.*
 - (1) *Oath.* An individual testifying shall give his or her name and address after taking the following oath given by the Chairperson: "Do you solemnly promise to speak truthfully in the testimony you are about to give?"
 - (2) *Order of presentation.*
 - (i) The County Solicitor or Assistant County Solicitor advising the Board introduces reports and official documents pertaining to the case.
 - (ii) Opening statements.
 - (iii) *Presentation by party(ies) having the burden of proof ("proponent").*
 - a. Direct examination of witnesses.
 - b. Cross-examination of witnesses by adverse party(ies) ("respondent"), by Board members, and Board's Attorney.
 - c. Re-direct examination.

- d. Re-cross-examination.
- (iv) *Presentation by the respondent.*
 - a. Direct examination of witnesses.
 - b. Cross-examination of witnesses by proponent, by Board members, and Board's Attorney.
 - c. Re-direct examination.
 - d. Re-cross-examination.
- (v) Proponent's rebuttal.
- (vi) Summation by proponent.
- (vii) Summation by respondent.
- (3) *Legal memoranda.* The Board may receive or require legal memoranda summarizing the presentations of the parties, either on its own or upon approval of a request made at the hearing.
- (4) *Burden of proof.*
 - (i) In an appeal of an Administrative Agency's issuance of a notice of violation of County laws and regulations, the burden of proof is upon the Administrative Agency (proponent) to show, by a preponderance of the evidence, that the respondent has violated the laws or regulations in question. However, it shall be the respondent's burden to prove all affirmative defenses, including the defense of nonconforming use.
 - (ii) In all other *de novo* appeals, the burden of proof is upon the appellant to show that the action taken by the Administrative Agency was clearly erroneous, and/or arbitrary and capricious, and/or contrary to law.
- (b) *Appeals On the Record.*
 - (1) *Record transcript.* Within 30 days of filing an appeal on the record from an action of an Administrative Agency, the appellant shall file one copy of the record transcript of the hearing being appealed with the Clerk of the Board, and shall serve one copy of the record transcript with the Administrative Agency and five copies with the Board of Appeals.
 - (2) *Memorandum of appellant.* Within 15 days of filing the transcript, the appellant shall file a memorandum setting forth concisely all points on which the appeal is based and an argument in support of each point with the Clerk of the Board, and serve one copy of the memorandum with the Administrative Agency and five copies with the Board of Appeals. The argument shall include:
 - (i) Points of law;
 - (ii) References to legal authority;
 - (iii) Page citations of particular portions of the record transcript; and
 - (iv) Exhibits by number.
 - (3) *Administrative Agency's reply memorandum.* Within 15 days after the appellant's memorandum is filed, the Administrative Agency shall file a reply memorandum with the Board. The memorandum shall answer concisely all points on which the appeal is based and an argument against each point. The arguments shall include:
 - (i) Points of law;
 - (ii) References to legal authority;
 - (iii) Page citations to particular portions of the record transcript; and

- (iv) Exhibits by number.
- (4) *Sanctions for late filing of memorandum.* If the appellant fails to file the memorandum within the time prescribed under this section, the Board may dismiss the appeal.
- (5) *Oral arguments.* The Board shall entertain oral arguments based upon the record. The Board may limit the length of oral arguments. For good cause shown, the Board may receive additional evidence.
- (6) *Burden of proof.* The burden of proof shall be on the appellant to show that the action taken by the Administrative Agency was clearly erroneous, and/or arbitrary and capricious, and/or contrary to law.
- (c) *The Board's Action .* The Board may dismiss the administrative appeal or may affirm, reverse, or modify the Agency's action, remand the action to the Agency for further proceedings, or an appropriate combination of the above.

(C.B. 95, 1989; C.B. 49, 1992; C.B. 72, 1992; C.B. 70, 1997; C.B. 20, 2000)

Sec. 2.211. - Decision and order.

- (a) *Time Period of Issuance of Decision and Order.* Each case shall be decided and a decision and order issued no later than 60 days after the case is deliberated, unless the Board, on its own motion and with good and sufficient reason, extends the time to no later than 90 days after the Board concludes its deliberation of a case.
- (b) *Decision and Order.* The final decision and order of the Board granting or denying the petition shall be in writing, signed by the voting board members, attested by the Administrative Assistant or the Secretary, and shall be accompanied by findings of fact and conclusions of law. The decision and order shall be made a part of the record of the proceedings, filed with the Department of Planning and Zoning, and maintained as part of the official records of the County.
- (c) *Minority Opinion.* Any member who does not agree with the majority opinion may prepare a minority opinion to be attached to the decision and order.
- (d) *Mail Copies to Parties; File Plats or Summaries.* When the clerk receives copies of the decision and order, the clerk shall mail copies to the parties or their representatives. After a land use petition is granted by the Board, the Department of Planning and Zoning shall file plats or summaries, provided by the petitioner, with the Howard County office of the Maryland State Department of Assessments and Taxation.
- (e) *Appeals from Decisions of the Board.* Within 30 days after any decision of the Board of Appeals is entered, any person, officer, department, board or bureau of the County, jointly or severally aggrieved by any such decision, may appeal to the circuit court for Howard County, in accordance with the Maryland Rules of Procedure. The Board of Appeals shall be a party to all appeals and shall be represented at any such hearing by the office of law.

(C.B. 95, 1989; C.B. 70, 1997)

Sec. 2.212. - Revisory power of the Board.

- (a) *Request of a Party.* Within 15 days of the Board issuing a decision and order, a party of record may file a motion for reconsideration. The Board may revise its decision and order if the party petitioning for reconsideration establishes mistake of fact or mistake of law. The motion for reconsideration may include a request to suspend the decision and order.
- (b) *Process.* The motion shall be in writing. The moving party shall mail or deliver a copy of the motion to each party and certify to the Board that notice to each party has been provided. Any party of

record may file a written response to the motion for reconsideration within 15 days of the filing date of a motion for reconsideration. At the discretion of the Board, oral argument may be heard on the motion. The Board shall not consider new or additional evidence unless such evidence could not reasonably have been presented at the hearing. If the Board determines to revise its decision and order, the Board shall send a copy of the revised decision and order to each party.

- (c) *Correcting Clerical Error.* At any time and without prior notice or hearing, on its own initiative or on motion of any party, the Board may modify its decision in order to correct a clerical error.
- (d) *Time for Appeal to Circuit Court.* The filing of a motion for reconsideration does not suspend the time for filing an appeal to circuit court unless the Board suspends its decision and order. Once an appeal to the circuit court is filed, the Board no longer retains jurisdiction to suspend its decision and order or to consider a motion for reconsideration.

(C.B. 95, 1989; C.B. 70, 1997; C.B. 20, 2000)

Sec. 2.213. - Severability.

If any clause, sentence, part or parts of this subtitle, or of any section of this subtitle, is held to be unconstitutional or invalid, the unconstitutionality or invalidity shall not affect the validity of the remaining parts of this title or of any section.

(C.B. 95, 1989)

TITLE 3 - BUILDINGS^[1]

Footnotes:

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State Law reference— Authority to regulate building construction, repair and use, Ann. Code of Md. art. 25A, § 5(T); building performance standards, Ann. Code of Md., Public Safety article, § 12-501 et seq.

SUBTITLE 1. - BUILDING CODE^[2]

Footnotes:

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Editor's note— Bill No. 13, 2019, § 1, adopted May 14, 2019, repealed the former §§ 3.100—3.104, and enacted new §§ 3.100—3.104 as set out herein. The former §§ 3.100—3.104 pertained to similar subject matter and derived from Bill No. 10-2015, § 1, adopted April 9, 2015.

Sec. 3.100. - Howard County Building Code; Adoption of International Codes.

- (a) *In general.* Except as amended in sections 3.101, 3.102, 3.103, and 3.104 of this subtitle, the codes enumerated in this section are hereby adopted as the Howard County Building Code as if the codes were set out in full in this section.
- (b) *Adopted Codes.*
 - (1) The International Building Code, 2018 Edition, Published by the International Code Council, Inc.

- (2) The International Residential Code for One- and Two-Family Dwellings, 2015 Edition, published by the International Code Council, Inc.
- (3) The International Mechanical Code, 2018 Edition, published by the International Code Council, Inc.
- (4) The International Energy Conservation Code, 2018 Edition, published by the International Code Council, Inc.
- (5) The Life Safety Code, 2018 Edition, published by the National Fire Protection Association.
- (6) The Howard County Electrical Code, adopted pursuant to title 3, subtitle 2 of the Howard County Code.
- (7) The Plumbing and Gasfitting Code for Howard County adopted pursuant to title 3, subtitle 3 of the Howard County Code.
- (8) The Maryland State Accessibility Code.
- (9) The Howard County Sign Code, adopted pursuant to title 3, subtitle 5 of the Howard County Code.

(C.B. 13, 2019, § 1)

Editor's note— See editor's note to Subtitle 1.

Sec. 3.101. - Amendments to the International Building Code, 2018 Edition.

(a) *In General.*

- (1) As used in this section, the term "this Code" means the International Building Code, 2018 Edition.
- (2) As used in this Code, the term "Building Official" means the Director of the Department of Inspections, Licenses and Permits or the Director's authorized designee.
- (3) Where the name of the jurisdiction is to be indicated in any section of this Code, insert "Howard County".
- (4) As used in this Code, the term "department of building safety" means the Department of Inspections, Licenses and Permits.

(b) *Local Amendments.* the following amendments modify certain provisions of the adopted code.

(1) *Subsection 101.1 Title.*

Delete this Subsection.

(2) *Subsection 101.2 Scope.*

Delete the exception and substitute the following:

Exception 1: Detached one-family and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the International Residential Code and section 3112 of Chapter 31, Special Construction, of this Code.

Exception 2 : Agricultural Buildings. The provisions of this Code shall not apply to the construction, alteration, addition, repair, removal, demolition, use, location or maintenance of agriculture buildings. This provision does not exempt the owner of an agricultural building from obtaining required electrical or plumbing permits or from complying with all other applicable local, state and federal regulations, laws and ordinances.

- (3) *Subsection 101.3.1 Nature of certain actions.*

Add new Subsection 101.3.1 after subsection 101.3 as follows:

101.3.1. Nature of certain actions. The purpose of actions taken by the jurisdiction pursuant to this Code is purely governmental in nature and are conducted solely for the public benefit. Actions taken pursuant to this Code are not to be construed as providing any warranty of design or construction to any person.

- (4) *Subsection 101.4 Referenced Codes.*

In the first paragraph, delete "101.4.7" and substitute "101.4.11".

- (5) *Subsection 101.4.1 Gas.*

Delete subsection 101.4.1 and substitute the following:

101.4.1 Gas. Whenever the term " *International Fuel Gas Code*" is used, it shall mean the Plumbing and Gasfitting Code for Howard County adopted pursuant to subtitle 3 of this title.

- (6) *Subsection 101.4.2 Mechanical.*

Delete subsection 101.4.2 and substitute the following:

101.4.2 Mechanical. Whenever the term " *International Mechanical Code* " is used, it shall mean the Mechanical Code of Howard County adopted pursuant to section 3.103 of this subtitle.

- (7) *Subsection 101.4.3 Plumbing.*

Delete subsection 101.4.3 and substitute the following:

101.4.3 Plumbing. Whenever the term " *International plumbing Code* " is used, it shall mean the Plumbing and Gasfitting Code for Howard County adopted pursuant to subtitle 3 of this title and whenever the term " *International Private Sewage Disposal Code* " is used it shall mean Howard County water and sewer regulations adopted in title 18, subtitle 1, subtitle 12, and subtitle 15 and in title 12, subtitle 1 of the Howard County Code.

- (8) *Subsection 101.4.4 Property Maintenance.*

Delete subsection 101.4.4 and substitute the following:

101.4.4 Property Maintenance. Whenever the term " *International Property Maintenance Code* " is used it shall mean the Howard County Property Maintenance Code for rental housing adopted pursuant to subtitle 7 of this title.

- (9) *Subsection 101.4.5 Fire Prevention.*

Delete subsection 101.4.5 and substitute the following:

101.4.5 Fire Prevention. Whenever the term " *International Fire Prevention Code* " is used it shall mean the Howard County Fire Prevention Code adopted pursuant to section 17.104 of the Howard County Code.

- (10) *Subsection 101.4.6 Energy.*

Delete subsection 101.4.6 and substitute the following:

101.4.6 Energy. Whenever the term " *International Energy Conservation Code* " is used it shall mean the Energy Conservation Code of Howard County adopted pursuant to section 3.104 of this subtitle.

- (11) *Subsection 101.4.7 Existing Buildings.*

Delete subsection 101.4.7 and substitute the following:

101.4.7 Existing Buildings. Existing buildings undergoing repair, alteration, addition, or change of occupancy may comply with the Maryland Rehabilitation Code.

- (12) *Subsections 101.4.8 Electrical.*

Add new subsection 101.4.8 after subsection 101.4.7 as follows:

101.4.8 Electrical. Whenever the term "NFPA 70 National Electrical Code" is used, it shall mean the Electrical Code for Howard County adopted pursuant to subtitle 2 of this title.

- (13) *Subsection 101.4.9 Accessibility.*

Add new subsection 101.4.9 after subsection 101.4.8 as follows:

101.4.9 Accessibility. The provisions of the Maryland Accessibility Code shall apply to all matters affecting handicapped accessibility and use of buildings and sites.

- (14) *Subsection 101.4.10 Signs.*

Add new subsection 101.4.10 after subsection 101.4.9 as follows:

101.4.10 Signs. The provisions of subtitle 5 of the Howard County Code shall apply to the location, installation, and maintenance of signs in Howard County.

- (15) *Subsection 101.4.11 Residential code.*

Add new subsection 101.4.11 after subsection 101.4.10 as follows:

101.4.11 Residential. Whenever the term " *International Residential Code* " is used, it shall mean the Residential Code for one-and two-family dwellings of Howard County adopted pursuant to section 3.102 of this subtitle.

- (16) *Section 103 Department of Building Safety.*

Delete the title of this section and substitute the following as the new title:

"Section 103 Enforcement Agency"

- (17) *Subsection 103.1 Creation of Enforcement Agency.*

Delete this subsection and substitute the following:

103.1 Enforcement Agency. The Howard County Department of Inspections, Licenses and Permits is responsible for enforcing the provisions of this Code. The Director of the Department of Inspections, Licenses and Permits or the Director's authorized designee shall be known as the Building Official.

- (18) *Subsection 103.2 Appointment.*

Delete this subsection.

- (19) *Subsection 103.3 Deputies.*

Delete this subsection.

- (20) *Subsection 104.1.1 Rule-making authority.*

Add new subsection 104.1.1 after subsection 104.1 as follows:

104.1.1 Rule-making Authority. In the interest of public health, safety, and general welfare, the Building Official may adopt rules and regulations to interpret and implement the provisions of this Code. Rules and regulations shall not waive structural or fire performance requirements specifically provided for in this Code. Rules and regulations shall not violate accepted engineering practices involving public safety.

(21) *Subsection 104.8.1 Legal defense.*

In the first sentence of this subsection, delete "legal representation of the jurisdiction until the final termination of the proceedings" and substitute "Howard County in accordance with Maryland Law".

(22) *Subsection 104.10.1 Flood hazard areas.*

Delete this subsection.

(23) *Subsection 105.1.1 Annual Permit.*

Delete this subsection and substitute the following:

105.1.1. Master permit. Instead of an individual permit for each alteration to an already approved building, electrical, fire, gas, mechanical, or plumbing installation, the Building Official may issue a master permit upon application by any person, firm, or corporation regularly employing one or more qualified professional or tradesperson in the building, structure, or on the premises owned or operated by the Applicant.

(24) *Subsection 105.1.2 Annual permit records.*

Delete this subsection and substitute the following:

105.1.2. Master permit records. A person who is issued a master permit shall keep a detailed record of alterations made under the master permit. The Building Official shall have access to the records at all times or the records shall be filed with the Building Official. The Building Official may periodically inspect work that has been performed under a master permit.

(25) *Subsection 105.1.2.1 Building Code Compliance Assurance Manual.*

Add new subsection 105.1.2.1 after subsection 105.1.2 as follows:

105.1.2.1. Building Code Compliance Assurance Manual. An applicant for a master permit shall provide to the Building Official a Building Code Compliance Assurance Manual that shall include the following:

- (i) A statement of the policies and procedures that will be used to monitor and control the alteration and renovation process to assure compliance with the Howard County Code;
- (ii) A description of how the applicant assures Code compliance by adhering to written procedures of qualified persons to perform the scope of the work covered by the application;
- (iii) A description of the applicant's process for plan development, plan review, and inspection;
- (iv) A description of the means to assure compliance with fire protection elements of the building and systems affected by the proposed alteration or renovation; and
- (v) If applicable, a statement of compliance for accessibility.

(26) *Subsection 105.2 Work exempt from permit.* In the subsection titled "Building":

- (i) In item 1, delete "120 square feet (11 m²)" and substitute "200 square feet";
- (ii) In item 4, delete "4 feet (1219 mm)" and substitute "3 feet" and delete "bottom of the footing" and substitute "lowest adjacent grade";

- (iii) In item 6, after "adjacent grade", delete the rest of the sentence;
- (iv) In item 11, delete "accessory to detached one- and two-family dwellings";
- (v) In item 12, delete "in group R-3 and U occupancies," and delete "54 inches (1372 mm)" and substitute "48 inches"; and
- (vi) Add the following as item 14 at the end of this subsection:
 - 14. The following work on existing single-family dwellings:
 - a. Exterior:
 - 1. Replacement of roof coverings with no other structural repairs;
 - 2. Installation of siding, including, but not limited to, aluminum or vinyl siding;
 - 3. Installation of fascia, soffit trim, gutters, or downspouts;
 - 4. Replacement of windows or doors when there is no change in the rough opening size;
 - 5. Installation of canvas or fixed awnings;
 - 6. Replacement of exterior lighting fixtures; or
 - 7. Construction or installation of detached freestanding decks that are less than 25 square feet in area and less than 30 inches above grade.
 - b. Interior:
 - 1. Installation of radon systems;
 - 2. Painting, wallpapering, or floor covering;
 - 3. Installation of kitchen or bathroom cabinets, counter tops, appliances, or fixtures;
 - 4. Replacement of paneling or wallboard;
 - 5. Replacement of doors when there is no change in the rough opening size;
 - 6. Installation of insulation;
 - 7. Installation of burglar, fire, and other alarm systems and smoke detectors;
 - 8. Replacement of electric water heaters; or
 - 9. Replacement of ceiling fans, light fixtures, or receptacles.
 - c. The following additional structures:
 - 1. One story detached accessory structures less than 200 square feet in area including, but not limited to, storage sheds, kiosks, gazebos, arbors, or playhouses;
 - 2. Installation of greenhouses;
 - 3. Installation of tents or canopies;
 - 4. Installation of fences unless the fence is over 7 feet high or encloses a swimming pool; or
 - 5. Installation of mailboxes.
 - d. Site work:
 - 1. Paving driveways;
 - 2. Installation of patios, sidewalks, or landscaping;

3. Installation of retaining walls that are 3 feet or less in height measured from the lowest adjacent grade to the top of the wall; or
4. Installation of flagpoles or flagpole bases.

(27) *Subsection 105.3 Application for permit.*

Delete the first paragraph of this subsection and substitute the following:

To obtain a permit, the owner, owner's agent, lessee, lessee's agent, or the registered design professional employed to complete the proposed work on a building or structure shall apply for a permit. The application shall state, as applicable, the full name and address of the owner, owner's agent, lessee, lessee's agent, and the registered design professional employed to complete the proposed work. If the applicant is not an individual, such as, without limitation, a partnership, limited partnership, corporation, limited liability company, or other such entity, the application shall state the name and address of the persons responsible for managing the business including, but not limited to, partners, directors, or officers. Such application shall:

(28) *Subsection 105.8. Contractor Licensing requirements in Residential One and Two-Family Dwellings:*

Add new subsection 105.8 after subsection 105.7 as follows:

Section 105.8 Contractor Licensing requirements in Residential One and Two-Family Dwellings:

Homeowners of one and two-family dwellings, as defined by the Howard County Building Code, may act as their own General Contractor for alterations and additions if they own the property in question and the property is their primary residence. If the property is rental property, or not their primary residence, then they must have a Maryland Home Improvement Contractors license or a Maryland Home Builders license in accordance with the State of Maryland licensing laws.

(29) *Section 106 Floor and Roof Design Loads*

Delete this section.

(30) *Subsection 107.2.1.1. Additional information required.*

Add new subsection 107.2.1.1 after subsection 107.2.1 as follows:

107.2.1.1 Additional information required.

- (i) Documents submitted for detached one- or two-family dwellings including new construction, alterations, minor additions, or other structures shall include the following additional information:
 - a. Except as provided in paragraph b of this subsection, 2 sets of construction documents drawn to scale with sufficient clarity and detail to show the nature and character of the work to be performed including, but not limited to, the following:
 1. Plans of each floor level;
 2. 4 elevations and typical cross sections; and
 3. 4 copies of plot plans or 2 copies of the approved site development plan when a site development plan is required by the Howard County Subdivision Regulations.
 - b. 1. The Building Official may waive the requirements set forth in Paragraph A of this Subsection for:
 - i. Alterations; or

- ii. Other structures accessory to a one- or two-family dwelling containing less than 200 square feet in area.
 - 2. Where waived, the application shall be accompanied by 4 copies of plot plans or 2 copies of the approved site development plan when a site development plan is required by the Howard County Subdivision Regulations.
- (ii) Except as set forth in items b and c of this subparagraph, documents submitted for new non-residential buildings, additions, or alterations to buildings other than detached one- or two-family dwellings shall include the following additional information:
 - a. Three complete sets of architectural, structural, mechanical (including heating, ventilation, and air conditioning), plumbing, and electrical construction documents. The documents shall:
 - 1. Be drawn to scale with sufficient clarity and detail to show the nature and character of the work to be performed;
 - 2. Be prepared in compliance with this Code; and
 - 3. Bear the seal, signature, and date of the appropriate Maryland State professional engineer or architect that shall be affixed to all sheets of all sets and at least one set shall bear the original seal, signature, and date.
 - b. The Building Official may allow mechanical, electrical, or plumbing drawings to be signed by the licensed contractor doing the proposed work. The contractor shall provide their name, license number, daytime phone number, and date of signature. Each set of plans shall be accompanied by a copy of the approved and signed site development plan when a site development plan is required by the Howard County subdivision regulations.
 - c. The Building Official may waive the requirements of plans submitted if the work is of a minor interior or nonstructural nature.

- (31) *Subsection 107.2.6.2 Subdivision and Land Development Regulations, Title 16 of the Howard County Code.*

Add new subsection 107.2.6.2 after subsection 107.2.6.1 as follows:

107.2.6.2 Subdivision and Land Development Regulations, Title 16 of the Howard County Code. If a site development plan is required by the Howard County Subdivision Regulations, a permit shall not be issued until the site development plan is approved unless authorized by the Director of Planning and Zoning.

- (32) *Subsection 109.2 Schedule of permit fees.*

Delete this subsection and substitute the following:

109.2 Schedule of permit fees. The County Council shall annually adopt, by resolution, a schedule of fees for building, electrical, plumbing, mechanical, fire protection, and grading permits issued by the Department of Inspections, Licenses and Permits.

- (33) *Subsection 109.2.1 Fee exemptions.*

Add new subsection 109.2.1 after subsection 109.2 as follows:

109.2.1 Fee exemptions. Work on buildings and structures owned or operated by the Howard County Government, Howard Community College, Howard County volunteer fire corporations, the Howard County fair association, or the Howard County Board of Education are exempt from permit fees.

- (34) *Subsection 109.5.1 Reinspection fees.*

Add new subsection 109.5.1 after subsection 109.5 as follows:

109.5.1 Reinspection fees. A reinspection fee shall be charged for each reinspection if the work has to be reinspected because:

- (i) The work was not ready for inspection at the pre-arranged time for inspection;
- (ii) The inspector did not have access to the work at the pre-arranged time for inspection;
- (iii) The inspector had to return more than once to inspect a correction of the same violation of this Code; or
- (iv) The inspector discovers a flagrant non-compliance during a requested inspection, including but not limited to:
 - A. Cut or broken trusses or joists;
 - B. Missing load bearing studs; or
 - C. The omission of fire stopping.

(35) *Subsection 110.3 Required inspections.*

Delete the sentence that begins "The *Building Official* " and substitute: After issuing a building permit, the Building Official shall conduct inspections from time to time during and upon completion of the work for which the permit has been issued. Records of inspections and violations shall be maintained by the Building Official. An inspection may include any of the inspections as set forth in subsections 110.3.1 through 110.3.11 of this section.

(36) *Subsection 111.1 Change of occupancy.*

After the first sentence, insert the following:

If there is an approved site development plan and grading has occurred, the Building Official shall not issue a certificate of use and occupancy unless the permittee submits a certification by a registered land surveyor that the site grading and drainage courses are in compliance with the approved site development plan. If there is not an approved site development plan and grading has occurred, the permittee shall submit a certification by a registered land surveyor that the site grading and drainage courses are in compliance with the approved erosion and sediment control plan and grading plan. The certification shall be submitted to the County. The fine grading and soil stabilization may be deferred until the following growing season upon the posting of adequate surety equal to the cost to complete the grading and stabilization.

(37) *Subsection 111.2 Certificate issued.*

After "occupancy" insert a period and delete the remainder of this section.

(38) *Section 113 Board of Appeals.*

Delete this section and substitute the following:

Section 113 Means of appeal.

113.1 Application for appeal. Except for a notice of violation, a person may appeal the approval, denial, revocation, suspension, or extension of a permit to a hearing examiner of the Howard County Board of Appeals. An application for an appeal shall be based on a claim that this Code has been incorrectly interpreted, the provisions of this Code do not apply, or an equally good or better form of construction is proposed. A notice of violation may not be appealed.

113.2 Board of Appeals. The Howard County Board of Appeals' Hearing Examiner shall hear and decide appeals in accordance with the procedures set forth in title 16, subtitle 3 of the

Howard County Code. Neither the Board of Appeals' Hearing Examiner nor the Board of Appeals shall have authority to waive requirements of this Code.

(39) *Subsection 114.2 Notice of Violation.*

Amend this subsection as follows:

- (i) Insert "owner or" before "person responsible for"; and
- (ii) Add the following sentence to the end of this subsection:

A notice of violation may be served in one of the following methods:

- a. Personal service;
- b. Certified or registered mail, restricted delivery, return receipt requested;
- c. First class mail to the owner's address as stated in the records of the State Department of Assessments and Taxation; or
- d. When service is not obtained by one of these methods, the notice may be posted in a conspicuous place at the job site.

(40) *Subsection 114.4 Violation penalties.*

Delete this subsection and substitute the following:

114.4 Violation penalties. Alternatively, and in addition to and concurrent with all remedies provided at law or in equity and as set forth in subsection 114.3 of this Code, the Building Official may enforce this subtitle with civil penalties pursuant to title 24 "Civil Penalties" of the Howard County Code. Except for a first violation of section 115 or section 116 of this Code, a first violation of this subtitle is a class C offense. A subsequent violation of this subtitle is a class B offense. Each day that a violation continues is a separate offense.

(41) *Subsection 114.5 Withholding of inspections and permits.*

Add new subsection 114.5 after subsection 114.4 as follows:

114.5 Withholding of inspections and permits. If the Building Official finds that an owner or person responsible is in violation of a provision of this Code, this subtitle, or any regulation that implements this Code in connection with the construction, maintenance, alteration, or repair of any building, equipment, or land within Howard County, the Building Official may refuse to grant an inspection or permit to the contractor, developer, owner, or other person responsible until all violations have been corrected and all fees and fines have been paid.

(42) *Subsection 115.2.1 Service of stop work orders.*

Add new subsection 115.2.1 after subsection 115.2 as follows:

115.2.1 Service of stop work orders. A stop work order shall be served in accordance with the service provisions set forth in subsection 114.2 of this Code.

(43) *Subsection 115.3 Unlawful continuance.*

Delete this subsection and substitute the following:

115.3 Unlawful continuance. A person shall not perform work after service of a stop work order except work that is performed at the direction of the Building Official to abate a violation of this Code or an unsafe condition.

(44) *Subsection 115.4 Prosecution for failing to stop work.*

Add new subsection 115.4 after subsection 115.3 as follows:

115.4 Prosecution for failing to stop work. The Building Official may request that the Office of Law institute the appropriate proceeding at law or in equity to prevent or restrain any work performed in violation of this section.

(45) *Subsection 115.5 Violation penalties.*

Add new subsection 115.5 after subsection 115.4 as follows:

115.5 Violation penalties. Alternatively, and in addition to and concurrent with the remedies set forth in subsection 115.4, the Building Official may enforce this section pursuant to title 24, "Civil Penalties" of the Howard County Code. A violation of this section is a class B offense. Each day that a violation continues is a separate offense.

(46) *Subsection 116.6 Disregarding notice.*

Add new subsection 116.6 after subsection 116.5 as follows:

116.6 Disregarding notice. Failure to comply with a notice issued under this section is a violation of this Code.

(47) *Subsection 116.7 Prosecution.*

Add new subsection 116.7 after subsection 116.6 as follows:

116.7 Prosecution. The Building Official may request that the Office of Law institute the appropriate proceeding at law or in equity to prevent or restrain any work performed in violation of this section.

(48) *Subsection 116.8 Violation penalties.*

Add new subsection 116.8 after subsection 116.7 as follows:

116.8 Violation penalties. Alternatively, and in addition to and concurrent with the remedies set forth in subsection 116.6, the Building Official may enforce this section pursuant to title 24, "Civil Penalties" of the Howard County Code. A violation of this section is a class B offense. Each day that a violation continues is a separate offense.

(49) *Section 117 Emergency measures.*

Add new section 117 after section 116 as follows:

Section 117 Emergency measures.

117.1 Imminent danger. Whenever the Building Official determines that there is an emergency or imminent danger of failure or collapse of a building, structure, or any part of a building or structure that endangers life, or when any building, structure, or part of a building or structure has fallen and life is endangered by the occupation of the building or structure, the Building Official may order an occupant to vacate the building or structure. The Building Official shall post a notice at each entrance to the building or structure. The notice shall state as follows: "This structure is unsafe and its occupancy has been prohibited by the Building Official." Except for the purpose of making a required repair or demolishing the building or structure, a person shall not enter the building or structure.

117.2 Temporary safeguards. Whenever the Building Official determines that there is imminent danger due to an unsafe condition, the Building Official may cause the necessary work to be done to make the building or structure temporarily safe, whether or not the legal procedure as set forth in this Code has been instituted.

117.3 Closing streets and buildings. If necessary for public safety, the Building Official may take any of the following actions:

- (i) Temporarily close a building or structure;
- (ii) Close or order the jurisdiction to close a sidewalk, street, public way, or place adjacent to an unsafe building or structure; or
- (iii) Prohibit the use of a sidewalk, street, public way, or place adjacent to an unsafe building or structure.

117.4 Demolition of structures.

Whenever the Building Official determines that there is imminent danger due to an unsafe structure, the Building Official may cause the structure to be demolished in accordance with section 118 of this Code.

117.5 Emergency repairs. For the purpose of this section, the Building Official may employ the necessary labor and materials to perform the required work as expeditiously as possible.

117.6 Cost of emergency repairs. Costs incurred in the performance of emergency work may be paid from the treasury of the jurisdiction. The Office of Law shall institute appropriate action to seek reimbursement against the owner of the premises where the unsafe building or structure is or was located for the cost of the repairs or actions necessary to make the premises safe.

117.7 Unsafe equipment. Whenever the Building Official determines that equipment is unsafe, the equipment shall not be operated after the date stated in the notice unless the required repairs, replacement, or changes have been made and the equipment has been approved or unless the Building Official has agreed, in writing, to an extension of time to make the required repairs, replacement, or changes.

117.7.1 Authority to seal equipment. In the case of an emergency, the Building Official may immediately seal out of service any unsafe device or equipment regulated by this Code.

117.7.2 Unlawful to remove seal. Any device or equipment sealed out of service by the Building Official shall be plainly identified in an approved manner. Except by the Building Official, the identification shall not be tampered with, defaced, or removed. The identification shall indicate the reason for the sealing of the equipment.

(50) *Section 118 Demolition of structures.*

Add new section 118 after section 117 as follows:

Section 118 Demolition of structures.

118.1 Service connections. Before a structure is demolished or removed, the owner or agent shall notify all utilities having service connections within the structure including, but not limited to, water, electric, gas, or sewer. A permit to demolish or remove a structure shall not be issued until a release is obtained from the utilities. The release shall state that the utility's respective service connections and appurtenant equipment, such as meters and regulators, have been removed, sealed, or plugged in a safe manner.

118.2 Notice to adjoining owners. A permit to remove or demolish a building or structure may be granted if written notice has been given by the applicant to the owners of adjoining lots and to the owners of wired or other facilities that may need to be temporarily removed due to the proposed work.

118.3 Lot regulation. Whenever a structure is demolished or removed, the premises shall be maintained free from all unsafe or hazardous conditions by the proper regulation of the lot, restoration of established grades, and the erection of the necessary retaining walls and fences in accordance with the provisions of Chapter 33 of this Code.

(51) *Subsection 703.7 Marking and identification.*

Amend item 1 as follows:

- (i) Delete "within 15 feet (4572 mm) of the end of each wall and";
- (ii) Delete "30 feet (914 mm)" and substitute "10 feet (3048 mm)"; and
- (iii) After "wall or partition" insert "on both sides"; and

(52) *Subsections 903.2.1.1 Group A-1; 903.2.1.3 Group A-3; and 903.2.1.4 Group A-4.*

Delete item number 2 in each subsection and substitute the following in each instance:

2. The fire area has a calculated occupant load of 100 or more; or

(53) *Subsection 903.2.1.6 Assembly Occupancies on Roofs.*

In the first sentence delete "300" and substitute "100".

(54) *903.2.1.7 Multiple fire areas.*

In the first sentence delete "300" and substitute "100".

(55) *Subsection 903.2.3 Group E.*

Delete this subsection and substitute the following:

903.2.3 Group E. An automatic sprinkler system shall be provided for all Group E occupancies.

Exception: An automatic sprinkler system is not required if a student occupied area has a door directly to the outside.

(56) *Subsection 903.2.13 Additional suppression requirements.*

Add new subsection 903.2.13 after subsection 903.2.12 as follows:

903.2.13 Additional suppression requirements. Fire suppression systems shall be provided for residential and nonresidential buildings or structures as follows:

903.2.13.1 If an addition or renovation to an existing R-1 or R-2 building exceeds 50% of the gross floor area, the entire building shall be protected by an approved fire protection system.

903.2.13.2 Any nonresidential building, structure, or addition to an existing nonresidential building or structure for which the initial building permit was issued on or after July 1, 1992, shall be protected by an automatic fire protection sprinkler system.

903.2.13.3 Applicable conditions and exceptions :

- (i) Exception: A building or structure containing less than 5,000 gross square feet in floor area. The gross square feet of a building or addition shall be the sum total of the floor area for all floor levels, basements, and subbasements, measured from outside walls, irrespective of the existence of interior fire-resistive walls, floors, or ceilings.
- (ii) If an addition to an existing building exceeds 5,000 gross square feet in floor area, the addition shall comply with this section.
- (iii) If an alteration to an existing building exceeds 5,000 gross square feet in floor area, the alteration shall comply with this section. If the alteration exceeds 50% of the gross floor area of the building, the entire building shall comply with this section.

- (iv) If an alteration and addition occur simultaneously in a building, are contiguous, and the total affected floor area exceeds 5,000 gross square feet in floor area, the entire alteration and addition areas shall comply with this section.
- (v) The Building Official may grant a waiver from the requirements of this section for an unusual building, structure, or occupancy.
- (vi) A sprinkler system required by this section shall be installed in accordance with NFPA standard 13, 13d, or 13r, as applicable.

(57) *Subsection 903.2.14 Hose connections.*

Add new subsection 903.2.14 after subsection 903.2.13 as follows:

903.2.14 Hose connections. Where fire suppression systems are required in group M, S-1 and F-1 occupancies, a 2 1/2 inch hose connection with 1 1/2 inch reducers shall be provided for Fire Department use. Hose connections shall be placed near exit doors that do not have Fire Department vehicle access within 100 feet. Two hose connections shall be located no more than 200 feet apart. Exit doors shall be placarded on the outside to indicate the location of hose connections for Fire Department access.

(58) *Subsection 905.12 Piping design.*

Add new subsection 905.12 after subsection 905.11 as follows:

905.12 Piping design. The riser piping, supply piping, and water service piping shall be sized to maintain a residual pressure of at least 100 psi at the top most outlet of each riser while flowing the minimum quantity of water as specified in NFPA 14. The pipe size shall be based on either the capacity of the automatic water supply system or the supply of 1000 gpm at 150 psi at the Fire Department connection where an automatic water supply is neither required nor provided to maintain the residual pressure of 100 psi. If a fire pump is required to supply an automatic sprinkler system, the pump shall be sized in accordance with this section.

Exception: The residual pressure of 100 psi is not required in buildings where all the following apply:

- (i) That are equipped throughout with automatic sprinkler systems in accordance with section 903.3.1.1 or 903.3.1.2 of this Code;
- (ii) Where the highest floor level is not more than 75 feet above the lowest level of fire department vehicle access; and
- (iii) Where a pump is not required to meet the sprinkler system demand,

(59) *Subsection 910.2 Where required.*

Delete exceptions 1, 2, and 3.

(60) *Subsection 910.2.2 high piled combustible storage.*

- (i) In the first sentence, delete "table 3206.2 of the International Fire Code" and substitute "Table 910.2.2 of the Howard County Building Code".
- (ii) Insert table 910.2.2 as follow:

Table 910.2.2

[F] TABLE
REQUIREMENTS FOR DRAFT CURTAINS AND SMOKE AND HEAT VENTS*

OCCUPANCY GROUP AND COMMODITY CLASSIFICATION	DESIGNATED STORAGE HEIGHT (feet)	MINIMUM DRAFT CURTAIN DEPTH (feet)	MAXIMUM AREA FORMED BY DRAFT CURTAINS (square feet)	VENT-AREA-TO-FLOOR-AREA RATIO ^c	MAXIMUM SPACING OF VENT CENTERS (feet)	MAXIMUM DISTANCE FROM VENTS TO WALL OR DRAFT CURTAIN ^b (feet)
High-piled Storage (see Section 910.2.2) Class I-IV commodities (Option 1)	≤ 20	6	10,000	1:100	100	60
	> 20 ≤ 40	6	8,000	1:75	100	55
High-piled Storage (see Section 910.2.2) Class I-IV commodities (Option 2)	≤ 20	4	3,000	1:75	100	55
	> 20 ≤ 40	4	3,000	1:50	100	50
High-piled Storage (see Section 910.2.2) High-hazard commodities (Option 1)	≤ 20	6	6,000	1:50	100	50
	> 20 ≤ 30	6	6,000	1:40	90	45
High-piled Storage (see Section 910.2.2) High-hazard commodities (Option 2)	≤ 20	4	4,000	1:50	100	50
	> 20 ≤ 30	4	2,000	1:30	75	40

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m².

- a. Additional requirements for rack storage heights in excess of those indicated shall be in accordance with Chapter 32 of the *International Fire Code*. For solid-piled storage heights in excess of those indicated, an approved engineered design shall be used.
- b. Vents adjacent to walls or draft curtains shall be located within a horizontal distance not greater than the maximum distance specified in this column as measured perpendicular to the wall or draft curtain that forms the perimeter of the draft curtained area.
- c. Where draft curtains are not required, the vent area to floor area ratio shall be calculated based on a minimum draft curtain depth of 6 feet (Option 1).
- d. "H" is the height of the vent, in feet, above the floor.

(61) *Subsection 910.3. Smoke and heat vents.*

After "910.3.3." insert the following: Smoke and heat vents shall be approved, labeled, and capable of being operated by approved manual means.

(62) Chapter 11. Accessibility.

Delete this Chapter in its entirety.

(62A) *Subsection 1210. 4 Diaper-changing amenity.*

Add new subsection 1210.4 after subsection 1210.3 as follows:

1210.4 Diaper-changing amenity.

- (1) This subsection applies to the following occupancy types: Assembly Group A-1, A-2, A-3, A-4, and A-5, Business Group B, Educational Group E, Institutional Group I-1, I-2, and I-4, Mercantile Group M, Residential Group R-1, and Storage Group S-2.
- (2) In each portion of the occupancy that contains a public toilet or bathroom, persons of all genders must have access to a diaper-changing station or similar amenity that is safe, sanitary, and convenient.
- (3) This subsection does not apply to:
 - (i) Buildings that already have a new building permit and are not undergoing renovations;
 - (ii) Buildings undergoing renovations if the renovations do not require a building permit;
 - (iii) Buildings that prohibit entrance to minors; and
 - (iv) Buildings for which the Building Official determines that the installation of a diaper-changing facility or similar amenity is not feasible.

(63) *Table 1607.1 Item 26 Roofs.*

In the occupancy or use column:

- (i) In the row titled "All other construction, except one and two-family dwellings", in the column titled "uniform", delete "20" and substitute "40"

- (ii) In the row titled "ordinary flat, pitched, and curved roofs (that are not occupiable)" delete "20" and substitute "40" and add footnote "p" next to "20" to read "flat roofs up to 2% slope can use 30 psf for design requirements".

(64) *Subsection 1803.2 Investigations required.*

Insert at the end of the first sentence "or where the building exceeds 2 stories".

(65) *Subsection 1809.5 Frost protection.*

Delete exception number 2 and substitute "2. Area of 400 square feet or less; and".

(66) *Subsection 1809.5.1 Frost line.*

Add new subsection 1809.5.1 after subsection 1809.5 as follows:

1809.5.1 Frost line. The frost line shall be at least 30 inches below finished grade.

(67) Delete Chapters 28 through 29.

(68) *Subsection 3001.3 Referenced standards.*

Add the following to the end of the subsection:

Exception: The requirements of the State of Maryland Elevator Code, ASME A17.1, Safety Code for Elevators and Escalators, as adopted by the Maryland Department of Labor, Licensing and Regulation, shall apply to elevators and conveying systems.

(69) *Subsection 3107.1 General.*

Insert the following at the end of this sentence after "code":

and the requirements of the Howard County Sign Code set forth in title 3, subtitle 5 of the Howard County Code.

(70) *Subsection 3108.3 Radio and television antennas.*

Add new subsection 3108.3 after subsection 3108.2 as follows:

3108.3 Radio and television antennas.

3108.3.1 Permits not required. Building permits are not required for roof installation of antennal structures that are less than 12 feet in height above the roof and used for private radio or television reception. Antennal structures shall not be erected so as to damage the roof covering. When removed from the roof, the roof covering shall be repaired to maintain weather and water tightness. The installation of antennal structures on the roof of a building shall not be nearer to the lot line than the total height of the antennal structure above the roof. Antennal structures shall not be erected near electric power lines and shall not encroach upon any street or other public space.

3108.3.2 Permits required. If the application meets the criteria set forth in this Code, an application for roof-mounted antennal structures more than 12 feet in height above the roof shall be approved. A permit application for a roof-mounted antennal structure under this subsection shall be accompanied by detailed drawings of the structure and method of anchorage. All connections to the roof structure shall be properly flashed to maintain water tightness. The design and materials of construction shall comply with the requirements of this subsection (3108.3) for character, quality, and minimum dimension.

3108.3.3 Dish antennas. A dish antenna is an antenna that consists of a radiation element that transmits or receives radiation signals generated as electrical, light, or sound energy. A dish antenna is supported by a structure with or without a reflective component to the radiating dish,

usually in a circular shape with a parabolic curve design constructed of a solid or open mesh surface.

3108.3.3.1 Permits. A permit shall be obtained for dish antennal structures that are greater than 3 feet in diameter and that are erected on the roof of or attached to buildings or structures. Permits are not required for dish antennas that are 3 feet or less in diameter and that are erected and maintained on the roof of a building.

3108.3.3.2 Structural provisions. Dish antennas larger than 3 feet in diameter are subject to the structural provisions of sections 1608 and 1609. The snow load provision of section 1608 shall not apply where the antenna has a heater to melt falling snow.

(71) *Subsection 3108.3 Radio and television antennas.*

Add new subsection 3108.3 after subsection 3108.2 as follows:

3108.3.1 Permits not required. Building permits are not required for roof installation of antennal structures that are less than 12 feet in height above the roof and used for private radio or television reception. Antennal structures shall not be erected so as to damage the roof covering. When removed from the roof, the roof covering shall be repaired to maintain weather and water tightness. The installation of antennal structures on the roof of a building shall not be nearer to the lot line than the total height of the antennal structure above the roof. Antennal structures shall not be erected near electric power lines and shall not encroach upon any street or other public space.

3108.3.2 Permits required. If the application meets the criteria set forth in this Code, an application for roof-mounted antennal structures more than 12 feet in height above the roof shall be approved. A permit application for a roof-mounted antennal structure under this subsection shall be accompanied by detailed drawings of the structure and method of anchorage. All connections to the roof structure shall be properly flashed to maintain water tightness. The design and materials of construction shall comply with the requirements of this subsection (3108.3) for character, quality, and minimum dimension.

3108.3.3 Dish antennas. A dish antenna is an antenna that consists of a radiation element that transmits or receives radiation signals generated as electrical, light, or sound energy. A dish antenna is supported by a structure with or without a reflective component to the radiating dish, usually in a circular shape with a parabolic curve design constructed of a solid or open mesh surface.

3108.3.3.1 Permits. A permit shall be obtained for dish antennal structures that are greater than 3 feet in diameter and that are erected on the roof of or attached to buildings or structures. Permits are not required for dish antennas that are 3 feet or less in diameter and that are erected and maintained on the roof of a building.

3108.3.3.2 Structural provisions. Dish antennas larger than 3 feet in diameter are subject to the structural provisions of sections 1608 and 1609. The snow load provision of section 1608 shall not apply where the antenna has a heater to melt falling snow.

(72) *Subsection 3109 Swimming pool enclosures and safety devices.*

Delete this section and substitute the following:

Subsection 3109: Swimming pool enclosures and safety devices:

3109.1 General. Swimming pools shall comply with the requirements of sections 3109.2 through 3109.3 and other applicable requirements of the Code.

3109.2 Residential swimming pools. Residential swimming pools shall be completely enclosed by a barrier complying with sections 3109.2.1 through 3109.2.3.

Exception: A swimming pool with a power safety cover or a spa with a safety cover complying with ASTM F 1346.

3109.2.1 Barrier height and clearances. The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).

3109.2.1.1 Openings. Openings in the barrier shall not allow passage of a 4-inch-diameter (102 mm) sphere.

3109.2.1.2 Solid barrier surfaces. Solid barriers which do not have openings shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

3109.2.1.3 Closely spaced horizontal members. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall be not greater than 1¾ inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall be not greater than 1¾ inches (44 mm) in width.

3109.2.1.4 Widely spaced horizontal members. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall be not greater than 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall be not greater than 1¾ inches (44 mm) in width.

3109.2.1.5 Chain link dimension. Mesh size for chain link fences shall be not greater than a 2¼ inch square (57 mm square) unless the fence is provided with slats fastened at the top or the bottom that reduce the opening to not more than 1¾ inches (44 mm).

3109.2.1.6 Diagonal members. Where the barrier is composed of diagonal members, the opening formed by the diagonal members shall be not greater than 1¾ inches (44 mm).

3109.2.1.7 Gates. Access doors or gates shall comply with the requirements of section 3109.2.1.1 through 3109.2.1.6, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Doors or gates other than pedestrian access doors or gates shall have a self-latching device. Release mechanisms shall be in accordance with sections 1010.1.9 and 1109.13. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the door or gate, the release mechanism shall be located on the pool side of the door or gate 3 inches (76 mm) or more, below the top of the door or gate, and the door or gate and barrier shall be without opening larger than ½ inch (13 mm) within 18 inches (457 mm) of the release mechanism.

3109.2.1.8 Dwelling wall as a barrier. Where a wall of a dwelling serves as part of the barrier, one of the following shall apply:

1. Doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and/or its screen, if present, are opened. The alarm shall be listed and labeled in accordance with UL 2017. In dwellings not required to be *Accessible units*, *Type A units* or *Type B units*, the deactivation switch shall be located 54 inches (1372 mm) or more above the threshold of the door. In dwellings required to be *Accessible units*, *Type A units* or *Type B units*, the deactivation switch shall be located no higher than 54 inches (1372 mm) and not less than 48 inches (1219 mm) above the threshold of the door.
2. The pool shall be equipped with a powered safety cover in compliance with ASTM F 1346; or
3. Other means of protection, such as self-closing doors with self-latching devices, which are approved, shall be acceptable so long as the degree of protection afforded is not less than the protection afforded by Item 1 or 2 described above.

3109.2.1.9 Pool Structures as Barriers. Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then the ladder or steps shall be capable of being secured, locked or removed to prevent access, or the ladder or steps shall be surrounded by a barrier which meets the requirement of section 3109.2.1 through 3109.2.1.8. Where the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch diameter (102 mm) sphere.

3109.2.2 Indoor swimming pool. Walls surrounding an indoor swimming pool shall not be required to comply with section 3109.2.1.8.

3109.2.3 Prohibited locations. Barriers shall be located to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.

3109.3 Entrapment Avoidance. Suction outlets shall be designed and installed in accordance with ANSI/APSP-7.

3109.4. Alternative Devices. Natural barriers, pool covers, or other protective devices approved by the Building Official shall be an acceptable enclosure if the degree of protection afforded by the substituted device or structure is greater than the protection afforded by the enclosures, gates, and latches described herein.

(73) *Section 3114 Floodplain.*

Add new section 3114 after section 3113 as follows:

Section 3114 Floodplain.

3114.1 General. For the purpose of this section, the floodplain is delineated in title 16, subtitle 7 of the Howard County Code.

3114.2 Within designated floodplain.

The construction, reconstruction, modification, alteration, repair, or improvement of buildings, manufactured homes, or other structures located within a designated floodplain shall be done in accordance with the requirements set forth in this section.

3114.2.1 New construction. New residential or nonresidential construction shall not occur within a designated floodplain.

Exception 1 : An existing nonconforming structure located within a designated floodplain which is destroyed by fire or flood, or that sustains substantial damage may be restored to the same size and dimension and in the same location on the same lot as the destroyed structure,

provided construction begins within 12 months of the date of destruction. Construction shall comply with the elevating and floodproofing requirements of subsection 3112.4 for new construction adjacent to a floodplain. A person shall not intentionally demolish or reconstruct any nonconforming structure. This exception does not apply to manufactured homes. A manufactured home cannot be restored under any condition within a designated floodplain.

Exception 2 : Transportation networks, utility installations, piers, open pier structures, and open decks approved by the Department of Public works. Streets, sidewalks, pathways, and utility systems in accordance with the Howard County Design Manual and all other applicable codes, ordinances, resolutions, and regulations.

3114.2.2 Additions and enlargements. Existing nonconforming structures located within a designated floodplain shall not be expanded or enlarged.

3114.2.3 Modifications, alterations, and repairs. Modifications, alterations, repairs, or improvements that cost less than 50% of the fair market value of the structure may be made to existing nonconforming structures located within a designated floodplain without floodproofing or elevating if the owner demonstrates through a Maryland State registered professional engineer that floodproofing or elevating is impractical.

3114.3 Substantial improvements within a designated floodplain. Substantial improvements within a designated floodplain shall meet the standards set forth in this subsection and title 16, subtitle 7 of the Howard County Code.

3114.3.1. Residential. The lowest floor, including a basement, of substantial improvements to existing nonconforming residential structures located within a designated floodplain shall be elevated to at least 2 feet above the 100-year flood elevation.

3114.3.2. Nonresidential. The lowest floor, including a basement, of substantial improvements to existing nonconforming nonresidential structures shall be elevated to at least 2 feet above the 100-year flood elevation or shall be designed so that any area of the building which is lower than 2 feet above the 100-year flood elevation, as determined or approved by the Department of Public Works, is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of withstanding applicable hydrostatic, hydrodynamic, impact, soil, and, when applicable, hurricane and tidal wave loading conditions. The water tightness and structural capabilities shall be those described in floodproofing regulations published by the Office of the Chief of Engineers, U.S. Army, Washington, D.C., December 1995, or subsequent revisions, and section 16.705(c) of the Howard County Code.

3114.4 Construction adjacent to a designated floodplain. Where buildings are located adjacent to a designated floodplain the following subsections and title 16, subtitle 7 of the Howard County Code shall apply:

3114.4.1 Residential. In new construction of residential buildings or additions or substantial improvements to residential buildings, all floors, including those of basement and storage areas, shall be elevated at least 2 feet above the 100-year flood level.

3114.4.2 Nonresidential. In new construction of nonresidential buildings or additions or substantial improvements to nonresidential buildings, either:

- (i) All floors (including those of basement and storage areas) shall be elevated at least 2 feet above the 100-year flood level, as determined or approved by the Department of Public Works; or
- (ii) The construction or improvement (including attendant utility or sanitary facilities) shall be designed so that any areas of the building that are lower than 2 feet above the 100-year flood elevation, as determined or approved by the Department of Public Works, are watertight with walls substantially impermeable to the passage of water and with structural

components having the capability of withstanding applicable hydrostatic, hydrodynamic, impact, soil, and, when applicable, hurricane and tidal wave loading conditions. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities associated with the buildings shall be designed or located to prevent water from entering or accumulating within the components during flood conditions. The water tightness and structural capabilities shall be those described in floodproofing regulations, published by the office of the Chief of Engineers, U.S. Army, Washington, D.C., December 1995, or subsequent revisions, and section 16.705(c) of the Howard County Code.

3114.4.3. Modifications, alterations or repairs. Modifications, alterations, repairs, or improvements that costs less than 50% of the fair market value of the structure may be made to existing nonconforming structures located adjacent to a designated floodplain without floodproofing or elevating.

3114.4.4. Variances. Variances to the requirements set forth in this subsection may be granted by the Building Official in accordance with section 16.711 of the Howard County Code.

3114.5 Substantial improvements adjacent to a designated floodplain. Substantial improvements adjacent to a designated floodplain shall meet the standards set forth in this subsection and title 16, subtitle 7 of the Howard County Code.

3114.5.1 Residential. The lowest floor, including a basement, of substantial improvements to existing nonconforming residential structures located adjacent to a designated floodplain shall be elevated to at least 2 feet above the 100-year flood elevation.

3114.5.2 Nonresidential. The lowest floor, including a basement, of substantial improvements to existing nonconforming nonresidential structures located adjacent to a designated floodplain shall be elevated to at least 2 feet above the 100-year flood elevation or shall be designed so that any area of the building which is lower than 2 feet above the 100-year flood elevation, as determined or approved by the Department of Public Works, is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of withstanding applicable hydrostatic, hydrodynamic impact, soil, and, when applicable, hurricane and tidal wave loading conditions. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities associated with the buildings shall be designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding. The water tightness and structural capabilities shall be those described in floodproofing regulations published by the Office of the Chief of Engineers, U.S. Army, Washington, D.C., December 1995, or subsequent revisions, and section 16.705(c) of the Howard County Code.

3114.6 Verification. For the purpose of verifying compliance with section 3112.4 for construction adjacent to a designated floodplain, the following shall apply:

- (i) When floodproofing by means other than elevating, a document stating that the proposed construction has been adequately designed to withstand the loading conditions stated in subsection 3112.4.2(ii) shall be certified by a professional engineer or architect currently registered in Maryland. This document shall be required prior to issuance of a building permit.
- (ii) When floodproofing by elevating is used, the owner shall agree, in writing, to provide a FEMA elevation certificate form 086-0-33, completed by a professional engineer or professional land surveyor currently registered in Maryland, certifying that the as-built lowest floor of the structure is elevated at least 2 feet above the 100-year floodplain elevation. The agreement shall be made prior to the issuance of the building permit and the completed certification shall be submitted prior to foundation approval by the Building Official.

- (iii) Fair market value of a structure shall be established by a recent (within 6 months) formal appraisal from a qualified appraiser. Fair market value shall not include land value.
- (iv) Cost to repair or improve a structure shall be established by a recent (within 6 months) written estimate from a licensed contractor and shall include the complete cost of repairs or improvements to the point of use or occupancy.

3114.7 Definitions. Notwithstanding Chapter 2 of the International Building Code, the following definitions shall apply to section 3112, Floodplain, of this Code:

Accessory structure. A detached structure on the same parcel or property as the principal structure that has a use that is incidental to the principal structure including, but not limited to, a shed or detached garage.

Adjacent to a floodplain. Sharing a common border with a floodplain.

Basement. An enclosed area that is below grade on all sides.

Floodplain. Shall be as delineated in title 16, subtitle 7 of the Howard County Code.

Floodproofing. Any combination of additions, changes, or adjustments to a structure which reduce or eliminate flood damage to real estate or improved real property, water or sanitary facilities, or structures and their contents, such that the buildings or structures are watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Historic structure. A building listed on the national register of historic places, a state inventory of historic places, or an inventory of historic structures adopted by resolution of the County Council. A historic structure also includes a structure that is certified or preliminarily determined by the United States Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

Lowest floor. The lowest floor or the lowest enclosed area, including a basement. Lowest floor does not include an unfinished or flood resistant enclosure used solely for parking vehicles, building access, or storage in an area other than a basement area. The enclosure shall not be built so as to render the structure in violation of the applicable non-elevation design requirements of subsections 3112.4 and 3112.6 of this Code.

Manufactured home. A manufactured home shall have the meaning set forth in title 16, subtitle 7 of the Howard County Code.

New construction. Structures, including additions and improvements, and the placement of manufactured homes, for which the start of construction commenced on or after 3/15/1977, the initial effective date of the Howard County Flood Insurance Rate Map, including any subsequent improvements, alterations, modifications, and additions to such structures.

The repair or replacement of a manufactured home because of substantial damage is considered to be new construction and is prohibited in accordance with section 3112.2.1 of this Code.

Structure. For purposes of this subsection 3112 to this Code, shall have the meaning set forth in title 16, subtitle 7 of the Howard County Code .

Substantial damage. Damage of any origin sustained by a structure where the cost of returning the structure to its condition prior to damage would equal or exceed 50% of the structure's fair market value before the damage occurred.

Substantial improvement. The repair, reconstruction, or improvement of a building or structure, the cost of which is equal to or greater than 50% of the fair market value of the building or structure prior to damage, improvement, or repair. For the purpose of this definition, "substantial improvement" occurs when the first alteration of a wall, ceiling, floor, or other structural part of the building begins, whether or not that alteration affects the external dimensions of the building or structure. The term does not include any project for improving a building or structure to comply with existing State or local health, sanitary, or housing code requirements which are necessary to assure safe living conditions. This term does not include an alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance. The grant of relief from a term of this subtitle.

3114.8 Variances and waivers. Except as provided in section 3112.4 of this Code, a variance or waiver of this section is not allowed. The Building Official shall consider a variance in accordance with the provisions of section 16.711 of the Howard County Code.

3114.9 Other agencies. A permit issued by the Building Official under this subtitle is not valid until all necessary permits for the development are obtained. Receipt of federal or State permits do not exempt a development from the provisions of this subtitle.

(74) *Subsection 3306.10 Accessibility during construction operations.*

Add new subsection 3306.10 after subsection 3306.9 as follows:

3306.10 Accessibility during construction operations. Prior to and during construction, the contractor shall provide and maintain at all times a minimum 12-foot wide vehicular access roadway that will allow the unimpeded movement of fire or emergency rescue vehicles from an improved street to within 200 feet of the most remote building under construction on the site. The vehicular access roadway surface shall be crusher run, stone base, blacktop, or other suitable compacted surface material approved by the Building Official.

(75) *Section 3315 Construction site grading.*

Add new section 3315 after section 3314 as follows:

Section 3315 Construction site grading.

3315.1 Lot improvements. Lot improvements shall provide:

- (i) Suitable access from an abutting street to dwellings and accessory buildings subject to a permit;
- (ii) Grading which will divert water away from buildings and prevent standing water and soil saturation detrimental to structures or lot use;
- (iii) Disposal of water from lots, except as necessary for controlled irrigation;
- (iv) Grades for safe and convenient access to and around buildings or lots for use and maintenance; and
- (v) Grades that do not adversely affect adjoining lots.

3315.2 Minimum gradient. The minimum gradient for concrete or other impervious surfaces shall be 1/16 inch per foot (½%). The minimum gradient for pervious surfaces shall be ¼ inch per foot (2%).

3315.3 Maximum gradient. Except where restricted by property lines, the maximum gradient shall be 2½ inches (21%) for a minimum of 4 feet away from building walls. Slopes not exceeding 30 inches shall be 1½ to 1. Slopes exceeding 30 inches shall be 2 to 1. The top and bottom of banks at the swales shall be rounded for convenient maintenance.

3315.4 Finish grading. For areas where the installation of lawn or planting is required, the surface layer of the soil shall be workable, free of debris, and lot finished graded to comply with grading design. Finish grading shall be done when the ground is frost-free and the weather is favorable. Lawn covers shall be provided to prevent the erosion of swales and slopes.

(C.B. 13, 2019, § 1; C.B. 13, 2019, § 1)

Editor's note— See editor's note to Subtitle 1.

Sec. 3.102. - Amendments to the International Residential Code, 2018 edition.

(a) *In general.*

- (1) As used in this section, the term "this Code" means the International Residential Code for One- and Two-Family Dwellings, 2018 Edition.
- (2) As used in this Code, the term "Building Official" means the Director of the Department of Inspections, Licenses and Permits or the Director's authorized designee.
- (3) Where the name of the jurisdiction is to be indicated in any section of this Code, insert "Howard County".
- (4) As used in this Code, the term "Department of Building Safety" means the Department of Inspections, Licenses and Permits.

(b) *Local amendments.* The following amendments modify certain provisions of the adopted code.

(1) *Subsection R101.2 Scope.*

Add the following at the end of the subsection:

R101.2.1 Subdivision and land development. If a site development plan is required by the Howard County Subdivision Regulations, a permit shall not be issued until the site development plan is approved unless authorized by the Director of Planning and Zoning.

R101.2.2 Site work and safeguards. The requirements of the International Building Code, Chapter 33, shall apply for site work and safeguards during construction.

(2) *Subsection R102.2 Other laws.*

Add the following to the end of this subsection:

R102.2.1 Residential sprinkler. Residential sprinkler systems installed in accordance with section 903.3.1.3 of the International Building Code, 2018 edition, are allowed for townhouse sprinkler systems required by the fire laws contained in the Public Safety Article of the Annotated Code of Maryland.

R102.2.2 Industrialized (modular) construction. The construction standards of the Industrialized Building and Manufactured Homes Act, codified at title 12, subtitle 3 of the Public Safety Article of the Annotated Code of Maryland shall apply to industrialized (modular) buildings.

Exception : The Howard County Fire Prevention Code, Subdivision and Land Development Regulations, Zoning Regulations, and sediment and erosion control regulations apply to the construction of industrial (modular) buildings. The requirements of this Code shall apply to the foundation and site work associated with the installation of industrialized (modular) buildings.

R102.2.3 Manufactured housing. The construction standards of the Federal Mobile Home Act and the Industrialized Building and Manufactured Homes Act, codified at title 12, subtitle 3 of the Public Safety Article of the Annotated Code of Maryland shall apply.

Exception: The Howard County Fire Prevention Code, Subdivision and Land Development Regulations, Zoning Regulations, and sediment and erosion control regulations apply to the construction of manufactured homes. The requirements of Appendix E of this Code, for design and installation of footings, foundations, skirting and perimeter enclosures, exits, piers, and ground anchors shall apply for the siting of manufactured homes.

(3) *Subsection R102.4 Referenced codes and standards.*

Add the following to the end of this subsection:

R102.4.3 Whenever in this Code the term "NFPA 70 National Electrical Code " is used, it shall mean the Electrical Code for Howard County adopted pursuant to subtitle 2 of this title.

R102.4.4 Whenever in this Code the term " *International Plumbing Code* " is used, it shall mean the Plumbing and Gasfitting Code for Howard County adopted pursuant to subtitle 3 of this title.

R102.4.5 Whenever in this Code the term " *International Fire Code* " is used, it shall mean the Howard County Fire Prevention Code adopted pursuant to section 17.104 of the Howard County Code.

R102.4.6 Whenever in this Code the term " *International fuel gas code* " is used, it shall mean the Plumbing and Gasfitting Code for Howard County adopted pursuant to subtitle 3 of this title.

R102.4.7 Whenever in this Code the term " *International Private Sewage Disposal Code* " is used, it shall mean Howard County water and sewer regulations adopted in title 18, subtitle 1, subtitle 12, and subtitle 15 and in title 12, subtitle 1 of the Howard County Code.

R102.4.8 Whenever in this Code the term " *International Property Maintenance Code* " is used, it shall mean the Howard County Property Maintenance Code for rental housing adopted pursuant to subtitle 7 of this title.

R102.4.9 Whenever in this Code the term " *International Mechanical Code* " is used, it shall mean the Mechanical Code of Howard County adopted pursuant to section 3.103 of this subtitle.

R102.4.10 Whenever in this Code the term " *International Building Code* " is used, it shall mean the Howard County Building Code adopted pursuant to this subtitle.

(4) *Subsection R102.7 Existing Structures.*

In this subsection delete " *International Property Maintenance Code* or the *International Fire Code* " and substitute "Howard County Property Maintenance Code for Rental Housing, Howard County Fire Prevention Code, and the Maryland Building Rehabilitation Code".

(5) *Subsection R102.7.1 Additions, alterations or repairs.*

Insert at the beginning of the first sentence:

"Unless excepted by the Maryland Building Rehabilitation Code,".

(6) *Sections R103 through R114.*

Delete sections R103 through R114, inclusive and in their entirety, and substitute the following:

R103 Administration. Sections 103 through 118 of the International Building Code, 2018 edition, as adopted and amended in this subtitle, shall govern the administration and enforcement of this Code.

- (7) Table R301.2(1) Climatic and Geographic Design Criteria.

Delete table R301.2(1) and substitute:

Ground Snow Load ^a	Wind Design				Seismic Design Category ^f	Subject To Damage From			Winter Design Temp ^f	Ice Barrier Underlayment Required ^b	Flood Hazards ^g	Air Freezing Index ⁱ	Mean Annual Temp ^j
	Speed ^d (mph)	Topographic Effects ^k	Special Wind Region ^l	Windborne Debris Zone ^m		Weathering ^a	Frost Line Depth ^b	Termite ^c					
25 lbs	115	No	No	No	A	Severe	30"	Mod Heavy	20 °F	Yes	See Flood Maps	1500	55 °F
Manual J Design Criteria													
Elevation		Latitude		Winter Heating		Summer Cooling		Altitude Correction Factor	Indoor Design Temperature	Design Temperature Cooling		Heating Temperature Difference	
148 ft		39		15 °F		91 °F		-	70 °F	75 °F		55 °F	
Cooling Temperature Difference		Wind Velocity Heating		Wind Velocity Cooling		Coincident Wet Bulb		Daily Range		Winter Humidity	Summer Humidity		
16 °F		15 °F		7.5 °F		74		M		30	50		-

- (8) *Subsection R301.2.4 Floodplain construction.*

In this subsection, delete "ASCE 24" and substitute "Section 3112, Floodplain, of the Howard County Building Code".

- (9) *Subsection R301.2.4.1 Alternative provisions.*

Delete this Subsection.

- (10) *Subsection R301.6 Roof Load.*

After the first "load" delete the rest of the sentence and Substitute "of 40 psf".

- (11) *Table R301.6 Minimum Roof Live Loads.*

Delete the table in its entirety.

- (12) *Subsection R302.2 Townhouses.*

In the first sentence delete "in accordance with sections R302.2.1 and R302.2.2" and substitute the following:

"with a 2-hour fire resistance rated wall assembly or two 1-hour fire resistance rated walls, tested in accordance with ASTM E119, UL 263 or Section 703.3 of the International Building Code".

- (13) *Subsection R302.2.6 Structural independence.*

Delete exception number 5.

- (14) *Subsection R308.4.3 Glazing in Windows.*

In number 4, add exception number 4 as follows:

"Safety glaze film in accordance with ANSI Z97.1".

- (15) *Subsection R311.7.8.5 Grip size.*

- (i) In number 1, delete "2 ¼ inches (57 mm)" and substitute "3 ¼ inches"; and
- (ii) In number 2, delete "2 ¾ inches (70 mm)" and substitute "3 ¼ inches".

- (16) *Subsection R312.1.1 Where Required.*

Add the following exception:

" **Exception:** Alternative designs may be approved by the Building Official."

- (17) *Subsection R313.2 One- and two-family dwellings automatic fire sprinkler systems :*

In the exception, after the first "sprinkler system" delete the rest of the sentence and substitute " for additions or alterations less than fifty percent of the existing gross area of the building or structure are exempt from fire sprinkler systems.

- (18) *Subsection R320.1 Scope.*

Delete this subsection and substitute the following:

R320.1 Scope. Accessible dwelling units shall comply with the provisions of the Maryland Accessibility Code.

- (19) *Subsection R322. Flood Resistant construction.*

Delete this subsection in its entirety and substitute:

Subsection R322. Flood-resistant construction. The construction, reconstruction, modification, alteration, repair, or improvement of buildings, manufactured homes, or other structures located within a designated floodplain shall be done in accordance with the requirements set forth in section 3114 of the Howard County Building Code.

- (20) *Subsection R324.6 Roof access and pathways.*

Add Exception 4 as follows:

"4. Pathways are not required when photovoltaic systems are installed on only one side of the roof structure."

- (21) *Subsection R324.6.2 Setback at Ridge*

In the first sentence, after "not less than" delete "an 18-inch (457 mm)" and substitute "a 36-inch".

- (22) *Subsection R326.1 general.*

Delete "International Swimming Pool and Spa Code" and substitute with "in accordance with section 3109 of the International Building Code".

- (23) *Section R328 Sound transmission.*

Add new section R328 after section R327 as follows:

R328 Sound transmission. The requirements of Appendix K shall apply to the construction of all new residential buildings.

- (24) *Section R329 Radon control.*

Add new section R328 after section R328 as follows:

Section R329 Radon control. Radon control methods set forth in Appendix F, shall apply to the construction of new residential buildings.

- (25) *Section R330 Manufactured Housing.*

Add new section R330 after section R329 as follows:

Section R330 Manufactured Housing. Manufactured Housing used as dwellings shall comply with Appendix E.

(26) *Subsection R403.1.1 Footing Minimum Size.*

- (i) Tables R403.1(1) and R403.1(2)

In the row titled "30 psf", under the heading titled "load bearing value of soil" for 1500, 2000 and 2500, strike the width and thickness, in each instance, and insert "16"x8".

- (ii) Table R403.1(3)

In the row titled "30 PSF", under the heading titled "Load-Bearing Value of Soil":

- a. Under "1500", in the rows for "1 story-slab-on-grade" and "1 story-with-crawl-space", strike the footing size and substitute "16"x18"; and
- b. Under "2500", in the row for "1-story slab on grade", "1-story with crawl space", "1-story plus basement" and "2-story slab on grade", strike the footing size and substitute "16"x8".

(27) *Subsection R403.1.4.1 Frost protection.*

- (i) In exception No. 1, delete "600 square feet (52 m²)" and substitute "400 square feet"; and
- (ii) Delete Exception No. 3.

(28) *Table R404.1.1(3) 10-inch masonry foundation walls with reinforcing where $d \geq 6.75$ inches.*

In the column titled "Minimum vertical reinforcement and spacing", for the soil class "GM, GC, SM, SM-SC and ML":

- a. For maximum wall height of "8 feet" and maximum unbalanced backfill height of "7 feet", change the minimum vertical reinforcement size and spacing, minimum nominal wall thickness from "5 @ 56" to "NR"; and
- b. For maximum wall height of "9 feet 4 inches" and maximum unbalanced backfill height of "7 feet", change the minimum vertical reinforcement size and spacing, minimum nominal wall thickness from "5 @ 56" to "NR".

(29) *Table R404.1.1(4) 12-inch masonry foundation walls with reinforcing where $d \geq 8.75$ inches.*

In the column titled "Minimum vertical reinforcement and spacing", for the soil class "GM, GC, SM, SM-SC and ML": for a maximum wall height of "9 feet 4 inches" and a maximum unbalanced backfill height of "8 feet", change the minimum vertical reinforcement and spacing from "6 @ 72" to "NR".

(30) *Table R404.1.2(8) Minimum vertical reinforcement for 6-, 8-, 10-inch and 12-inch nominal flat basement walls.*

In the column titled "Minimum vertical reinforcement bar size and spacing", for the soil class "GM, GC, SM, SM-SC and ML":

- (i) In the sub-column titled "Minimum nominal wall thickness (inches)", for 8 inches:
- a. For maximum wall height of 8 feet and maximum unbalanced backfill height of 7 feet, change the minimum vertical reinforcement size and spacing, minimum nominal wall thickness from "5 @ 41" to "NR"; and
- b. For maximum wall height of 9 feet and maximum unbalanced backfill height of 7 feet, change the minimum vertical reinforcement size and spacing, minimum nominal wall thickness from "5 @ 37" to "NR"; and
- (ii) In the sub-column titled "minimal nominal wall thickness (inches)"; for 10 inches, for a maximum wall height of 9 feet and a maximum unbalanced backfill height of 8 feet, change the minimum vertical reinforcement size and spacing minimum wall thickness from "5 @ 37" to "NR".

(31) *Subsection R405.1 Concrete or masonry foundations.*

Amend this subsection as follows:

- (i) Delete the exception to this subsection; and
- (ii) Add new subsection R405.1.2 after subsection 405.1.1 as follows:

R405.1.2 Foundation drains. Subsoil drains having a minimum 3 inch diameter or other approved drains of equivalent cross sectional area shall be provided around foundations enclosing usable spaces located below grade. Drains shall be installed on the exterior of the foundation or on the interior of the foundation with pipes of at least a 2-inch diameter leading to the exterior every 4 feet around the perimeter of the foundation. In each case, the top of the drain shall be below the bottom of slab. Drains for poured concrete foundation may be placed on top of the footing. Subsoil drains shall be covered with a minimum of a 4-inch depth of gravel or washed stone and building paper, filter cloth, or other approved material. The end of a subsoil drain shall discharge by gravity or by mechanical means to an approved drainage outfall.

(32) *Table R507.3.1 Minimum Footing Size For Decks.*

Delete the table in its entirety and substitute the following:

Table R507.3.1: Minimum Footing Size For Decks

Beam Span less than or equal to:	Joist Span less than or equal to:	Size of Square	Size of Round	Minimum Thickness
8'	10'	16"	18"	8"
	14'	16"	18"	8"
	18'	16"	18"	8"
12'	10'	16"	18"	8"
	14'	16"	18"	8"
	18'	16"	18"	8"
17'	10'	16"	18"	8"
	14'	16"	18"	8"

(33) *Subsection R602.10.5 Minimum length of a braced wall panel.*

After the first sentence insert the following:

WSP method is the preferred method of sheathing. If a method other than WSP method is used, then detailed site-specific plans showing the specific location, length, and nailing methods of panels and whether any specialized equipment/hardware, etc., will be required. Such detailed plans shall always be required, even if utilizing the WSP method, for walls with large-openings (e.g., sunroom/morning rooms and garage openings). In addition, all projects with site-specific detailed plans (i.e., all projects not braced in accordance with the WSP method and the portion of large-opening wall sections mentioned above) will require inspection prior to the installation of exterior wall weatherproofing (e.g., house wraps, siding, etc.).

(34) *Chapter 11 Energy Efficiency*

Delete chapter 11 in its entirety.

(35) *Subsection M1401.1.1 HVAC permit required.*

Add new subsection M1401.1.1 after subsection M1401.1 as follows:

M1401.1.1 HVAC permit required. A HVAC permit is required for every system installed in a new single family dwelling or new single family addition and for the installation of any duct work.

(36) *Subsection M1401.3.1 Plans and information required.*

Add new subsection M1401.3.1 after subsection M1401.3 as follows:

M1401.3.1 plans and information required. Each permit application shall be accompanied by a simplified, but accurate, plan drawn to scale which shall include:

- (i) An information block with the:
 - a. Specific building address (not lot number);
 - b. Name of the company or person doing work;
 - c. Name of the licensee and their signature;
 - d. State license registration number;
 - e. Scale used; and
 - f. North arrow;
- (ii) Rooms, windows, exterior doors, or other relevant construction features including, but not limited to, skylights, porches, or attic access to equipment that may affect the integrity of the HVAC system and its installation; and
- (iii) A line drawing of HVACR system components superimposed on the plan showing the location, dimension, and relevant elements, including, but not limited to:
 - a. Interior or exterior HVACR equipment;
 - b. Duct trunk lines and transitions;
 - c. Branch ducts/run-outs, dampers, and registers with cfm ratings;
 - d. Thermostats;
 - e. Return ducts and grills; and
 - f. Duct insulation; and
- (iv) A summary of Manual J calculations for the proposed work.

(37) *Subsection M1503.3 Exhaust Discharge.*

In the first sentence of the exception after the first "where" insert the following:

"an operable window located within 12 feet of the cooking surface is provided and".

- (38) *Chapter 24 and Chapters 34 through Chapter 43.*

Delete these chapters, inclusive and in their entirety.

- (39) *Subsection P2503.8.2 Testing*

After the word "relocation" delete the rest of the sentence.

- (40) *Subsection P2603.5.1 Sewer Depth*

(i) Delete the first sentence in its entirety.

(ii) In the second sentence insert "30" in place of the word number and delete "(mm)".

- (41) *Subsection P2708.2 Shower Drain*

Delete "1 ½ inches" and substitute "2 inches".

- (42) *Section P3114 Air Admittance Valves.*

Delete this section in its entirety.

- (43) *Chapter 32, Table P3201.7 Size of Traps for Plumbing Fixtures:*

(i) In the row titled "shower", in the row titled "flow rate" delete "5.7 gpm and less and trap size 1 ½".

(ii) In second line under "flow rate", delete "More than 5.7 gpm" and start the sentence with "up to 12.3 gpm".

- (44) *Appendix K Section AK102.1 General.*

In the first sentence, delete "45" and substitute "50".

- (45) *Appendix K Section AK103.1 General.*

In the first sentence, delete "45" and substitute "50".

(C.B. 13, 2019, § 1)

Editor's note— See editor's note to Subtitle 1.

Sec. 3.103. - Amendments to the International Mechanical Code, 2018 Edition.

- (a) *In general.*

(1) As used in this section, the term "this Code" means the International Mechanical Code, 2018 edition.

(2) As used in this Code, the term "Building Official" means the Director of the Department of Inspections, Licenses and Permits or the Director's authorized designee.

(3) Where the name of the jurisdiction is to be indicated in any section of this Code, insert "Howard County".

(4) As used in this Code, the term "Department of Mechanical Inspection" means the Department of Inspections, Licenses and Permits.

- (b) *Local amendments.* The following amendments modify certain provisions of the adopted Code:

(1) *Subsection 101.2 Scope.*

Add a second exception to this subsection as follows:

Exception: Existing buildings undergoing repair, alteration, addition, or change of occupancy may comply with the Maryland Rehabilitation Code.

(2) *Subsection 101.5 Administration.*

Add new subsection 101.5 after subsection 101.4 as follows:

101.5 Administration. Sections 103 through 118 of the International Building Code, 2018 edition, adopted in this subtitle, shall govern the administration and enforcement of this Code.

(3) *Subsection 101.6 referenced codes.*

Add new subsection 101.6 after subsection 101.5 as follows:

101.6 referenced codes. The codes listed in this section and referenced elsewhere in this Code shall be considered part of the requirements of this Code to the prescribed extent of each such reference.

101.6.1 Whenever in this Code the term " *International Building Code* " is used, it shall mean the Howard County Building Code adopted pursuant to this subtitle.

101.6.2 Whenever in this Code the term " *NFPA 70 National Electrical Code* " is used, it shall mean the Electrical Code for Howard County adopted pursuant to subtitle 2 of this title.

101.6.3 Whenever in this Code the term " *International Plumbing Code* " is used, it shall mean the Plumbing and Gasfitting Code for Howard County adopted pursuant to subtitle 3 of this title.

101.6.4 Whenever in this Code the term " *International Fire Code* " is used, it shall mean the Howard County Fire Prevention Code adopted pursuant to section 17.104 of the Howard County Code.

101.6.5 Whenever in this Code the term " *International Fuel Gas Code* " is used, it shall mean the Plumbing and Gasfitting Code for Howard County adopted pursuant to subtitle 3 of this title.

101.6.6 Whenever in this Code the term " *International Energy Conservation Code* " is used, it shall mean the Energy Conservation Code of Howard County adopted pursuant to section 3.104 of this subtitle.

101.6.7 Whenever this Code states "1612 of the International Building Code", in each instance delete "1612 of the International Building Code" and substitute "section 3112 of the Howard County Building Code."

(4) *Subsection 102.1 General.*

Add an exception to subsection 102.1 as follows:

Exception : Alternative features which are accepted by the Building Official shall be considered in conformance with all codes, provided that the overall level of health, safety and welfare of the Code requirement is not diminished by the alternative feature.

(5) *Section 103 through Section 109.*

Delete Section 103 through Section 109, inclusive and in their entirety.

(6) *Subsection 301.16 Flood hazard.*

In the exception to this subsection, delete " *International Building Code* " and substitute "Section 3112 of the Howard County Building Code."

- (7) *Subsection 307.2.2 Drainpipe materials and sizes.*

In the third sentence, delete "the applicable provisions of chapter 7 of".

- (8) *Subsection 402.1 natural ventilation.*

After the last sentence, insert the following:

"If cross ventilation cannot be provided, an operable window within 12 feet of the cooking surface is acceptable."

(C.B. 13, 2019, § 1)

Editor's note— See editor's note to Subtitle 1.

Sec. 3.104. - Amendments to the International Energy Conservation Code, 2018 edition.

- (a) *In general.*

- (1) As used in this section, the term "this Code" means the International Energy Conservation Code, 2018 edition.
- (2) As used in this Code, the term "Code Official" means the Director of the Department of Inspections, Licenses and Permits or the Director's authorized designee.
- (3) Where the name of the jurisdiction is to be indicated in any section of this Code, insert "Howard County".

- (b) *Local amendments.* The following amendments modify certain provisions of the adopted code:

- (1) *Subsection C101.1 Title.*

Delete this subsection and insert the following:

C101.1 Title. These regulations shall be known as the Energy Conservation Code of Howard County.

- (2) *Subsection C101.6 Referenced Codes.*

Add new subsection C101.6 after subsection C101.5 as follows:

C101.6 Referenced Codes. The codes listed in this section and referenced elsewhere in this Code shall be considered part of the requirements of this Code to the prescribed extent of each such reference.

C101.6.1 Whenever in this Code the term "*International Building Code*" is used, it shall mean the Howard County Building Code adopted pursuant to this subtitle.

C101.6.2 Whenever in this Code the term "*NFPA 70 National Electrical Code*" is used, it shall mean the Electrical Code for Howard County adopted pursuant to subtitle 2 of this title.

C101.6.3 Whenever in this Code the term "*International Plumbing Code*" is used, it shall mean the Plumbing and Gasfitting Code for Howard County adopted pursuant to subtitle 3 of this title.

C101.6.4 Whenever in this Code the term "*International Fire Code*" is used, it shall mean the Howard County Fire Prevention Code adopted pursuant to section 17.104 of the Howard County Code.

C101.6.5 Whenever in this Code the term "*International Fuel Gas Code*" is used, it shall mean the Plumbing and Gasfitting Code for Howard County adopted pursuant to subtitle 3 of this title.

C101.6.6 Whenever in this Code the term " *International Mechanical Code* " is used, it shall mean the Mechanical Code of Howard County adopted pursuant to section 3.103 of this subtitle.

(3) *Section C101.7 Administration.*

Add new subsection C101.7 after subsection C101.6 as follows:

C101.7 Administration: Sections 103 through 118 of the International Building Code, 2018 edition, adopted in this subtitle, shall govern the administration and enforcement of this Code.

(4) *Section C103 through Section C109.*

Delete sections C103 through C109, inclusive and in their entirety.

(5) *Section C202 General definitions.*

Delete the definition of "Code Official".

(6) *Subsection R 101.1 Title.*

Delete this subsection and insert the following:

R101.1 Title. These regulations shall be known as the Energy Conservation Code of Howard County.

(7) *Subsection R101.6 Referenced codes.*

Add new subsection R101.6 after subsection R101.5 as follows:

R101.6 Referenced codes. The codes listed in this section and referenced elsewhere in this Code shall be considered part of the requirements of this Code to the prescribed extent of each such reference.

R101.6.1 Whenever in this Code the term " *International Building Code* " is used, it shall mean the Howard County Building Code adopted pursuant to this subtitle.

R101.6.2 Whenever in this Code the term " *NFPA 70 National Electrical Code* " is used, it shall mean the Electrical Code for Howard County adopted pursuant to subtitle 2 of this title.

R101.6.3 Whenever in this Code the term " *International Plumbing Code* " is used, it shall mean the Plumbing and Gasfitting Code for Howard County adopted pursuant to subtitle 3 of this title.

R101.6.4 Whenever in this Code the term " *International Fire Code* " is used, it shall mean the Howard County Fire Prevention Code adopted pursuant to section 17.104 of the Howard County Code.

R101.6.5 Whenever in this Code the term " *International Fuel Gas Code* " is used, it shall mean the Plumbing and Gasfitting Code for Howard County adopted pursuant to subtitle 3 of this title.

R101.6.6 Whenever in this Code the term " *International Mechanical Code* " is used, it shall mean the Mechanical Code of Howard County adopted pursuant to section 3.103 of this subtitle.

(8) *Section R101.7 Administration.*

Add new subsection R101.7 after subsection R101.6 as follows:

R101.7 Administration: Sections 103 through 118 of the International Building Code, 2015 edition, adopted in this subtitle, shall govern the administration and enforcement of this Code.

- (9) *Section R103 through section R109.*

Delete sections R103 through R 109, inclusive and in their entirety.

- (10) *Section R202 General definitions.*

Delete "code official" and its definition.

(C.B. 13, 2019, § 1)

Editor's note— See editor's note to Subtitle 1.

Sec. 3.105. - Electric vehicle charging infrastructure.

- (a) *Definitions.*

(1) *Electric vehicle* means a vehicle that uses electricity for propulsion.

(2) *Electric vehicle charging station* means a connected point in an electrical wiring installation at which current is taken to charge an electric vehicle.

(3) *Level 2 charging* means a Level 2 electric vehicle charging level as defined by SAE International's J1772 standard.

- (b) *Scope.*

(1) This section applies to any proposed construction of:

(i) Residential Group R-1 and Residential Group R-2 occupancies, as those labels are used in the Howard County Building Code;

(ii) Residential occupancies with more than two units owned under a condominium or cooperative arrangement; and

(iii) Residential Group R-3 townhouse and single family detached occupancies, as those labels are used in the Howard County Building Code, regardless of the ownership arrangement.

(2) This section applies to parking spaces for electric vehicles that can use an external source of electricity to charge the electric vehicle's batteries.

- (c) *Provision of Electric Vehicle Charging Infrastructure.*

(1) For new construction subject to this section:

(i) A residential unit with a garage, carport, or driveway shall feature a dedicated electric line of sufficient voltage so that an electric vehicle charging station may be added in the future; and

(ii) The developer shall ensure that at least one communal parking space for each 25 residential units that are not covered under item (i) of this paragraph features an electric vehicle charging station.

(2) For purposes of this section, an electric vehicle charging station shall be capable of providing Level 2 charging or higher to the parking space.

(3) Electric vehicle charging stations shall be labeled for their intended use for electric vehicle charging.

(4) The Building Official, as that term is used in the Howard County Building Code, may specify performance standards for equipment that is installed to comply with this section.

- (d) *Application.* This section shall have no effect if the Howard County Building Code includes provisions to require and regulate electric vehicle charging equipment in the residential occupancies that this section covers.

(C.B. 76, 2018, § 1)

SUBTITLE 2. - ELECTRICAL REGULATIONS³

Footnotes:

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Editor's note— Section 1 of C.B. 82, 1984, repealed subtit. 2, §§ 3.200—3.213; and § 2 enacted a new subtit. 2, §§ 3.200—3.217. The subtitle was formerly derived from the following bills: 32, 1969; 12, 1973; 34, 1975; 35, 1976; 21, 1978; 31, 1978; 2, 1981; 29, 1981; 29, 1984; 39, 1984.

State Law reference— State electrical code and standards, Ann. Code of Md., Public Safety article, § 12-601 et seq.

Sec. 3.200. - Purpose.

The purpose of this subtitle is to regulate electrical work in Howard County by:

- (a) Licensing electricians;
- (b) Providing standards for electrical work; and
- (c) Providing for inspection of electrical work.

(C.B. 82, 1984; C.B. 42, 1993)

Sec. 3.201. - Definitions.

In this subtitle, the following words have the meanings indicated.

- (a) *Building official* means the Director of the Department of Inspections, Licenses and Permits or the Director's designee.
- (b) *Board* means Board of Electrical Examiners.
- (c) *Department* means the Howard County Department of Inspections, Licenses and Permits, charged with enforcement of this subtitle.
- (d) *Electrical application* means an application to do electrical work that has been filed with the Department.
- (e) *Electrical permit* means an electrical application that has been signed by an authorized representative of the Department indicating the Department's approval for the Applicant to proceed with the proposed electrical work.
- (f) *Electrical work* means the installation, repair, alteration, addition, maintenance or erection of all or part of any electrical wiring, fixture, appliance, apparatus, raceway or conduit that generates, transmits, transforms or utilizes electrical energy for light, heat, power or communication.
- (g) *Master electrician-general* means an individual licensed to do electrical work.
- (h) *Master electrician-restricted* means an individual licensed to do one or more of the following categories of electrical work as specified on the license:

- (1) Electrically operated heating, ventilation, and air-conditioning (HVAC) equipment, and temperature control wiring;
- (2) Electrically operated elevators, cranes, hoists and pumps;
- (3) Electrical display signs;
- (4) Alarm systems;
- (5) Radio, television, television antennas, cable television;
- (6) Household appliances; or
- (7) Telephone and low-voltage communications systems.

A master electrician-restricted, except licensees restricted to radio and television, may install electrical wiring from the point of distribution to, and including, the equipment or appliance being installed.

- (i) *Master electrician-limited* means an individual licensed to do electrical work only on the premises of the individual's employer that is not engaged in the business of electrical work.

(C.B. 82, 1984; C.B. 32, 1985; C.B. 62, 1988; C.B. 42, 1993; C.B. 89, 1996; C.B. 41, 2005, § 2)

Sec. 3.202. - Board of Electrical Examiners.

- (a) *General Provisions.* General provisions applicable to this board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch" of the Howard County Code.
- (b) *Number of Members.* There is a Board of Electrical Examiners consisting of seven members.
- (c) *Qualifications for Appointment:*
 - (1) All members shall be residents of Howard County.
 - (2) Four members shall be licensed pursuant to this subtitle.
 - (3) One member shall be an electrical engineer.
 - (4) Two members shall be selected from the general public.
- (d) *Executive Secretary.* The Director or the Director's designee shall serve as Executive Secretary to the Board. The Executive Secretary shall attend all Board meetings.
- (e) *Meetings.* The Board shall hold regular meetings at least twice a year. Special meetings may be held at the call of the Chairperson or by vote of a majority of the Board.
- (f) *Records; Rules.* The Board shall keep written minutes of its proceedings. The minutes shall be filed with the Department and shall be a public record. The Board shall record and transcribe any hearings held pursuant to section 3.211, "Refusal, Suspension or Revocation of Licenses," of this subtitle.
- (g) *Duties and Responsibilities:*
 - (1) The Board shall make recommendations to the Director, the County Executive, and the County Council on all matters relating to electrical work in Howard County, including the conduct of electrical business.
 - (2) The Board shall make recommendations concerning rules and regulations for the issuance of licenses, the examination of Applicants, the issuance of permits and the inspection of electrical work.
 - (3) The Board shall examine Applicants and qualify those Applicants entitled to receive a license.

- (4) The Board may refuse, suspend, revoke, or reinstate a license pursuant to the provisions of section 3.211, "Refusal, Suspension or Revocation of Licenses," and section 3.212, "Procedure for Hearing To Refuse, Suspend or Revoke License," of this subtitle.
- (5) The County Executive or the County Council, by resolution, may refer any matter related to the Board's function to the Board for its review and recommendation.

(C.B. 82, 1984; C.B. 62, 1988; C.B. 42, 1993; C.B. 89, 1996; C.B. 58, 1999; C.B. 41, 2005, § 3; C.B. 9, 2015, § 1)

Sec. 3.203. - License required to do electrical work.

- (a) *Electrical Work Performed by an Individual.* Except as exempted by (c) of this section, an individual may not do electrical work unless licensed to do so pursuant to this subtitle or unless under the supervision of an individual licensed to do so pursuant to this subtitle.
- (b) *Electrical Work Performed by a Firm or Corporation.* Except as exempted by (c) of this section, a firm or corporation may not do electrical work unless its principal(s) are licensed to perform electrical work under this subtitle or unless it employs an individual licensed to perform electrical work under this subtitle.
- (c) *Exemptions.* The following individuals, firms or corporations are exempt from the licensing requirements of this subtitle:
 - (1) *Utility Companies.* Utility companies regulated by the Public Service Commission of Maryland or contractors working for utility companies when doing electrical work on equipment owned and maintained by the utility company on its own premises or the customer's premises.
 - (2) *Radio and TV.* Radio and television transmitting stations, licensed and commissioned by the Federal Communications Commission's regulations.
 - (3) *Federal or State employees or their agents.* Employees of the United States Government or employees of the State of Maryland only when engaged in the performance of their official duties. Contractors or servicemen engaged by the United States government or by the State of Maryland to do electrical work on Federal or State-owned premises or equipment.
 - (4) *Homeowners, minor repairs :* Single-family homeowners engaged in the repair or replacement of portable appliances, lighting fixtures, fuses, lamps or sockets or the making of other minor repairs at existing outlets in the homeowner's residence.
 - (5) *Homeowners, changes to wiring :* Single-family homeowners making changes to wiring in the homeowner's residence only if performing work on a 120 volt, 15 and 20 amp branch circuit as follows:
 - (i) A homeowner may perform work after:
 - a. Passing, with a score of 70 percent or greater, a written exam administered by the Howard County Chief Electrical Inspector; and
 - b. Obtaining a Howard County electrical permit;
 - (ii) In order to obtain a Howard County electrical permit, a homeowner shall provide, at or before the exam:
 - a. A written narrative explanation of work the homeowner wishes to perform themselves; and
 - b. A drawing on 8.5 x 11 paper detailing wire type, wire location, the number of devices, the type of devices, and the location of devices; and
 - (iii) A change to wiring performed by a homeowner is subject to inspection by the Building Official.

- (6) *Manufacture or assembly of electrical equipment* : An individual, firm or corporation engaged in the manufacture or assembly of electrical equipment made by that individual, firm or corporation or made for that individual, firm or corporation.

(C.B. 82, 1984; C.B. 62, 1988; C.B. 42, 1993; C.B. 41, 2005, § 4; C.B. 47, 2008, § 2; C.B. 9, 2015, § 1)

Sec. 3.204. - Qualification's for master electrician-general license.

- (a) To qualify for a master electrician-general license, an Applicant shall be an individual who meets the requirements of this section.
- (b) The Applicant shall pay the applicable fees.
- (c) Except as provided in subsection (d) of this section, the Applicant shall hold an active master electrician's license issued by the State of Maryland.
- (d) Unless the Applicant holds an active master electrician's license issued by the State of Maryland, the Applicant shall:
- (1) Certify under penalty of perjury to having insurance as required by section 3.213 of this subtitle;
 - (2) Be at least 21 years of age; and
 - (3) (i) Hold a current active master electrician-general license from a Maryland jurisdiction that:
 1. Has equivalent examination and qualifying procedures to those required in Howard County; and
 2. Grants reciprocity to Howard County licensees;
 - a. Have no license related violations outstanding for more than 30 days in that jurisdiction; and
 - b.
 1. If the Applicant obtained the license by examination, have held it for at least one year; or
 2. If the Applicant obtained the license without examination, have held it for at least two years; or
 - (ii)
 - a. Have been regularly and principally engaged in electrical work for at least seven years under the direction and supervision of a master electrician-general or similarly qualified individual;
 - b.
 1. An Applicant with a four-year certificate from a Maryland apprenticeship school approved by the Maryland Apprenticeship Training Council may be credited with up to six months of practical experience;
 2. An Applicant with a bachelors degree in engineering may be credited with up to two years of practical experience; and
 3. An Applicant with a master's degree in professional engineering may be credited with up to three years of practical experience;
 - c. Have correctly answered at least 70 percent of the questions on the examination given by the Board to determine the individual's knowledge and skill in electrical work; and
 - d. Satisfy the Board as to character, experience, and training.

(C.B. 82, 1984; C.B. 40, 1989; C.B. 56, 1991; C.B. 42, 1993; C.B. 89, 1996; C.B. 41, 2005, §§ 1, 5)

Sec. 3.205. - Qualification for master electrician-restricted license.

- (a) To qualify for a master electrician-restricted license, an Applicant shall be an individual who meets the requirements of this section.
- (b) The Applicant shall be at least 21 years of age.
- (c) The Applicant shall certify under penalty of perjury to having insurance as required by section 3.213 of this subtitle.
- (d) The Applicant shall pay the applicable fee.
- (e) Except as provided in subsection (f) of this section, the Applicant shall:
 - (1) Hold a current active master electrician-restricted license from a Maryland jurisdiction that:
 - (i) Has equivalent examination and qualifying procedures to those required in Howard County; and
 - (ii) Grants reciprocity to Howard County licensees;
 - (2) Have no license-related violations outstanding for more than 30 days in that jurisdiction; and
 - (3)
 - (i) If the Applicant obtained the license by examination, have held it for at least one year; or
 - (ii) If the Applicant obtained the license without examination, have held it for at least two years.
- (f) Unless the Applicant meets the requirements of subsection (e) of this section, the Applicant shall:
 - (1)
 - (i) Have been regularly and principally engaged in the category of electrical work to which the license is restricted for at least two years under the direction and supervision of a master electrician-general, master electrician-restricted, qualified company agent, or similarly qualified individual; and
 - (ii) A month of full-time study or training shall equal one month of practical experience if the Applicant received up to six months:
 - a. Full-time study in electrical engineering at an accredited college or university; or
 - b. Full-time training in electrical work at a trade school recognized by the State board of electrical examiners;
 - (2) Have correctly answered at least 70 percent of the questions on the examination given by the Board to determine the individual's knowledge and skill in one or two restricted types of electrical work; and
 - (3) Satisfy the Board as to character, experience, and training.

(C.B. 82, 1984; C.B. 40, 1989; C.B. 56, 1991; C.B. 42, 1993; C.B. 89, 1996; C.B. 41, 2005, § 1, 5)

Sec. 3.206. - Qualifications for master electrician-limited license.

- (a) To qualify for a master electrician-limited license, an Applicant shall be an individual who meets the requirements of this section.
- (b) The Applicant shall pay the applicable fees.
- (c) The Applicant shall certify that work will be performed only on the premises of an employer that is not engaged in the business of electrical work.
- (d) Except as provided in subsection (e) of this section, the Applicant shall hold an active master electrician's license issued by the State of Maryland.

- (e) Unless the Applicant holds an active master electrician's license issued by the State of Maryland, the Applicant shall:
- (1) Certify under penalty of perjury to having insurance as required by section 3.213 of this subtitle;
 - (2) Be at least 21 years of age; and
 - (3) (i) Hold a current active master electrician-limited license from a Maryland jurisdiction that:
 1. Has equivalent examination and qualifying procedures to those required in Howard County; and
 2. Grants reciprocity to Howard County licensees:
 - a. Have no license-related violations outstanding for more than 30 days in that jurisdiction; and
 - b.
 1. If the Applicant obtained the license by examination, has held it for at least one year; or
 2. If the Applicant obtained the license without examination, has held it for at least two years; or
 - (ii)
 - a. Have been regularly and principally engaged in electrical work for at least two years under the direction and supervision of a master electrician-general, master electrician-limited, or similarly qualified individual and a month of full-time study or training shall equal one month of practical experience if the Applicant received up to six months:
 1. Full-time study in electrical engineering at an accredited college or university; or
 2. Up to six months of full-time training in electrical work at a trade school recognized by the State Board of Electrical Examiners;
 - b. Have correctly answered at least 75 percent of the questions on the examination given by the Board to determine the individual's knowledge and skill in electrical work; and
 - c. Satisfy the Board as to character, experience, and training.

(C.B. 82, 1984; C.B. 10, 1986; C.B. 56, 1991; C.B. 42, 1993; C.B. 89, 1996; C.B. 41, 2005, §§ 1, 5)

Sec. 3.207. - License application.

Individuals shall apply for license issuance, renewal, reactivation or reinstatement to the Board of Electrical Examiners using an application form prescribed by the Board.

This application shall contain, if applicable:

- (a) Applicable fees, including the application fee; and
- (b) Evidence of any current and valid licenses required for the granting, renewal or reinstatement of a license; and
- (c) Certification under penalty of perjury to having insurance pursuant to section 3.213, "Indemnity and Insurance, of this subtitle; and
- (d) Name and address of individual to be licensed; and
- (e) Name, address and telephone number of firm or corporation for which licensee works; and
- (f) Evidence of experience; and
- (g) Character references, if required; and

(h) Evidence of successful study or training in electrical work, if required.

(C.B. 82, 1984; C.B. 10, 1986; C.B. 62, 1988; C.B. 40, 1989; C.B. 56, 1991; C.B. 42, 1993)

Sec. 3.208. - License examinations.

- (a) *When examinations are given.* The Board shall set the date for all public scheduled examinations. Individual examinations may be given at any time by the Director of The Department of Inspections, Licenses, and Permits or the Director's Authorized Designee.
- (b) *Notice of Examinations.* The Board shall give public notice of the date of regularly scheduled examinations by advertisement at least once in a newspaper of general circulation in the County, at least 60 days prior to the date of examination.
- (c) *Application for Examination.* Applications for licenses shall be filed with the Board 45 days preceding the date of examination. The Applicant shall pay the application/examination fee.
- (d) *Board Decision.* Promptly after an examination and, in no event, longer than 45 days after an examination, the Board shall make a decision as to:
 - (1) The qualifications of the Applicant; and
 - (2) Whether the license will be granted.
- (e) *Notice of Board Decision.* The Board shall mail the Applicant notice of its decision whether or not to grant a license.
- (f) *Appeal.* An individual whose application has been rejected or who has been refused a license for failure to obtain a passing grade may appeal the decision to the Board of Appeals.
- (g) *Reexamination.* An Applicant who fails to pass an examination may take a reexamination at the next regularly scheduled examination. The Applicant shall pay an additional examination fee and submit a completed application at least 45 days prior to the examination.

(C.B. 82, 1984; C.B. 42, 1993; C.B. 9, 2015, § 1)

Sec. 3.209. - Duration of licenses.

- (a) *Master Electrician-General Licenses:* Master electrician-general licenses expire on November 30 in each odd-numbered year and are renewable for two years upon payment of the license renewal fee and completions of the renewal application form.
- (b) *Master Electrician-Restricted and Master Electrician-Limited Licenses:* Master electrician-restricted and master electrician-limited licenses expire on November 30 in each even-numbered year and are renewable for two years upon payment of the license renewal fee and completion of the renewal application form.
- (c) *Restoration of Expired Master-Electrician License:*
 - (1) This subsection applies only to licensees who do not hold a license issued by the State of Maryland.
 - (2) If a master electrician-general, master electrician-restricted, or master-electrician limited license expires because of failure to renew, the license may be restored upon payment of the license renewal fee plus a restoration fee.
 - (3) Master electrician-general licenses, master electrician-restricted licenses and master electrician-limited licenses may be restored within a 90-day period after expiration.
 - (4) If an expired license is not renewed within the restoration period, the individual holding the expired license may be issued a license:

- (i) If the individual demonstrates to the Board just cause why reinstatement should be granted, and pays the required renewal and restoration fees; or
 - (ii) If the individual provides documentation to the Board that the original license was obtained after the individual passed an examination that is equivalent to the examination required to obtain the type of license sought to be reinstated, and the individual pays the required renewal and restoration fees.
- (d) *Inactive Licenses:*
- (1) *Active to inactive at request of licensee.* A licensee who holds an active license may at any time during the license period submit a written request to the Board to place the license on an inactive status, during which time the licensee is not required to carry insurance and may not do electrical work.
 - (2) *Automatic active to inactive.* An active license of a licensee shall automatically become inactive whenever notification of expired or canceled insurance is received by the Board.
 - (3) *Reactivation.* If the licensee elects to return to an active status at any time during the two-year licensing period, the license may be reactivated when the Board receives:
 - (i) A written request from the license holder to activate the license; and
 - (ii) Certification, under penalty of perjury, to having insurance pursuant to section 3.213 "indemnity and insurance" of this subtitle.
 - (iii) The completed form, if applicable.
- (e) *Notification When Licensee Changes Employer or Address:* In order to ensure receipt of licensing information, fee changes or changes in the Electrical Code, a licensee shall notify the Board in writing whenever the licensee changes employer, company name or address. A company or firm operating on a license held by an employee or principal shall notify the Board if the employee or principal leaves.

(C.B. 82, 1984; C.B. 4, 1988; C.B. 62, 1988; C.B. 56, 1991; C.B. 42, 1993; C.B. 89, 1996)

Sec. 3.210. - Fees for licenses.

The County Executive, upon recommendation of the Board, shall forward to the County Council a recommendation for the fees to be charged for electrical licenses and license examinations. The County Council shall adopt by resolution a schedule of fees for licenses. The schedule shall remain in effect until the effective date of any revised schedule adopted by the County Council.

(C.B. 82, 1984; C.B. 42, 1993)

Sec. 3.211. - Refusal, suspension or revocation of licenses.

The Board may refuse, suspend or revoke a license, after a hearing, for any of the following causes:

- (a) Obtaining a license by false or fraudulent representation.
- (b) Transferring the authority granted by the license to another individual.
- (c) Engaging in unfair or deceptive trade practices as defined in the Commercial Law article of the Annotated Code of Maryland.
- (d) Willfully or deliberately disregarding and violating the Building Code, Electrical Code or laws of the County.
- (e) Aiding or abetting an individual, firm or corporation to evade the provisions of this subtitle.

- (f) Failing to adequately train and control persons selling or estimating electrical work performed under a licensee's supervision.
- (g) Performing or permitting the performance of defective or dangerous work.
- (h) Except as otherwise provided, failing to obtain an electrical permit prior to beginning any electrical work.
- (i) Failing to correct work in violation of this subtitle within 30 days.
- (j) Violating any provision of this subtitle.

(C.B. 82, 1984; C.B. 42, 1993)

Sec. 3.212. - Procedure for hearing to refuse, suspend, or revoke a license.

- (a) *Notice to Applicant or Licensee.* The Applicant or licensee shall be given written notice by certified mail, restricted delivery, that the Board proposes to refuse, suspend or revoke the license after a hearing. The notice shall give the reasons for the proposed refusal, suspension or revocation. The notice shall give the date, time and place of hearing.
- (b) *Right to Hearing; Legal Representation; Witnesses.* The Applicant or licensee shall have the right to a hearing. The Applicant or licensee shall have the right to be represented by legal counsel. The Applicant or licensee shall have the right to call witnesses.
- (c) *Record.* The Board shall record and transcribe the hearing and maintain it as part of the record, pursuant to the provisions of the Administrative Procedure Act.
- (d) *Decision.* The Board shall give the Applicant or licensee written notice by mail of its decision within 15 days of the hearing.
- (e) *Right to Judicial Review.* The Applicant or licensee shall have the right to judicial review in accordance with the Administrative Procedure Act.

(C.B. 82, 1984; C.B. 42, 1993)

Cross reference— Administrative Procedure Act, § 2.100 et seq.

Sec. 3.213. - Indemnity and insurance.

- (a) *Indemnity.* Except a holder of an active master electrician's license issued by the State of Maryland, the holder of an electrical license shall indemnify and hold Howard County harmless from and against all liability and expenses, including attorney fees, howsoever arising or incurred, for damage to property or injury to or death of any person arising out of or attributable to the performance of the licensee in Howard County.
- (b) *Requirement for Insurance.* Except a holder of an active master electrician's license issued by the State of Maryland, an individual may not perform electrical work unless the individual maintains insurance of the type and in the amount required under section 6-604 of the business occupations and professions article, Annotated Code of Maryland. This insurance provision does not relieve the individual doing electrical work of any of the responsibilities assumed by an individual doing such work or for which an individual doing electrical work may be liable by law or otherwise.
- (c) *Insurance Required to Obtain License.* The Board shall not issue, renew, restore, or reactivate a license unless the individual to be licensed certifies under penalties of perjury to having the insurance required pursuant to this section.
- (d) *Notification.* Except a holder of an active master electrician's license issued by the State of Maryland, the certificate of insurance shall provide that Howard County be given (with no

qualification) at least ten days' written notice prior to cancellation, intention not to renew, or material change in provisions.

(C.B. 82, 1984; C.B. 10, 1986; C.B. 40, 1989; C.B. 56, 1991; C.B. 42, 1993; C.B. 72, 1995; C.B. 41, 2005, § 6)

Sec. 3.214. - Adoption of National Electrical Code.

- (a) (1) The 2017 Edition (NFPA 70) of the National Electrical Code, with amendments as listed in subsection (b) of this section, is hereby adopted as the Electrical Code for Howard County, as if the National Electrical Code were set out in full in this section.
- (2) A person performing or causing the performance of electrical work shall conform to the Howard County Electrical Code and to the provisions of the Howard County Building Code adopted in Title 3, Subtitle 1 of this Code.
- (3) If a conflict exists between the Howard County Building Code and the Howard County Electrical Code, the code requiring the higher standard shall govern.
- (b) The following amendments modify certain provisions of the adopted code:
- (1) *Section 90.4. Enforcement .*
Add a sentence at the end of this section as follows: "If there is a conflict between this section and any other provision of this subtitle, the requirement of the other provision shall govern."
- (2) *Article 100. Definitions .*
Delete the sentence following "Authority Having Jurisdiction (AHJ)." and substitute the following, "The Authority Having Jurisdiction is the Building Official as set forth in Section 3.101(a)(2) of this Code.
- (3) *Section 210.8. Ground-Fault Circuit-Interrupter Protection for Personnel .*
In subsection (a), Dwelling Units, add exception number 1 as follows:

Exception No. 1: A single receptacle that supplies sump pumps and sewer ejector pumps is not required to have ground-fault circuit-interrupter protection provided that a GFCI receptacle is adjacent to the single receptacle.
- (4) *Section 210.12. Arc-Fault Circuit-Interrupter Protection .*
In subsection (d), Branch Circuit Extensions or Modifications - Dwelling Units and Dormitory Units, add exception number 2 as follows:

Exception No. 2: Arc-Fault-Circuit-Interrupter protection is not required for newly installed 120 volt interconnected smoke detectors.
- (5) *Section 230.71. Maximum Number of Disconnects .*
In subsection (a), General, delete "For the purpose of this section," through the end of number (4), inclusive.
- (6) *Section 240.21. Location in Circuit .*
Amend subsection (b), Feeder Taps, by adding a second exception to item (b)(1) and a new exception to item (b)(2), both as follows:

Exception: In meter rooms, the conductors within the auxiliary gutter that supplies the meter shall not count as a part of the total length."

(7) *Section 250.52. Grounding Electrodes .*

Add the following to the beginning of subsection 250.52(a)(3):

"Concrete-Encased Electrodes: Except as otherwise approved by the Department, the principal grounding electrode for a new structure is a concrete encased electrode installed in accordance with this subsection."

(8) *Section 310.106. Conductors .*

Add the following at the end of subsection (a), Minimum Size of Conductors:

"Whether solid or stranded, a conductor shall not be smaller than number 14 copper, number 12 copperclad aluminum, or number 6 aluminum or aluminum alloy."

(9) *Annex H. Administration and enforcement .*

Only the provisions of subsection 80.9 are adopted. The remainder of Annex H is specifically and intentionally not adopted.

(C.B. 71, 2017, § 1)

Editor's note— C.B. 71-2017, § 1, adopted Oct. 5, 2017, repealed former § 3.214, and enacted a new § 3.214 as set out herein. Former § 3.214 pertained to the same subject matter and derived from C.B. 9, 2015, § 1.

Sec. 3.215. - Duties and powers of the Building Official; interference prohibited.

- (a) In addition to the authority otherwise provided in this subtitle, the Building Official may:
 - (1) Interpret this subtitle in order to clarify its' requirements;
 - (2) Delegate the powers necessary for the proper administration of this subtitle to another qualified individual;
 - (3) Request other enforcement agencies including the Police Department and the Department of Fire and Rescue Services to provide assistance in the enforcement of this subtitle; and
 - (4) Otherwise enforce the provisions of this subtitle.
- (b) A person shall not interfere with the Building Official in their performance of a duty or function authorized by this subtitle.

(C.B. 82, 1984; C.B. 62, 1988; C.B. 56, 1991; C.B. 103, 1992; C.B. 42, 1993; C.B. 58, 1999; C.B. 41, 2005, §§ 1, 7)

Sec. 3.216. - Waiver of specific requirements and alternative methods.

- (a) The Building Official may waive a specific requirement of this subtitle or allow an alternative method if:
 - (1) The quality, strength, effectiveness, fire resistance, durability, and safety requirements of this subtitle are not affected; or
 - (2) The alternative method can be achieved at an equivalent level of safety.
- (b) A request to waive a specific requirement or allow an alternative method shall:
 - (1) Be in writing;

- (2) Be accompanied by supporting information that justifies the request including letters, statements, or test results; and
- (3) Include, where applicable, technical documentation to demonstrate:
 - (i) Equivalency; and
 - (ii) That the system, method, or device is approved for the intended purpose.

(C.B. 82, 1984; C.B. 32, 1985; C.B. 62, 1988; C.B. 42, 1993; C.B. 41, 2005, §§ 1, 7)

Sec. 3.217. - Permit required.

- (a)
 - (1) Except as provided in paragraph (2) of this subsection and subsection (c) and subsection (d) of this section, a person shall not perform electrical work without a permit obtained under this subtitle.
 - (2) A permit is not required for a homeowner to repair or replace a portable appliance, lighting fixture, fuse, lamp, socket or to make other minor repairs at an existing outlet in the homeowner's residence.
- (b) If an electrical application accompanies a building permit issued with a contingency construction start (CCS), then electrical work, including rough-in work:
 - (1) May begin prior to the issuance of an electrical permit:
 - (2) Is subject to inspection after the electrical permit is issued; and
 - (3) Is subject to all rules and limitations of the CCS.
- (c) Instead of obtaining an individual electrical permit, the holder of a master electrician-limited license may obtain an annual electrical permit.
- (d)
 - (1) Instead of obtaining an electrical permit for each telephone communication wiring job, a licensee may obtain a blanket electrical permit to cover all telephone communication wiring.
 - (2) A holder of a blanket electrical permit for telephone communication wiring shall file a monthly list with the Building Official that includes:
 - (i) The address of each telephone wiring job performed during the prior month; and
 - (ii) The name of the owner and occupant of the premises.
- (e)
 - (1) Unless a permit is issued to a master electrician-general or master electrician-limited, a service release shall not be issued to a public utility company.
 - (2) A service release will be issued only if there has been compliance with the requirements of this subtitle.
- (f) The Applicant shall keep a copy of the electrical permit at the site of the work until completion.

(C.B. 82, 1984; C.B. 42, 1993; C.B. 41, 2005, §§ 1, 7)

Sec. 3.218. - Permit application.

- (a) An application for a permit shall:
 - (1) Identify and describe the work to be covered by the permit;
 - (2) Describe the property where the proposed work is to be done by legal description, street address, or other address that will identify the location of the proposed electrical work;
 - (3) Indicate the use and occupancy for the location of the proposed work;

- (4) Be accompanied by construction documents that shall:
 - (i) Be drawn to scale with sufficient clarity and detail to show the nature and character of the work to be performed;
 - (ii) Be signed in one of the following methods:
 - a. The appropriate Maryland State professional engineer shall seal, sign, and date all sheets of all sets; or
 - b. If allowed by The Building Official, be signed by the licensed contractor doing the proposed work and include that contractor's name, license number, daytime phone number, and date of signature; and
 - (iii) Have at least one set that shall bear the original seal or signature and the date;
 - (5) State the valuation of the proposed work;
 - (6) Be signed by the Applicant or the Applicant's authorized agent; and
 - (7) Give other information as may be required by the Building Official.
- (b) (1) An application for a permit is valid for six months after filing and, at the end of the six-month term, is considered to have been abandoned unless:
- (i) The application has been diligently pursued; or
 - (ii) A permit has been issued.
- (2) (i) An Applicant may request, in writing, one or more extensions of a permit application upon a showing that the electrical work has been diligently pursued.
- (ii) The Building Official may grant, in writing, one or more extensions of time.
 - (iii) Each extension shall be for a period of time not to exceed 180 days.

(C.B. 41, 2005, § 7; C.B. 9, 2015, § 1)

Sec. 3.219. - Granting, denying, revoking, or suspending a permit.

- (a) (1) The Building Official shall examine or cause to be examined an application for a permit within a reasonable time after filing.
 - (2) If the application does not contain the required information or if the construction documents do not comply with the applicable law, the Building Official shall reject the application in writing, setting forth the reasons for rejection.
 - (3) If the application meets all the requirements set forth in this subtitle, the Building Official shall grant the permit.
- (b) (1) A permit granted under this subtitle is valid for six months from the date of approval and will become invalid if the work authorized by the permit:
- (i) Does not begin within 180 days after the permit is granted; or
 - (ii) Is suspended or abandoned for a period of 180 days after the work begins.
- (2) (i) An Applicant may request, in writing, one or more extensions of a permit upon a showing that the electrical work has been diligently pursued.
- (ii) The Building Official may grant, in writing, one or more extensions of time.
 - (iii) Each extension shall be for a period of time not to exceed 180 days.
- (c) The grant of a permit is not construed to be a permit for, or an approval of, a violation of any provision of this subtitle or any other provision of the Howard County Code.

- (d) The grant of a permit based on plans shall not prevent the Building Official from requiring the correction of an error [in] the plans.
- (e) The Building Official may suspend or revoke a permit if the permit was granted:
 - (1) In error;
 - (2) On the basis of incorrect information; or
 - (3) In violation of this subtitle or any other provision of the Howard County Code.

(C.B. 41, 2005, § 7)

Sec. 3.220. - Appeal of decision to revoke, deny, or suspend a permit.

- (a) An order denying, revoking, or suspending a permit shall:
 - (1) Contain the reason for the denial, revocation, or suspension; and
 - (2) (i) Be served upon the Applicant by:
 - a. Certified mail, restricted delivery; or
 - b. Personal service; or
 - (ii) If service cannot be obtained by certified mail, restricted delivery, or personal service, the notice may be posted in a conspicuous location on the work site listed in the application.
- (b) Within 30 days of the date of an order, a person aggrieved may appeal the order to suspend, revoke, or deny a permit to the Howard County Board of Appeals Hearing Examiner in accordance with the procedures set forth in title 16, subtitle 3 of this Code.
- (c) The filing of an appeal shall not stay the order of the Building Official.

(C.B. 41, 2005, § 7)

Sec. 3.221. - Inspections.

- (a) An inspection is performed for the protection of the public safety, health, and welfare; is purely governmental in nature; and is shall not be construed as providing a warranty of construction to individual members of the public.
- (b) Electrical work that requires a permit shall:
 - (1) Be subject to inspection by the Building Official;
 - (2) Remain accessible and exposed for the purpose of inspection; and
 - (3) Not be completed beyond the point indicated in each successive inspection without prior approval of the Building Official.
- (c) The Building Official may examine a building, structure, or site listed in the application in order to inspect the electrical work:
 - (1) Prior to issuing a permit;
 - (2) During the performance of work to ensure compliance with the provisions of this subtitle; and
 - (3) After all work required by the permit is completed.
- (d) Except as provided in subsections (d) and (e) of this section, the holder of a building permit shall:
 - (1) Notify the Building Official when work is ready for inspection; and
 - (2) Cause the work to remain accessible and exposed for the purpose of inspection.

- (e) If electrical work is performed under an annual electrical permit, the holder of a master electrician-limited license shall:
 - (1) Notify the Building Official when concealed work is complete and ready for inspection; and
 - (2) Maintain a log of work for an annual permit.
- (f) If electrical work is performed under a blanket electrical permit for telephone wiring, the licensee shall notify the Building Official when work is complete and ready for inspection unless:
 - (1) The rough wiring portion of the telephone communication wiring is complete and ready for inspection at the same time the electrical contractor's rough wiring is inspected;
 - (2) The electrical work meets all requirements of this subtitle; and
 - (3) The telephone communication wiring is tagged to identify the licensee who did the electrical work.
- (g) The Building Official shall:
 - (1) Upon notification, make the requested inspection;
 - (2) Notify the permit holder that the electrical work:
 - (i) Is satisfactorily completed; or
 - (ii) Fails to comply with this subtitle; and
 - (3) Be identified by proper credentials.
- (h) The Building Official may accept reports of approved inspection agencies if the agency satisfies requirements as to qualifications and reliability.
- (i) Electrical work that does not comply with this subtitle as determined upon inspection shall be corrected and shall not be covered or concealed until authorized by the Building Official.
- (j) Approval of electrical work as a result of an inspection is not considered approval of a violation of this subtitle or any other provision of the Howard County Code.
- (k) The Building Official or the County is not liable for any expenses incurred in the removal or replacement of any material required to be moved to allow inspection.

(C.B. 41, 2005, § 7)

Sec. 3.222. - Permit and inspection fees.

- (a) The County Executive shall recommend to the County Council a schedule of fees for electrical permit applications, electrical permits, and for inspections required by this subtitle.
- (b) The County Council shall annually adopt by resolution a schedule of fees for electrical permits, permit applications, and inspections.
- (c) A reinspection fee shall be charged for each reinspection if the electrical work has to be reinspected because:
 - (1) At the prearranged time for inspection:
 - (i) The work was not ready for inspection; or
 - (ii) The Building Official did not have access to the work;
 - (2) The Building Official had to return more than once to inspect a correction of the same violation of this Code; or
 - (3) The Building Official discovers an obvious violation of this subtitle.

- (d) (1) There shall not be a refund of an application fee for an electrical permit.
 - (2) (i) An electrical permit fee may be refunded if the permit is revoked, the project is abandoned or discontinued, or if the electrical work is not performed.
 - (ii) A request under this paragraph shall be in writing.
 - (iii) The Department shall deduct the application fee from the amount paid for the electrical permit and shall refund the remainder.
- (e) Upon approval of the Director of the Department of Finance, the holder of a blanket electrical permit for telephone communications may pay on a monthly basis for inspections performed during the prior month.

(C.B. 41, 2005, § 7)

Sec. 3.223. - Right of entry.

- (a) The Building Official shall have the right to enter a building, structure, or premises without the prior consent of the owner or occupant for the purpose of enforcing the provisions of this subtitle where a hazardous condition exists that threatens or may threaten the public health and safety.
- (b) The Building Official shall produce proof of identity prior to entry.
- (c) If the Building Official determines that a hazardous condition exists, the Building Official may order that the hazardous condition be corrected.

(C.B. 41, 2005, § 7)

Sec. 3.224. - Stop work order.

- (a) The Building Official may issue a stop work order if the Building Official finds that electrical work:
 - (1) Is being performed in a manner that is in conflict with the provisions of this subtitle; or
 - (2) Is dangerous or unsafe.
- (b) A stop work order shall:
 - (1) Be in writing;
 - (2) State the reason for the order and the actions necessary to allow the work to resume;
 - (3) Be given to the owner of the property, the owner's agent, or the person performing the electrical work.
- (c) Unless the work is to remove a violation or to correct an unsafe condition, a person shall not continue to work after having been served with a stop work order.

(C.B. 41, 2005, § 7)

Sec. 3.225. - Hazardous conditions and authority to disconnect.

- (a) If the Building Official finds a dangerous installation, alteration, or repair of electrical work, the Building Official shall provide notice that shall:
 - (1) Be served on the owner or occupant of the premises and the licensee by:
 - (i) Telephone;
 - (ii) Personal service;

- (iii) First class mail; or
- (iv) By posting the property as "unsafe"; and
- (2) State that necessary repairs shall be made within five days of receipt of the notification.
- (b) (1) The Building Official may disconnect public utilities, including electrical supply, to a building, structure, or system regulated by this subtitle if:
 - (i) Repairs are not made under this section; or
 - (ii) A hazardous condition exists that threatens or may threaten the public health and safety.
- (2) The Building Official shall notify:
 - (i) The serving utility; and
 - (ii) The owner and occupant of the building, structure, or service system of the decision to disconnect:
 - a. Where possible, prior to disconnecting; or
 - b. As soon as practical, after disconnecting.

(C.B. 41, 2005, § 7)

Sec. 3.226. - Notice of violation.

- (a) A person shall not perform or cause to be performed electrical work in violation of this subtitle.
- (b) The Building Official may serve a notice of violation on the owner or licensee for the erection, construction, alteration, extension, repair, moving, removing, demolition, occupancy, or installation of electrical work that is in violation of a provision of this subtitle or in violation of a permit or license granted under this subtitle.
- (c) A notice of violation shall order that:
 - (1) The illegal action be terminated;
 - (2) The illegal condition be fixed; and
 - (3) The violation be abated.
- (d) A notice of violation shall be served by:
 - (1) Personal service;
 - (2) Certified mail, restricted delivery, return receipt requested to the property owner and to the licensee;
 - (3) First class to the property owner's address as listed on the permit application;
 - (4) First class to the licensee's address as listed on the license application; or
 - (5) If service is not obtained in one of these methods, by posting in a conspicuous place on the property.

(C.B. 41, 2005, § 7)

Sec. 3.227. - Remedies.

- (a) The Building Official may institute any action at law or equity, including injunction or mandamus, to enforce the provisions of this subtitle.

- (b) The Building Official may prevent use or occupancy of a structure where there is a violation of this subtitle.
- (c) Alternatively, and in addition to and concurrent with all other remedies, the Building Official may enforce the provisions of this subtitle with civil penalties in accordance with title 24 of the Howard County Code as follows:
 - (1) A violation of this subtitle is a Class C offense; and
 - (2) A subsequent violation of this subtitle is a Class B offense.
- (d) Each day that a violation continues is a separate offense.

(C.B. 41, 2005, § 7)

Sec. 3.228. - Liability.

- (a) The Building Official or other person designated to enforce this subtitle while acting in good faith and without malice in the performance of their duties required by this Code shall not be personally liable for any damage occurring to persons or property as a result of any act or by reason of an act or omission in the discharge of their official duties.
- (b) A suit instituted against an officer or employee in the lawful discharge of duties and under the provisions of this subtitle shall be defended by the County.
- (c) The Building Official is not liable for the cost of any action, suit, or proceeding that is instituted pursuant to this subtitle.

(C.B. 41, 2005, § 7)

Sec. 3.229 - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 41, 2005, § 7)

SUBTITLE 3. - PLUMBING AND GASFITTING REGULATIONS^[4]

Footnotes:

--- (4) ---

Editor's note— Section 1 of C.B. 37, 1982, amended subtitle 3 to read as set out in §§ 3.300—3.311. Formerly, subtitle 3 consisted of §§ 3.300—3.306 and was derived from the following Council bills: 19, 1969; 9, 1970; 20, 1971; 41, 1976. Subsequently, § 1 of C.B. 18, 1986, repealed subtitle 3, and § 2 added a new subtitle 3, §§ 3.300—3.311, which was amended by C.B. 62, 1988. Section 1 of C.B. 89, 1989, repealed subtitle 3, and § 2 added a new subtitle 3, §§ 3.300—3.309. C.B. 69, 1992 added "and Gasfitting" to the title of subtitle 3. C.B. 59, 2000, § 1, repealed subtitle 3, §§ 3.301—3.309, and § 3 of this bill replaced these provisions with new §§ 3.301—3.309, pertaining to similar subject matter. Section 1 of C.B. 54, 2004 subsequently repealed §§ 3.301—3.309 and § 2 of this bill added new sections 3.301—3.307, pertaining to similar subject matter.

State Law reference— Maryland building performance standards, Ann. Code of Md., Public Safety article, § 12-501 et seq.; Maryland Plumbing Act, Ann. Code of Md., Business Occupations and Professions article, § 12-101 et seq.

Sec. 3.300. - Purpose.

The purpose of this subtitle is to protect health and safety by providing criteria for practices and performance in the proper design and installation of plumbing and gasfitting systems.

(C.B. 54, 2004)

Sec. 3.301. - General provisions.

- (a) *Plumbing and Gasfitting Code.* There is a Howard County Plumbing and Gasfitting Code, adopted at section 3.302 of this subtitle. All plumbing, gasfitting, and on-site utility work performed in Howard County shall conform to the provisions of the Howard County Plumbing and Gasfitting Code.
- (b) *Definition of terms.* All terms shall be as defined in the Howard County Plumbing and Gasfitting Code.
- (c) *Intent.* The intent of actions taken pursuant to this subtitle are purely governmental in nature, are conducted solely for the public benefit, and are not to be construed as a warranty of design or construction to any person.
- (d) *Homeowners' Right to Conduct Plumbing Work.* Notwithstanding any other provision in this subtitle, a permit is not required for a homeowner who personally performs plumbing work in their own residence in the following instances:
 - (1) For any plumbing work listed in subsections 3.305(a)(4)(i) and (ii);
 - (2) Except for making a final connection between the homeowner's residence and a public or private disposal system or water supply system, the installation, maintenance, extension, alteration, or removal of piping, a plumbing fixture, a plumbing appliance, a plumbing appurtenance, or other plumbing apparatus is exempt from this subsection if the homeowner provides Howard County with written notification describing the work to be conducted, acknowledging that the work must meet the requirements of the Plumbing and Gasfitting Code, and granting permission to inspect such work; and
 - (3) The installation, alteration, repair, or maintenance of an exterior roof drain, gutter, downspout, or rain leader.

(C.B. 16, 2019, § 1)

Editor's note— C.B. 16, 2019, § 1, adopted May 14, 2019, repealed the former § 3.301 and enacted a new § 3.301 as set out herein. The former § 3.301 pertained to similar subject matter and derived from C.B. 54, 2004; C.B. 70, 2006, § 2.

Sec. 3.302. - Adoption of Plumbing and Gasfitting Code.

- (a) *Adoption of National Codes.* The 2018 International Plumbing Code, published by the International Code Council, as modified by local amendments, and the National Fuel Gas Code (NFPA 54-2018), published by the National Fire Protection Association, are adopted as the Plumbing and Gasfitting Code for Howard County as if the International Plumbing Code and the National Fuel Gas Code were set out in full in this subtitle.
- (b) *Local amendments to the International Plumbing Code.* The following local amendments modify certain provisions of the International Plumbing Code:

(1) *Section 101.5 Piping Through Adjacent Property.*

Add new subsection 101.5 after subsection 101.4 as follows:

Section 101.5 Piping Through Adjacent Property. Sewer, water, and gas piping shall not be installed through property other than the property to be served.

Exception: Piping proposed to pass through property other than the property to be served may be installed through a right-of-way or recorded easement with the permission of the authority having jurisdiction, provided that:

- (i) All privileges of a right-of-way or recorded easement are obtained by the property owner desiring service, without any cost, liability, or damage to Howard County;
- (ii) The recorded easement or right-of-way meets all requirements of the authority having jurisdiction; and
- (iii) The recorded easement or right-of-way shall be granted and conveyed by formal deed recorded in the Land Records of Howard County.

(2) *Section 103 Department of Plumbing Inspection.*

Delete this section in its entirety.

(3) *Section 104 Duties and Powers of the Code Official.*

Delete this section in its entirety.

(4) *Section 105 Approval.*

Delete this section in its entirety.

(5) *Section 106 Permits.*

Delete this section in its entirety.

(6) *Section 107 Inspections and Testing.*

Delete this section in its entirety.

(7) *Section 108 Violations.*

Delete this section in its entirety.

(8) *Section 109 Means of Appeal.*

Delete this section in its entirety.

(9) *Section 202 General Definitions.*

(i) Insert the following definitions in alphabetical order, as appropriate:

- a. **Authority having jurisdiction:** The authority having jurisdiction is the Director of the Department of Inspections, Licenses and Permits or the Director's authorized designee.
- b. **Gasfitting:** The installation or maintenance of gas piping and equipment designed for the utilization of gas.
- c. **Gasoline service station:** A facility offering retail sales to the public of gasoline, motor oil, lubricants, motor fuels, travel aids, and minor automobile accessories. A gasoline service station may also provide motor vehicle service, repairs, and maintenance including, but not limited to, painting and body work.

- d. **Licensed master plumber:** An individual licensed by the Maryland State Board of Plumbing to provide plumbing services.
- e. **Master gasfitter:** An individual licensed by the Maryland State Board of Plumbing to provide gasfitting services.
- f. **On-site utility:** A water, sewer, or storm drain system serving private property extending from the property line to a distance of 5 feet from any new newly constructed improvement on a property. An on-site utility shall include a final connection to a public or private water, sanitary sewer, or storm drain system. An on-site utility shall not include a connection that is within 5 feet from any newly constructed improvement on the property.
- g. **On-site utility contractor:** A person, company, firm, or corporation whose official holds a Howard County on-site utility contractor's license.
- h. **On-site utility work:** The installation, repair, or maintenance of any on-site utility.
- i. **Plumbing permit, express:** A prepaid residential permit that can be used by a master plumber for the installation of up to 5 plumbing fixtures.
- j. **Plumbing plans and specifications:** Any plan or specification required by the authority having jurisdiction and by section 107.2.1.1 of the Howard County Building Code prior to issuance of a plumbing permit.

(10) *Section 302 Exclusion of Materials Detrimental to the Sewer System.*

Delete this section and substitute the following:

302 Discharges to the public sewer system.

302.1 General. Any discharge to the public sewer system shall conform to the standards and requirements of section 18.122a, "regulation of discharges to the public sewer systems", of the Howard County Code.

(11) *Section 305.4 Freezing.*

In the last sentence delete "6 inches (152 mm) below the frost line" through, and including, "(305 mm)" and substitute "36 inches".

(12) *Section 305.4.1 Sewer Depth.*

- (i) Delete the first sentence; and
- (ii) Insert "30 inches" into the second sentence.

(13) *Table 403.1 Minimum Number of Required Plumbing Fixtures.*

Delete footnote f.

(14) *Section 404.2 Accessible Fixture Requirements.*

At the end of the sentence delete "ICC A117.1" and substitute "the Maryland Accessibility Code".

(15) *Section 603.1 Size of Water Service Pipe.*

In the last sentence, delete " $\frac{3}{4}$ inch (19.1 mm)" and substitute "1 inch".

(16) *Table 605.3 Water Service Pipe.*

In the column titled "material", in the row titled "Copper or copper-alloy tubing", delete types "m" and "wm".

(17) *Section 608.18 Protection of Individual Water Supplies.*

Delete this section in its entirety.

(18) *Section 705.10.2 Solvent Cementing.*

Delete the exceptions.

(19) *Section 714.1 Sewage Backflow.*

In the first and second sentences and in the exception, in all instances, after "public" insert "or private".

(20) *Section 918 Air Admittance Valves.*

Delete this section in its entirety.

(21) *Chapter 13 Nonpotable Water Systems.*

Delete this chapter in its entirety.

(C.B. 16, 2019, § 1)

Editor's note— C.B. 16, 2019, § 1, adopted May 14, 2019, repealed the former § 3.302 and enacted a new § 3.302 as set out herein. The former § 3.302 pertained to similar subject matter and derived from C.B. 54, 2004; C.B. 70, 2006, §§ 1, 2; C.B. 8, 2007, § 1; C.B. 5, 2010, § 3.

Sec. 3.303. - Administration and enforcement.

(a) *In General.* The authority having jurisdiction shall:

- (1) Administer and enforce the Howard County Plumbing and Gasfitting Code;
- (2) Adopt regulations concerning the administration and enforcement of the Plumbing and Gasfitting Code and work done pursuant to that code; and
- (3) Submit regulations to the Plumbing Advisory Board for review and comment prior to adoption of the regulations.

(b) *Inspection of Work.*

- (1) During construction and upon completion, the authority having jurisdiction shall inspect all plumbing, gasfitting, and on-site utility work for which a permit is issued and may inspect all plumbing or gasfitting work conducted pursuant to subsection 3.301(d)(2).
- (2) It shall be the duty of the holder of the plumbing permit or their duly authorized agent to notify the authority having jurisdiction when the work is ready for inspection. It shall be the duty of the holder of the plumbing permit or their duly authorized agent to provide access to and means for inspection of work as required by this subtitle.
- (3) Except for a temporary cover placed pending inspection in order to avoid the possibility of injury or accident, a person shall not cover or enclose from view any portion of plumbing, gasfitting, or on-site utility work under permit or work conducted under subsection 3.301(d)(2) of this subtitle before the authority having jurisdiction has inspected and approved the work.
- (4) The authority having jurisdiction shall prepare a written report of all inspections and shall maintain all reports on file.

(c) *Stop Work Order.* A stop work order shall be administered as set forth in section 115 of the Howard County Building Code.

(d) *Certificate in Lieu of Inspection.* Instead of an inspection, the authority having jurisdiction may accept a certificate from a qualified and registered professional engineer that work performed under

the personal supervision and control of the engineer is in accordance with the provisions of the Howard County Plumbing and Gasfitting Code. The authority having jurisdiction shall issue written acceptance of the certificate in lieu of an inspection and shall keep the certificate and written acceptance on file.

(e) *Right of Entry.*

- (1) *Inspections.* The authority having jurisdiction shall have a right of entry at reasonable times solely for the purpose of performing an inspection in accordance with the provisions of this subtitle.
- (2) *Emergency right of entry.* In addition to an inspection authorized by this section, the authority having jurisdiction shall have the right to enter a building, structure, or premises where there is evidence that an actual or potential emergency exists which threatens or may threaten the public health and safety for the purpose of performing duties pursuant to this subtitle or to enforce the provisions of this subtitle. The authority having jurisdiction or their authorized representative shall produce appropriate proof of identity prior to entry.

(f) *Violations.*

- (1) *Unlawful acts.* A person, firm, or corporation shall not perform any plumbing, gasfitting, or on-site utility contractor work, or cause the same to be performed, in conflict with or in violation of any of the provisions of this subtitle.
- (2) *Notice of violation.* The authority having jurisdiction is authorized to serve a notice of violation or order on a person performing work which is regulated by this subtitle. A notice shall direct that the illegal action or condition be discontinued, shall direct the abatement of the violation, and shall set a reasonable time for abatement.
- (3) *Prosecution of violation.* If the notice of violation is not complied with within the time set forth in the notice, the authority having jurisdiction is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct, or abate the violation, to require the removal or termination of the violation, and to criminally prosecute the permit holder.
- (4) *Penalties.*
 - (i) *Criminal penalties.* A person, firm or corporation, or other entity which individually, collectively, or through others, constructs, erects, alters, or repairs any plumbing, gasfitting, or on-site utility work in violation of any provision of this subtitle is guilty of a misdemeanor and, upon conviction, is subject to a fine, not exceeding \$1,000.00, or imprisonment, not exceeding 30 days, or both.
 - (ii) *Civil penalties.* Alternatively, and in addition to and concurrent with all other remedies, the authority having jurisdiction may enforce the provisions of this subtitle with civil penalties, as provided in title 24, "Civil Penalties", of the Howard County Code. Except for a violation of section 3.304, a first violation of a provision of this subtitle is a Class C offense. Except for a violation of section 3.304, a subsequent violation of a provision of this subtitle is a Class B offense. A first or subsequent violation of section 3.304 is a Class A offense. Each day that a violation continues is a separate offense.

(C.B. 54, 2004; C.B. 70, 2006, §§ 1, 2; C.B. 5, 2010, § 3)

Sec. 3.304. - On-site utility contractor's license.

- (a) *On-site Utility Work.* Unless a person is a licensed master plumber or holds a valid current on-site utility contractor's license issued by Howard County, a person shall not engage in on-site utility work.
- (b) *Application for On-site Utility Contractor's License; Renewal of License.* An application for an on-site utility contractor license or renewal of an on-site utility contractor license shall be submitted to the

authority having jurisdiction on a form provided by the authority having jurisdiction. The original application shall be accompanied by the following items:

- (1) The applicable fee;
 - (2) The Applicant's name, home and business addresses, and phone numbers;
 - (3) The name under which the business is conducted;
 - (4) Required evidence of experience; and
 - (5) Any required references.
- (c) *Fees for On-site Contractor's Licenses.* The fee for an on-site utility contractor's license shall be pursuant to the fee schedule adopted by resolution of the County Council.
- (d) *Duration of On-site Utility Contractor's License.* Each on-site utility contractor's license granted pursuant to this subtitle shall be issued for a period of up to one year and shall expire on July 31 of each year. An application for renewal shall be filed with the authority having jurisdiction.
- (e) *Prerequisites for Granting of On-site Utility Contractor's License.* An on-site utility contractor's license shall be issued to an individual or an official of a company, firm, or corporation, if the person:
- (1) Certifies, under penalty of perjury, to having liability insurance coverage, including completed operations, for bodily injury in the amount of at least \$300,000.00 and for property damage in the amount of at least \$100,000.00, recertification of which is required for renewal of the license; and
 - (2) Holds a valid and current on-site utility contractor's license (or equivalent) issued by another Maryland jurisdiction or has had at least two years of experience, acceptable to the authority having jurisdiction.
- (f) *License; Addresses; Exhibits.* Every licensed Howard County on-site utility contractor shall notify the authority having jurisdiction of any change of address. An on-site utility contractor shall not allow their name to be used by another person, firm, company or corporation for the purpose of obtaining a permit or for doing work authorized under this license. A person holding an on-site utility contractor's license shall exhibit it upon request when engaged in work authorized under the license.
- (g) *Suspension and Revocation of On-site Utility Contractor's License.*
- (1) *Grounds for suspension or revocation.* An on-site utility contractor's license shall be suspended or revoked because of:
 - (i) Fraud, deceit, or misrepresentation in obtaining an on-site utility contractor's license or permit;
 - (ii) Gross negligence, incompetence, or misconduct in the performance of on-site utility work;
 - (iii) A violation of the Howard County Plumbing and Gasfitting Code or of a regulation adopted pursuant to this subtitle;
 - (iv) An unfair or deceptive trade practice as defined in title 13, subtitle 3 of the commercial law article of the Annotated Code of Maryland; or
 - (v) Selling, lending or otherwise permitting any improper use of an on-site utility contractor's license or permit.
 - (2) *Procedure.* If the Building Official finds grounds for revocation or suspension of a license, as set forth in the preceding paragraph, the authority having jurisdiction shall issue a written order:
 - (i) Suspending the on-site utility contractor's license for a specific period of time after which the license shall automatically be reinstated; or
 - (ii) Revoking the on-site utility contractor's license, stating whether or not future reinstatement is possible, and stipulating that no application for reinstatement will be processed until six months from the date of revocation.

- (3) *Appeals.* Within 30 days of the date of the decision, a person aggrieved by a decision of the authority having jurisdiction to revoke, deny, suspend or approve any on-site utility contractor's license may appeal the decision to the Howard County Board of Appeals Hearing Examiner pursuant to the procedures set forth in title 16, subtitle 3 of the Howard County Code.

(C.B. 54, 2004)

Sec. 3.305. - Permits.

- (a) *Permits Required.* Except as provided in this subsection and in subsection 3.301(d) of this subtitle, plumbing, gasfitting, or on-site utility work shall not be undertaken without a permit issued by the authority having jurisdiction.
 - (1) *Owner responsibility.* An owner who intends to erect, install, enlarge, alter, repair, remove, convert, or replace or who shall cause the erection, installation, enlargement, alteration, repair, removal, conversion, or replacement of a gas or plumbing system which is regulated by this Code shall ensure that a licensed master plumber or gasfitter or a licensed on-site utility contractor has obtained the permits required by this section.
 - (2) *Plumbing or gasfitting work.* A permit for plumbing or gasfitting work shall be issued only to a licensed master plumber or gasfitter.
 - (3) *On-site utility work.* A permit for on-site utility work shall be issued only to a licensed master plumber or to a holder of a Howard County on-site utility contractor license.
 - (4) *Exceptions.* The following work shall not require a permit:
 - (i) The repair or replacement of a faucet, ballcock, exposed fixture trap, or shutoff valve; or
 - (ii) The clearing of a stoppage or the repair of a leak, if the work does not require the replacement of a plumbing fixture or any portion of a drainage or water system.
- (b) *Application for Permit.*
 - (1) *Information requirement.* A licensed master plumber, licensed gasfitter, or licensed on-site utility contractor shall provide:
 - (i) Evidence that they hold current and valid license;
 - (ii) Their name, home and business addresses, and phone numbers;
 - (iii) The name under which the business is conducted; and
 - (iv) Evidence of insurance required by the authority having jurisdiction.
 - (2) *Applications.* The authority having jurisdiction shall provide a form for a permit application. An application shall be in writing and shall be signed by the licensed master plumber, licensed gasfitter, or licensed on-site utility contractor. The application shall be accompanied by a plan or drawing required by the authority having jurisdiction. The application shall be accompanied by the required payment of fees.
- (c) *Duration of Permit Application.* Unless a permit has been issued or diligently pursued, an application for a permit shall expire six months after it is made. Upon written request of the permit Applicant and where the authority having jurisdiction determines that reasonable cause exists, the authority having jurisdiction may grant an extension of time, not to exceed one year, provided that no other provision of State or County law is violated.
- (d) *Other Violations.* The authority having jurisdiction may not issue a permit for plumbing or on-site utility contractor work if the permit Applicant is in violation of this subtitle for work performed on a separate permit for plumbing or on-site utility work that has been issued to the same person.
- (e) *Duration of Permit.* Unless work authorized by a permit is commenced within 180 days after its issuance, the permit shall become invalid. If work authorized by a permit is suspended or abandoned

for a period exceeding 180 days after the work is commenced the permit shall become invalid. The authority having jurisdiction is authorized to grant, in writing, one or more extensions of time, for periods of not more than 180 days each. The extension request shall be in writing and shall demonstrate reasonable cause.

An express plumbing permit shall expire one year from the date of issuance.

- (f) *Revocation of Permit.* The authority having jurisdiction shall notify the Maryland State Board of Plumbing whenever a permit is revoked, indicating the name of the plumber and the cause for which the permit was revoked. The authority having jurisdiction shall revoke a permit issued for any of the following causes:
- (1) Fraud, deceit, or misrepresentation in obtaining a permit or Howard County on-site utility contractor's license;
 - (2) Gross negligence, incompetence or misconduct in the performance of plumbing work;
 - (3) A violation of the Howard County Plumbing and Gasfitting Code or of regulations adopted pursuant to this subtitle;
 - (4) Unfair or deceptive trade practice as defined in the commercial law article of the Annotated Code of Maryland; and
 - (5) Selling, lending or otherwise permitting any improper use of a license or permit.
- (g) *Site Work Responsibilities.* Only work authorized by a permit shall be performed pursuant to the permit. The permit holder shall be present on the site whenever plumbing, gasfitting, or on-site utility work is taking place.
- (h) *Transfer of Plumbing Permits.*
- (1) A plumbing permit shall not be transferred. A permit may be terminated and a separate permit may be issued to another plumber, gasfitter, or on-site utility contractor for the remaining work to be done. The request for a termination shall come from either the individual holding the permit or from the person who contracted for the work. The request shall be in writing to the authority having jurisdiction.
 - (2) Before termination of the permit, the authority having jurisdiction shall inspect the work which has been completed and shall note in the record the extent of the work completed. The original licensed master plumber shall be responsible for the work completed prior to the termination.
 - (3) Unless the person who contracted for the work, another master licensed plumber or an on-site utility contractor assumes responsibility for all work, the Director may issue another permit for the remaining work:
 - (i) Five or more days after the receipt of the certified letter by the authority having jurisdiction;
 - (ii) After termination of the original permit; and
 - (iii) Upon payment of the permit fee.
- (i) *Emergency Work.* Prior to issuance of a permit, a licensed master plumber, licensed gasfitter, or on-site utility contractor may undertake emergency work to correct a condition that poses an immediate threat to the public health and safety. The licensed master plumber or licensed on-site utility contractor doing the work shall notify the authority having jurisdiction of the emergency on the next working day and shall obtain a permit and have the work inspected.
- (j) *Permit Fees.*
- (1) *Adoption by County Council.* Fees for issuance of a permit for plumbing, gasfitting, on-site utility work, or for the inspection of work by a homeowner performing plumbing repairs in their own residence shall be pursuant to a schedule of fees adopted by the County Council.
 - (2) *Reinspection Fees.* A reinspection fee may be charged for each reinspection if the work has to be reinspected because:

- (i) The inspector had to return more than once to inspect the correction of a violation of the Plumbing Code;
 - (ii) The work was not ready for inspection at the time prearranged for inspection; or
 - (iii) The inspector did not have access to the work at the prearranged time for inspection.
- (3) *Refunds.* A refund shall be made minus an administrative fee of \$50.00. A refund request shall be in writing.
- (k) *Appeals.* Within 30 days of the date of the decision, a person aggrieved by a decision of the authority having jurisdiction to approve, suspend, revoke, extend, or deny a plumbing permit or a permit for on-site utility work may appeal that decision to the Board of Appeals Hearing Examiner pursuant to the procedures set forth in title 16, subtitle 3 of the Howard County Code.

(C.B. 54, 2004; C.B. 64, 2004; C.B. 5, 2010, § 3)

Sec. 3.306. - Plumbing Advisory Board.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in title 6, subtitle 3 of the Howard County Code.
- (b) *Number of Members.* The Plumbing Advisory Board shall have five members.
- (c) *Qualifications.*
 - (1) All members shall be residents of Howard County.
 - (2) Two members shall be licensed and practicing master plumbers.
 - (3) Three members shall represent the interests of the public and shall not be employees of a plumber or receive any portion of their income from the plumbing business.
- (d) *Executive Secretary.* The Director of Inspections, Licenses and Permits or the Director's designee shall serve as Executive Secretary to the Board and shall attend all meetings.
- (e) *Meetings.* The Board shall meet at least once every six months or more frequently provided the Chairperson notifies the board members at least five days before the meeting.
- (f) *Duties and Responsibilities.*
 - (1) To make recommendations to the Director of Inspections, Licenses and Permits, the County Executive and the County Council in all matters relating to the conduct of plumbing business in Howard County.
 - (2) To recommend amendments to the Howard County Plumbing and Gasfitting Code to the Director of Inspections, Licenses and Permits.
 - (3) To review and comment on regulations concerning the administration and enforcement of the Plumbing and Gasfitting Code and the registration of persons engaged in the plumbing business.

(C.B. 54, 2004)

Sec. 3.307. - Severability.

If any provision of this subtitle or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this subtitle which can be given effect without the invalid provision or application, and for this purpose the provisions of this act are severable.

(C.B. 54, 2004)

SUBTITLE 4. - GRADING⁵¹

Footnotes:

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Editor's note— C.B. 3, 2013, § 1.1, amended Subt. 4 in its entirety to read as herein set out. Former Subt. 4, §§ 3.400—3.407, pertained to the same subject matter. Formerly the subtitle was derived from C.B. 6, 1970; C.B. 38, 1971; C.B. 45, 1976; C.B. 28, 1984 and C.B. 9, 1985. Subsequently, § 1 of C.B. 6, 2001 repealed the entire subtitle, §§ 3.400—3.409, and § 2 of the same bill replaced those provisions with new provisions set out as a new subtitle 4, "Grading", §§ 3.400—3.407 herein. The former provisions constituted subtitle 4, "Sediment and Erosion Control", and derived from C.B. 9, 1985, C.B. 32, 1985, C.B. 42, 1988, C.B. 62, 1988, C.B. 91, 1989, C.B. 32, 1991, and C.B. 130, 1992.

Sec. 3.400. - Purpose and authority.

- (a) *Purpose.* The purpose of this subtitle is to regulate the clearing and grading of land and to minimize soil erosion and prevent off-site sedimentation by establishing requirements and procedures for erosion and sediment control plans and permits.
- (b) *Authority.* The purpose of this subtitle is achieved by using soil erosion and sediment control practices designed in accordance with the Code of Maryland Regulations (COMAR) 26.17.01, the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control (Standards and Specifications) and subtitle 4 of the Environment Article of the Annotated Code of Maryland. This subtitle represents the minimum erosion and sediment control requirements and is not intended to limit or repeal any other powers granted to the County under State law.

(C.B. 3, 2013, § 1.1)

Sec. 3.401. - Definitions.

The following terms used in this subtitle and in title 18, subtitle 3 of this Code have the meanings indicated:

- (a) *Administration* means the Maryland Department of the Environment ("MDE"), Water Management Administration.
- (b) *Adverse impact* means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics, or usefulness for human or natural uses, which are or may potentially be harmful or injurious to human health, welfare, safety or property, biological productivity, diversity, or stability or that unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
- (c) *Agricultural land management practices* means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.
Logging and timber removal operations are not included in this definition.
- (d) *Applicant* means any person, firm, or government agency that executes the necessary forms to apply for a permit or approval to carry out construction of a project requiring a grading permit.

- (e) *Best management practice ("BMP")* means a structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, and provide other amenities.
- (f) *Clear* means to remove the vegetative ground cover while leaving the root mat intact, but shall not include the ordinary mowing of grass.
- (g) *Concept stage* means the first stage of the sediment and erosion control design process.
- (h) *County* means Howard County, Maryland.
- (i) *Discharge* means:
 - (1) The addition, introduction, leaking, spilling, or emitting of any pollutant to waters of this state; or
 - (2) The placing of a pollutant in a location where the pollutant is likely to pollute.
- (j) *Drainage area* means that area contributing runoff to a single point measured in a horizontal plane that is enclosed by a ridge line.
- (k) *Environmental site design ("ESD")* means using small-scale stormwater management practices, nonstructural techniques and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources.
- (l) *Erosion* means the process by which the land surface is worn away by the action of wind, water, ice, or gravity.
- (m) *Erosion and sediment control* means a system of structural and vegetative measures that minimizes soil erosion and off-site sedimentation.
- (n) *Erosion and sediment control plan* means the construction drawings depicting a strategy or plan to minimize erosion and prevent off-site sedimentation by containing sediment on-site by passing sediment-laden runoff through a sediment control measure, prepared and approved in accordance with the specific requirements of the Howard Soil Conservation District, this subtitle, and title 18, subtitle 3 of this Code, and designed in accordance with the standards and specifications.
- (o) *Exemption* means those land development activities that are not subject to the erosion and sediment control requirements contained in this subtitle and title 18, subtitle 3 of this Code.
- (p) *Final erosion and sediment control plan* means the final stage of the sediment and erosion control design process. The plan shall be prepared and approved in accordance with the specific requirements of the Howard Soil Conservation District, this subtitle, and title 18, subtitle 3 of this Code, and designed in accordance with the standards and specifications.
- (q) *Grade* means to disturb earth by, including but not limited to, excavating, filling, stockpiling, grubbing, removing root mat or topsoil, or any combination thereof.
- (r) *Grading unit* means the maximum contiguous area allowed to be graded at a given time. For the purposes of this subtitle, a grading unit is 20 acres or less.
- (s) *Highly erodible soils* means those soils with a slope greater than 15 percent or those soils with a soil erodability factor, K, greater than 0.35 and with slopes greater than five percent.
- (t) *Inspection agency* means the Howard County Department of Public Works.
- (u) *Owner/developer* means a person undertaking, or for whose benefit, activities covered by this subtitle are carried on. General contractors or subcontractors, or both, without a proprietary interest in a property are not included within this definition.
- (v) *Permittee* means any person to whom a grading permit has been issued.
- (w) *Person* includes the Federal Government, the State, any County, Municipal Corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee,

guardian, Executor, Administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

- (x) *Responsible person* or *responsible personnel* means any person who has successfully completed the Maryland Department of the Environment Responsible Personnel Certification Program and who is in charge of on-site clearing and grading operations or the implementation and maintenance of an erosion and sediment control plan.
- (y) *Sediment* means soils or other surficial materials transported or deposited by the action of wind, water, ice, gravity, or artificial means.
- (z) *Site* means any tract, lot, or parcel of land, or combination of tracts, lots or parcels of land that are in one ownership, or are contiguous and in diverse ownership, where development is to be performed as part of a unit, subdivision, or project.
- (aa) *Site development stage* means the second stage of the sediment and erosion control design process. This stage is described in COMAR 26.17.02.
- (bb) *Stabilization* means the protection of exposed soils from erosion by the application of seed and mulch, seed and matting, sod, other vegetative measures, and/or structural means.
- (cc) *Standards and specifications* means the "2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control" or any subsequent revisions.
- (dd) *Stormwater management system* means natural areas, ESD practices, stormwater management measures, and any other structure through which stormwater flows, infiltrates, or discharges from a site.
- (ee) *Variance* means the modification of the minimum erosion and sediment control requirements for exceptional circumstances such that strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this subtitle and title 18, subtitle 3 of this Code.
- (ff) *Watershed* means the total drainage area contributing runoff to a single point.

(C.B. 3, 2013, § 1.1)

Sec. 3.402. - Grading permit.

- (a) *Permit Required.* Except as provided in subsection (b) of this section, a person may not clear or grade land in Howard County without a grading permit from the Department of Inspections, Licenses and Permits. Before a grading permit for any site is issued, the County shall review and approve a final erosion and sediment control plan for the site.
- (b) *Exemptions.* The following activities are exempt from the provisions of this subtitle:
 - (1) Agricultural land management practices and agricultural BMPs;
 - (2) Construction of a single-family residence or accessory buildings thereto that disturbs an area of less than 0.5 acres and occurs on a lot of two acres or more;
 - (3) Clearing or grading activities that disturb less than 5,000 square feet of land area and disturb less than 100 cubic yards of earth;
 - (4) The laying of gas, electrical, telephone, or cable television lines which disturbs less than 100 linear feet; or
 - (5) Clearing or grading activities that are subject exclusively to State approval and enforcement under State law and regulations.
- (c) *Denial of Permits.* The Department of Inspections, Licenses and Permits may deny the issuance of any permits to an applicant when it determines that the applicant is not in compliance with the provisions of a building or grading permit or approved erosion and sediment control plan.

(C.B. 3, 2013, § 1.1)

Sec. 3.403. - Erosion and sediment control plans.

- (a) *Approval of Erosion and Sediment Control Plans Required.* Subject to section 3.402 of this subtitle, a person may not clear or grade land without an erosion and sediment control plan approved by the Howard Soil Conservation District.
- (b) *Submission of Erosion and Sediment Control Plan to Howard Soil Conservation District.* An applicant shall submit an erosion and sediment control plan and any required supporting documentation to the Howard Soil Conservation District for review and approval. The Howard Soil Conservation District shall review erosion and sediment control plans to determine compliance with this subtitle and the standards and specifications prior to approval. In approving the plan, the Howard Soil Conservation District may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this subtitle, COMAR 26.17.01, the standards and specifications, and the preservation of public health and safety.
- (c) *Contents of the Erosion and Sediment Control Plan.* An applicant shall submit an erosion and sediment control plan that meets the requirements of the Howard Soil Conservation District, this subtitle, title 18, subtitle 3 of this Code, the standards and specifications, and title 4 of the Environment Article of the Annotated Code of Maryland. The plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed grading on water resources, and the effectiveness and acceptability of measures proposed to minimize soil erosion and off site sedimentation. At a minimum, applicants shall submit the following information:
 - (1) A letter of transmittal, an application, or both;
 - (2) Name, address, and telephone number of:
 - (i) The owner of the property where the grading is proposed;
 - (ii) The developer; and
 - (iii) The applicant;
 - (3) A vicinity map indicating north arrow, scale, site location, and other information necessary to easily locate the property;
 - (4) Drainage area map(s) at a 1-inch = 200 feet minimum scale showing existing, interim, and proposed topography, proposed improvements, standard symbols for proposed sediment control features, and pertinent drainage information including provisions to protect downstream areas from erosion for a minimum of 200 feet downstream or to the next conveyance system;
 - (5) The location of natural resources, wetlands, floodplains, highly erodible soils, slopes 15 percent and steeper, and any other sensitive areas;
 - (6) A general description of the predominant soil types on the site, as described by the appropriate soil survey information available through the Howard Soil Conservation District or the USDA Natural Resources Soil Conservation Service;
 - (7) Proposed stormwater management practices;
 - (8) Erosion and sediment control plans including:
 - (i) The existing topography and improvements as well as proposed topography and improvements at a scale between 1-inch = 10 feet and 1-inch = 50 feet with two-foot contours or other approved contour interval and, for projects with more than minor grading, interim contours may also be required;
 - (ii) Scale, project and sheet title, and north arrow on each plan sheet;
 - (iii) The limit of disturbance (LOD) including:

- a. Limit of grading (grading units, if applicable); and
- b. Initial, interim, and final phases;
- (iv) The proposed grading and earth disturbance, including:
 - a. Total disturbed area;
 - b. Volume of cut and fill quantities; and
 - c. Volume of borrow and spoil quantities;
- (v) Storm drainage features, including:
 - a. Existing and proposed bridges, storm drains, culverts, outfalls, etc.;
 - b. Velocities and peak flow rates at outfalls for the two-year and ten-year frequency storm events; and
 - c. Site conditions around points of all surface water discharge from the site;
- (vi) Erosion and sediment control practices to minimize on-site erosion and prevent off-site sedimentation, including:
 - a. The salvage and reuse of topsoil;
 - b. Phased construction and implementation of grading unit(s) to minimize disturbances, both in extent and duration;
 - c. Location and type of all proposed sediment control practices;
 - d. Design details and data for all erosion and sediment control practices; and
 - e. Specifications for temporary and permanent stabilization measures including, at a minimum:
 - I. The "standard stabilization note" on the plan stating: "FOLLOWING INITIAL SOIL DISTURBANCE OR REDISTURBANCE, PERMANENT OR TEMPORARY STABILIZATION SHALL BE COMPLETED WITHIN:
 - 1. THREE CALENDAR DAYS AS TO THE SURFACE OF ALL PERIMETER DIKES, SWALES, DITCHES, PERIMETER SLOPES, AND ALL SLOPES STEEPER THAN 3 HORIZONTAL TO 1 VERTICAL (3:1); AND
 - 2. SEVEN CALENDAR DAYS AS TO ALL OTHER DISTURBED OR GRADED AREAS ON THE PROJECT SITE NOT UNDER ACTIVE GRADING."
 - II. Details for areas requiring accelerated stabilization; and
 - III. Maintenance requirements as defined in the standards and specifications;
- (vii) A sequence of construction describing the relationship between the implementation and maintenance of controls, including permanent and temporary stabilization, and the various stages or phases of earth disturbance and construction. Any changes or revisions to the sequence of construction shall be approved by the Howard Soil Conservation District prior to proceeding with construction. The sequence of construction, at a minimum, shall include the following:
 - a. Request for pre-construction meeting with the appropriate enforcement authority;
 - b. Clearing and grubbing as necessary for the installation of perimeter controls;
 - c. Construction and stabilization of perimeter controls;
 - d. Remaining clearing and grubbing within installed perimeter controls;
 - e. Road grading;
 - f. Grading for the remainder of the site;

- g. Utility installation and connections to existing structures;
 - h. Construction of buildings, roads, and other construction;
 - i. Final grading, landscaping, and stabilization;
 - j. Installation of stormwater management measures;
 - k. Approval of the appropriate enforcement authority prior to removal of sediment controls; and
 - l. Removal of controls and stabilization of areas that are disturbed by removal of sediment controls.
- (viii) A statement requiring the owner/developer or representative to contact the Department of Public Works or its agent at the following stages of the project or in accordance with the approved erosion and sediment control plan, grading permit, or building permit:
- a. Prior to the start of earth disturbance;
 - b. Upon completion of the installation of perimeter erosion and sediment controls, but before proceeding with any other earth disturbance or grading;
 - c. Prior to the start of another phase of construction or opening of another grading unit; and
 - d. Prior to the removal of sediment control practices;
- (ix) Certification by the owner/developer that any clearing, grading, construction, or development will be done pursuant to the approved erosion and sediment control plan. The certification shall also require that the responsible personnel involved in the construction project have a certificate of training at an MDE approved training program for the control of erosion and sediment prior to beginning the project. The certificate of training for responsible personnel may be waived by the Department of Public Works on any project involving four or fewer residential lots.
- (x) Additionally, the owner/developer shall allow a right of entry for periodic on-site evaluation by the Howard Soil Conservation District, the Department of Inspections, Licenses and Permits, the Department of Public Works, and the Maryland Department of the Environment; and
- (xi) Certification by a professional engineer, land surveyor, landscape architect, architect, or forester (for forest harvest operations only) registered in the State that the plans have been designed in accordance with erosion and sediment control laws, regulations, and standards, if required by the Howard Soil Conservation District or the administration.
- (9) Any additional information or data deemed appropriate by the Howard Soil Conservation District.
- (d) *Plan Approval Duration.* Approved plans remain valid for two years from the date of approval unless extended or renewed by the Howard Soil Conservation District.
- (e) *Grandfathering of Approved Plans.*
- (1) Any plans that receive final approval after January 9, 2013 shall be in compliance with the requirements of this section and the standards and specifications.
 - (2) A plan that receives final approval by January 9, 2013 may be reapproved under its existing conditions if grading activities have begun on the site by January 9, 2013, with the exception of stabilization requirements.
 - (3) Stabilization practices on all sites shall be in compliance with the requirements of this section of this Code, and the standards and specifications by January 9, 2013, regardless of when an approved erosion and sediment control plan was approved.

- (f) *Review and Approval by Howard Soil Conservation District.* The review and approval process shall be in accordance with the comprehensive and integrated plan approval process described in the Standards and Specifications, Title 18, Subtitle 9 of this Code, and Title 4 of the Environment Article of the Annotated Code of Maryland.
- (g) At a minimum, the concept stage shall include the mapping of natural resources and sensitive areas including highly erodible soils and slopes greater than 15 percent as well as information required under Title 18, Subtitle 9 of this Code. These areas are to remain undisturbed or an explanation shall be included during the concept or site development stage describing enhanced protection strategies for these areas during construction.
- (h) The site development stage shall include all concept stage information and information about how proposed erosion and sediment control practices will be integrated with proposed stormwater management practices. The latter may be accomplished through a narrative and may be shown on an overlay plan showing both ESD and erosion and sediment control practices. An initial sequence of construction and proposed project phasing to achieve the grading unit restriction should be submitted at this time. A construction drawing included in this stage shall contain sufficient information, drawings, and notes to describe how soil erosion and off-site sedimentation will be minimized. The concept and site development stages shall serve as a basis for all subsequent grading and stabilization.
- (i) An applicant shall submit a final erosion and sediment control plan to the Howard Soil Conservation District for review and approval. The related drawings shall include all of the information required by the concept and site development stage as well as any information required by this subtitle but not already submitted.
- (j) *Approval.* A final erosion and sediment control plan shall not be considered approved without the inclusion of the signature and date of signature of the Howard Soil Conservation District on the construction drawing. In approving the plan, the Howard Soil Conservation District may impose conditions it deems necessary to ensure compliance with the provisions of this subtitle, the Maryland Sediment Control Regulations, the "standards and specifications," requirements of the Howard Soil Conservation District or the preservation of public health and safety.
- (k) *Modifications to Approved Erosion and Sediment Control Plans.*
 - (1) The Howard Soil Conservation District may revise approved plans as necessary. Modifications may be requested by the permittee, the owner/developer, the inspection agency, or the Department of Inspections, Licenses and Permits in accordance with COMAR 26.17.01.09(H), plan modifications.
 - (2) The Howard Soil Conservation District may develop a list of minor modifications that may be approved as field revisions by the inspection agency. The list of minor modifications shall not be implemented unless it has been approved by the administration.
- (l) *Notification by Howard Soil Conservation District.* Within 30 days of submission of the completed erosion and sediment control plan, the Howard Soil Conservation District shall notify the applicant of approval, approval with modifications, or the reasons for disapproval. If a decision is not made within 30 days, the Howard Soil Conservation District shall inform the applicant of the status of the review process and the anticipated completion date.
- (m) *Standard Plan.*
 - (1) The Howard Soil Conservation District may adopt a standard erosion and sediment control plan for activities with minor earth disturbances, such as single-family residences, small commercial and other similar building sites, minor maintenance grading, and minor utility construction.
 - (2) A standard erosion and sediment control plan shall meet the requirements of this subtitle and the standards and specifications.
 - (3) MDE shall review and approve a standard plan prior to its adoption.

- (n) *Variances.* The Howard Soil Conservation District may only grant a written variance from the requirements of this subtitle when strict adherence will result in exceptional hardship and not fulfill the intent of this subtitle. The owner/developer shall submit a written request for a variance to the Howard Soil Conservation District. The request shall state the specific variance sought and the reasons for the request. The Howard Soil Conservation District shall not grant a variance unless and until sufficient information is provided describing the unique circumstances of the site that justify the variance.

(C.B. 3, 2013, § 1.1)

Sec. 3.404. - Permits.

- (a) *Issuance.* The Department of Inspections, Licenses and Permits shall issue a grading permit if:
- (1) The applicant submits an erosion and sediment control plan for the site to the Howard Soil Conservation District and the Howard Soil Conservation District has approved the erosion and sediment control plan for the site;
 - (2) The applicant certifies in writing that any construction or development will be done pursuant to the approved erosion and sediment control plan;
 - (3) Where applicable, the applicant submits an approved stormwater management plan in accordance with the requirements of section 18.902 of this Code. Where applicable, the applicant shall submit an executed developer agreement for the stormwater management work and any required maintenance agreement for the maintenance of a private stormwater management system;
 - (4) The applicant is developing a golf course for redevelopment, as defined in section 16.129, and has complied with section 16.129 of this Code;
 - (5) The applicant provides the surety required by section 3.405 of this subtitle; and
 - (6) The applicant pays the grading permit fee.
- (b) *Permit Expiration and Renewal.* The grading permit shall expire two years from the date of issuance unless extended or renewed by the Department of Inspections, Licenses and Permits.
- (c) *Permit Fee.* A permit fee schedule may be established by resolution of the Howard County Council for the administration and management of the erosion and sediment control program. The County is exempt from the permit fee.
- (d) *Permit Suspension and Revocation.* The Department of Inspections, Licenses and Permits may suspend or revoke any grading or building permits after providing written notification to the permittee based on any of the following reasons:
- (1) Any violation of the terms or conditions of the approved erosion and sediment control plan or permits;
 - (2) Noncompliance with any violation notice or stop work order;
 - (3) Changes in site characteristics upon which plan approval and permit issuance were based; or
 - (4) Any violation of this subtitle or any rules and regulations adopted under it.
- (e) *Permit Conditions.* In issuing a grading permit, the Department of Inspections, Licenses and Permits may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this subtitle or the preservation of the public health and safety.

(C.B. 3, 2013, § 1.1)

Sec. 3.405. - Surety required.

- (a) *Form.* Except as provided in subsection (c) of this section, the applicant shall provide the County with surety in the form of a letter of credit or cash to guarantee the cost of stabilizing the soil within the construction area and the costs of the installation, maintenance, and removal of the erosion and sediment controls shown on the approved plan.
- (b) *Amount.* The County shall determine the amount of the surety based on the size of the area to be disturbed and the type of construction.
- (c) *Exemptions.* An applicant performing grading for the following types of construction is exempt from the surety requirements:
 - (1) Residential subdivisions of four or fewer lots;
 - (2) Individual single-family residential lots;
 - (3) Grading-spoils operations on lots of three acres or less;
 - (4) Laying of less than one-half mile of gas, electric, telephone or cable television lines within public rights-of-way; or
 - (5) Laying of less than 300 feet of gas, electric, telephone or cable television lines outside of the public right-of-way.

(C.B. 3, 2013, § 1.1)

Sec. 3.406. - Enforcement.

- (a) *Enforcement Authority.* The County shall, through the authority of this subtitle and COMAR 26.17.01 and 26.08.01.01b(20), use enforcement actions when violations of this subtitle occur. Any step in the enforcement process may be taken at any time, depending upon the severity of the violation.
- (b) *Right of Entry.* The County may enter upon property to ensure compliance with this subtitle. If a permit is revoked, the County may enter the property and perform work in order to stabilize the soil within the construction areas, to construct sediment control measures on the perimeter of the site to control mud and silt, or to provide positive drainage patterns.
- (c) *Corrective Action Order.* When the County determines that a violation of this subtitle has occurred, the County shall notify the on-site personnel or the permittee in writing of the violation, describe the required corrective action and the time period in which the violation must be corrected.
- (d) *Stop-Work Order.* If a person clears or grades land without a grading permit, the County shall issue a stop-work order banning any or all construction activity on the site except temporary sediment control measures specified by the County. If a person clears or grades land in violation of this subtitle, the County may issue a stop-work order banning any or all construction activity on the site except temporary sediment control measures specified by the County, until the violation is corrected.
- (e) *Civil Citation.* When the County identifies a violation of this subtitle, the County may issue a citation to the owner/developer or the permittee, or both, assessing civil penalties in accordance with section 3.407 of this subtitle. The contents and enforcement of the citation shall be governed by title 24 of this Code.
- (f) *Injunctive Relief.* Any agency whose approval is required under this subtitle or any interested person may seek an injunction against any person who violates or threatens to violate any provision of this subtitle.
- (g) *Other Legal Action.* The County may take any of the enforcement actions authorized by this subtitle regardless of whether any other enforcement action has been taken for a violation and may take other legal action including, without limitation, referral for criminal enforcement or a civil action for damages to recover double the amount of costs incurred by the County for actions taken to abate a violation. The County shall use any damages recovered under this section solely for the County's

erosion and sediment control program, including correcting failures to implement or maintain sediment and erosion controls.

(C.B. 3, 2013, § 1.1)

Sec. 3.407. - Penalties.

- (a) *Criminal Penalties.* Any person who violates any provision of this subtitle, or any rule, regulation, order, or permit issued under this subtitle, is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding six months, or both, for each violation. Each day a violation occurs or continues is a separate offense. Costs may be imposed at the discretion of the court.
- (b) *Civil Penalties.* A violation of this subtitle is a Class A offense and any person who violates any provision of this subtitle, or any rule, regulation, order, or permit issued under this subtitle, is subject to a civil penalty up to \$1,000.00 for each violation. Each day a violation occurs or continues is a separate offense.

(C.B. 3, 2013, § 1.1)

Sec. 3.408. - Severability.

If any portion, section, subsection, sentence, clause, or phrase of this subtitle is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this subtitle, it being the intent of the County that this subtitle shall stand, notwithstanding the invalidity of any portion, section, subsection, sentence, clause, or phrase, hereof.

(C.B. 3, 2013, § 1.1)

SUBTITLE 5. - SIGNS

Sec. 3.500. - Purpose and scope.

- (a) The purpose of this subtitle is to regulate all exterior signs and interior window signs placed for exterior observance so as to protect property values, to protect the character of the various communities in the County, to protect health, safety and morals, and to promote the public welfare.
- (b) The principal features are the restriction of advertising to the business or use of the premises on which the sign is located, with limited exceptions for Downtown Columbia due to it being the urban center of the County, and the restriction of the total sign area permissible per site. Any sign placed on land or on a building for the purpose of identification or for advertising a use conducted thereon or therein shall be deemed accessory and incidental to such land, building or use. It is intended that the display of signs will be appropriate to the land, building or use to which they are appurtenant and be adequate, but not excessive, for the intended purpose of identification or advertisement. With respect to signs advertising business uses, it is specifically intended, among other things, to avoid excessive clutter among displays in their demand for public attention.
- (c) It is intended by this section that all temporary signs erected for directional purposes, for public information, or to call attention to special events shall be confined to those that are of general public interest and that such signs shall be limited to the giving of information.
- (d) All other signs, commonly referred to as outdoor advertising, billboards or poster panels, which advertise products or businesses not connected with the site or building on which they are located, are deemed by this section to constitute a separate use. Permanent display of outdoor advertising is

deemed to be inappropriate to the character and the sound development of the County, and it is intended that such advertising be confined to temporary displays on unimproved property in industrial districts.

- (e) Provisions relating to Downtown Columbia were enacted as part of the Downtown Columbia Plan, a comprehensive development scheme to establish for the first time in the County an urban center that is well-planned, economically successful, vibrant, and visually attractive in order to draw in businesses, residents, and tourists and to attract events of regional, national, and international interest. The provisions governing signage in Downtown Columbia are intended to ensure that signs are an integral part of an overall development plan aimed at achieving an aesthetically pleasing and high quality visual environment that reinforces the planned character of each of the neighborhoods, is compatible with the downtown-wide design guidelines and the six sets of Downtown Neighborhood Design Guidelines, enables easy identification and wayfinding for pedestrian and vehicular traffic, and establishes a coordinated and harmonic urban streetscape while, at the same time, provides for a signature environment for each of the six distinct neighborhoods that make up Downtown Columbia. The provisions are also aimed at achieving well-designed, coordinated signage and a process that encourages creativity in the use of signage to enhance the urban experience.

(C.B. 1, 1972; C.B. 56, 2010, § 2)

Sec. 3.501. - Sign standards by district.

- (a) *General.* The following sign standards by district shall apply to every existing district and to every new zoning district classification hereafter created in Howard County; to commercial or industrial uses permitted as conditional uses under section 131 of the zoning regulations unless the Board of Appeals shall expressly provide for stricter conditions for signs or billboards in granting such uses; and to the separate areas of residential, multifamily commercial and industrial uses in multiuse districts such as new town district (outside Downtown Columbia), planned community district and similar districts; and to all areas in Downtown Columbia which the Downtown Columbia Plan specifies as being the urban center of the County and therefore is determined to necessitate unique treatment under this subtitle. The districts are defined by the zoning regulations and official zoning maps. Only signs as described herein and as may be described under section 3.502 "signs permitted in all districts," or section 3.503 "exemptions," shall be permitted in each particular district.
- (b) *Residential Districts and Residential Areas.*
 - (1) *Single-family.* Two home occupation signs not exceeding two square feet each in area shall be permitted per single-family dwelling. Such signs shall be set back at least six feet from the nearest property line and shall not be over five feet above the ground, whether freestanding or on a building. Other signs for single-family dwellings shall be subject to the standards set forth in subsection 3.503(g). Illumination shall be in accordance with the restrictions set forth in section 3.508.
 - (2) *Multiple-family.* In any multiple-family dwelling in which a professional or rental office is permitted, one sign shall be permitted at each vehicular entrance from a public right-of-way and at each major public entrance to the dwelling for all offices in the dwelling, the sign not to exceed one square foot for each office or ten square feet overall, whichever is smaller. Permitted signs shall be set back at least six feet from any property line, and the top of the sign shall not be over five feet above the ground, whether free-standing or on a building. The sign shall indicate only the name, address and occupation of the occupant. Illumination shall be in accordance with the restrictions set forth in section 3.508.
 - (3) *Mobile homes.* Signs in mobile home parks shall be in accordance with the standards as set forth in subsection 3.501(c) of this subtitle.
- (c) *Commercial Districts, Commercial Areas, all Areas Within Downtown Columbia, Industrial Districts and Industrial Areas.*

(1) *Size.*

- a. The provisions of this paragraph shall not apply in Downtown Columbia. A total sign area of two square feet for each lineal foot of building frontage shall be allowed. If the building has multiple frontages, an additional sign area of one square foot for each additional lineal foot of building frontage shall be allowed. The total area of all signs erected on the lot and building shall be within the allowable square footage. Where there are multiple frontages, no more than two square feet of sign area for each lineal foot of building frontage shall be allowed to face that frontage.
- b. In Downtown Columbia, the total sign area allowed for a building shall be computed on the basis of two square feet of sign area for each linear foot of downtown building frontage, including all building frontages on buildings having multiple frontages. Buildings with less than 60 linear feet of downtown building frontage shall be allowed up to 120 square feet of sign area. Where there are multiple frontages, no more than two square feet of sign area for each lineal foot of building frontage shall be allowed to face that frontage. The total area of all signs erected on the lot and building shall be within the allowable square footage.

(2) *Location.*

- a. *Flat wall signs.* Flat wall signs may be located anywhere on any wall of a building, except that, above the first floor, no window or part of a window shall be situated within the area, or surface area, as defined herein, of such sign, or its supporting structure. Except in Downtown Columbia, a sign, part of a sign, or the sign's supporting structure shall not cover a window or any part of a window. In Downtown Columbia, flat wall signs shall not cover all of a window. Flat wall signs that cover part of a window shall be in accordance with subsection 3.505(a)(9) of this subtitle. No flat wall sign shall extend above the top of the wall. In the case of a multistory building which has screening enclosing elevator shafts, stairs or heating and air-conditioning units, a flat wall sign may be permitted within the area of the screening.
- b. *Projecting signs.*
 - (i) The provisions of this paragraph shall not apply in Downtown Columbia. Projecting signs may project over public rights-of-way only where there is no building setback, and then it may project no more than 42 inches beyond the right-of-way line. It may be no closer than eight feet to a curblin without variance from the Board of Appeals, except that on commercial properties within the Ellicott City Historic District it may be no closer than three feet to a curblin without variance from the Board of Appeals, and must have a minimum clearance of ten feet above the finished grade of a sidewalk and 18 feet above any road, driveway or alley. No projecting sign or supporting structure shall project more than 42 inches from the wall of a building, nor be less than ten feet from the ground level at the base of the building, nor be higher than 25 feet from the ground level to the top of the sign on a multistory building, and above the first floor, no window or part of a window shall be situated within the area, or surface area, as defined herein, of such sign, or its supporting structure, nor shall any such sign or part of such sign or its supporting structure cover any window or part of a window. Furthermore, no projecting sign or supporting structure shall be located in such a manner as to obstruct the light and vision of a window. Every face of a projecting sign shall be considered as a separate sign for the purposes of computing the allowable area, and the sum of the areas to all faces of a projecting sign shall not exceed 25 square feet. No projecting sign or supporting sign or supporting structure shall extend above the top of the wall.
 - (ii) In Downtown Columbia, projecting signs including under canopy, awning signs, and blade signs may project over public rights-of-way only where there is no building setback or the setback is less than 48 inches. A projecting sign or supporting structure shall not project more than 48 inches from the wall of a building, nor be less than 8 feet from the ground level at the base of the building and 18 feet above any road,

driveway, or alley. The horizontal clearance between a projecting sign and the curbline shall not be less than three feet. A projecting sign shall not be higher than the parapet line of the building or 25 feet from the ground level to the top of the sign, whichever is less. Each face of a projecting sign shall be considered as a separate sign for the purposes of computing the allowable area, and the sum of the areas to all faces of a projecting sign shall not exceed 25 square feet. Under canopy signs shall be permanently attached to an overhead canopy or awning.

- c. *Freestanding signs.* The provisions of this paragraph shall not apply in Downtown Columbia. Where a building does not cover the full area of the property, business signs may be freestanding or ground-supported and may be located in the front yard. The height of the sign may not exceed one foot for each two feet the sign is set back from the right-of-way and shall not exceed 26 feet from the grade level to the top of the sign. Freestanding signs shall be permitted only where there is a minimum of 40 lineal feet of lot frontage. The maximum allowable area for a freestanding sign shall be one square foot for each one foot the sign is set back from the road right-of-way. The largest single face of a freestanding sign shall be considered for the purpose of computing allowable area under this section. No part of the sign shall extend beyond a property line or right-of-way line. Signs satisfying requirements for gas price posting are permitted up to an area of 32 square feet per face. Such signs may be affixed to the main freestanding sign and will not be assessed against the allowable area for the facility nor will they be considered for purposes of determining setback in relation to sign area.
- d. *Marquee signs.*
 - (i) Except as provided in paragraph (ii) of this subsection, signs may be placed on the vertical faces of a marquee provided no part of the sign shall project above or below the vertical faces of a marquee.
 - (ii) In Downtown Columbia, marquee signs may project below or above the vertical face of a marquee, provided a vertical clearance of eight feet is maintained between the bottom of the sign and the grade below. The horizontal clearance between a marquee and the curb line shall not be less than three feet.
- e. *Roof signs.* Single-faced signs shall be permitted on the front profile of a building provided that the top of the sign does not exceed the height of the building, as defined in the zoning regulations.
- f. *Tall building signs.*
 - (i) In Downtown Columbia, buildings over 100 feet tall may have tall building signs to identify tenants or the building name.
 - (ii) On a flat topped building, tall building signs shall be located between the top of the windows on the topmost floor and the top of the roof parapet or within an area 16 feet below the top of the roof parapet. On buildings with stepped or otherwise articulated tops, tall building signs may be located within an area 16 feet below the top of the building or within an area 16 feet below the top of the parapet of the main portion of the building below the stepped or articulated top. Tall building signs shall be located on a wall and may not be located on a roof, including a sloping roof, and may not block any windows.
 - (iii) A building may have tall building signs and the area of all tall building signs is included in the computation of the building's allowed tall building sign area. If a building has tall building signs on two or more sides of the building, the signage on each side shall consist of the same combination of names or corporate logos, provided that the names and logos on the signs need not be identical in appearance.
 - (iv) The total area of all tall building signs allowed for any building shall be computed on the basis of one square foot of sign area for each linear foot of downtown building

frontage. The area for tall building signs is not counted toward the total sign area of the building as calculated in subsection (c)(1)b. of this section.

- g. *Monument building sign.* In Downtown Columbia, a monument building sign, including its structure, shall be no more than six feet in height. The maximum sign area for a monument building sign is 30 square feet per side or face. Monument building signs are exempt from setback requirements.
- (3) *Area.* Except as otherwise provided in this subtitle, the total area of all signs erected on the lot and building shall be within the allowable square footage as calculated in subsection (c)(1) of this section.
- (4) *Content.* Signs allowed shall be identification signs only, as defined elsewhere in this subtitle.
- (5) *Unimproved property.* Signs for businesses conducted on unimproved lots shall be allowed a total area for all signs not to exceed one-half square foot for each lineal foot of lot frontage or 150 square feet overall, whichever is smaller. Signs on unimproved property shall comply with all other restrictions of subsection 3.501(c).
- (6) *Shopping centers and industrial parks.* A freestanding identification sign, stating the name of the facility and the major tenants, shall be allowed. The maximum allowable area of the sign shall be determined independently from the sign area allowed under subsection 3.501(c)(1) for building frontage, and it may be one square foot for each lineal foot of lot frontage or 200 square feet, whichever is smaller. If the facility has frontage on more than one public road, one such identification sign may be allowed for each frontage. The height of the sign shall not exceed 26 feet from the grade at the base of the sign; provided, however, an increase in height may be allowed not to exceed 40 feet from the grade at the base of the sign, if it can be shown to the Board of Appeals that excessive grade, building interference, bridge construction and the like exist.
- (7) *Illumination.* Illumination shall be in accordance with the restrictions set forth in section 3.508.
- (8) *Commercial directional signs.* The provisions of this paragraph shall not apply in Downtown Columbia. Commercial directional signs may be permitted by a variance by the Board of Appeals subject to a finding by the Board that the directional sign or signs are necessary for the public convenience and are consistent with the intent and purposes of this subtitle. Such signs shall be located only at road intersections and shall be subject to the approval of the Director of Inspections, Licenses and Permits of Howard County, based on criteria that he shall establish for the design and location of such signs. All directional signs at a single intersection shall be consolidated in a single frame or, if necessary, in several such frames. The maximum allowable area of any such consolidated sign shall be 12 square feet, and no more than four such signs shall be permitted for any single business. The content of such signs shall be limited to the name of the business, the principal product or services offered, and directional information.
- (9) *Downtown Columbia directional signs.* In Downtown Columbia, directional signs are allowed as follows and are not counted toward the total sign area of the building as calculated in subsection 3.501(c)(1)b. of this subtitle. A plan coordinating the design and appearance of directional signs with respect to style, color, and font shall be approved as part of the Downtown Neighborhood Design Guidelines. Directional signs will conform to any applicable Downtown Neighborhood Design Guidelines.
 - a. Vehicular directional signs are allowed and may contain the neighborhood name or "Downtown Columbia" or logotype, generic uses (such as "parking", "library", "plaza", "shops", "hotel", "restaurants", "grocery", "theatre", etc.) and wording of a directional nature, or public service information (such as information concerning transit routes and schedules, transportation demand management activities, community events, weather, and similar information). These signs may be placed on private land or in the public right-of-way, and shall be designed to direct and inform drivers to allow expedient movement through Downtown Columbia. Potential locations for vehicular directional signs shall be indicated on the neighborhood concept plan. Final locations shall be approved as part of a

site development plan unless erected pursuant to subsection 3.503(a) or subsection 3.505a(b) of this subtitle. The area of these signs shall not exceed 18 square feet per side.

- b. Pedestrian directional signs are allowed and may contain the neighborhood name or "Downtown Columbia" or logotype, generic uses (such as "parking", "library", "plaza", "shops", "hotel", "restaurants", "grocery", "theatre", etc.) and wording of a directional nature, or public service information (such as information concerning transit routes and schedules, transportation demand management activities, community events, weather, and similar information). These signs may be placed on private land or in the public right-of-way, and shall be designed to direct and inform pedestrians. Potential locations for pedestrian directional signs shall be indicated on the neighborhood concept plan. Final locations shall be approved as part of a site development plan unless erected pursuant to subsection 3.503(a) or subsection 3.505a(b) of this subtitle. The area of these signs shall not exceed 18 square feet per side.
- c. Directory signs which contain specific retail or office tenant names and information, directional information, and/or public service information (such as information concerning transit routes and schedules, transportation demand management activities, community events, weather and similar information) are allowed. These signs may be placed on private land only. Potential locations may be indicated on the Neighborhood Concept Plan. Final locations shall be approved as part of a site development plan, unless erected pursuant to subsection 3.503(a) of this subtitle. The area of these signs shall not exceed 12 square feet per side.
- d. Site directional signs such as "entrance," "exit," "parking" etc., shall be allowed. Site directional signs shall not contain any message other than the directional text and may be placed on private land or in the public right-of-way. Each sign may contain an arrow or graphic to accentuate its message and the area of each sign shall not exceed six square feet.

(C.B. 1, 1972; C.B. 53, 1974; C.B. 36, 1976; C.B. 77, 1981; C.B. 42, 1985; C.B. 62, 1988; C.B. 90, 1989; C.B. 29, 2001, § 1; C.B. 56, 2010, § 2)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 3.502. - Signs permitted in all districts.

Subject to the other conditions of this subtitle, the following signs shall be permitted anywhere within the County:

- (a) *Construction Identification Signs.* One sign shall be permitted for identifying all building contractors, one sign for identifying all professional firms, and one sign for identifying all lending institutions on-sites under construction. Each sign shall not exceed 32 square feet, and no more than three signs shall be permitted on one site. Permits are not required when such signs are six square feet or smaller. The sign(s) shall be confined to the site of the construction, construction shed or trailer and shall be removed no later than 14 days after the completion of the project. Freestanding construction signs shall be exempt from the setback requirements of this subtitle applicable to freestanding signs.
- (b) *Real Estate Signs.*
 - (1) One temporary real estate sign not exceeding 32 square feet in area and located on the property shall be allowed for each lot, parcel or tract two acres or over. If the lot, parcel or tract has multiple frontages, one additional sign, not exceeding 32 square feet in area, shall be allowed in the property, to be placed facing the additional frontage. Under no circumstances shall more than a maximum of two signs be permitted on the property. Signs shall be removed within seven days of the sale. Freestanding temporary real estate

signs shall be exempt from the setback requirements of this subtitle applicable to freestanding signs.

- (2) One temporary subdivision identification sign not exceeding 64 square feet in area and located on the property shall be allowed for each development of ten lots or more. Freestanding temporary subdivision identification signs shall be exempt from the setback requirements of this subtitle applicable to freestanding signs. Signs shall be removed within seven days of the sale of the last lot in the subdivision.
 - (3) One temporary subdivision approach sign may be erected near each major intersection to the subdivision, with a maximum of four such signs permissible for any one subdivision. Each sign shall not be more than three feet long and one foot high. No illumination will be permitted, and such signs shall be no less than 15 feet from the nearest edge of the pavement nor less than 100 feet from the nearest curb intersection of any street or road. The content of such signs shall be restricted to the name of the subdivision, the name of the developer and/or agent, or identification emblem, and a directional arrow. The top of such signs shall not exceed eight feet above grade. In the event that there is a need for more than one sign at any major intersection, all such signs must be consolidated and confined within a single frame, subject to the criteria established by the Director of Inspections, Licenses and Permits for commercial directional signs.
- (c) *Street Banners.*
- (1) Except as provided in paragraph (2) of this subsection, street banners advertising a public entertainment or event, specifically approved by the County Executive and in approved locations, may be displayed 14 days prior to and seven days after the public entertainment or event.
 - (2) Street banners promoting a historic district, public event or institution, not containing a commercial entity's name or logo, and specifically approved by the County Executive and in approved locations, may be displayed in a historic district for a period of 12 months. Renewals for displaying a banner must be approved by the County Executive.
- (d) *Window Signs.* There shall be no limit to the number of such signs; provided, however, that the total area of all window signs shall not exceed 20 percent of the window glass area, which shall be calculated separately for each side of the building. An additional 20 percent of the window area may be used on a temporary basis. An additional ten percent of the window area may be used on a temporary basis to advertise nonprofit activities.
- (e) *Permanent Identification Signs.*
- (1) Signs of a permanent nature setting forth the names of religious facilities, communities, subdivisions, apartments, schools, public/quasi-public institutions and neighborhoods shall be permitted and are exempt from the setback requirements established in subsection 3.501(c)(2)c. Illumination shall be in accordance with restrictions set forth in section 3.508. Except as provided in paragraph (2), of this subsection, such signs shall not exceed 32 square feet in area or six feet in height. Signs that are in existence on November 2, 1981, identifying a subdivision, apartment, condominium, village or neighborhood, which have been inventoried by the Department of Inspections, Licenses and Permits by March 1, 1982, shall be permitted and shall be exempt from the provisions of subsection 3.505(a)(5) of this subtitle. Within Downtown Columbia, potential locations of permanent identification signs shall be indicated on the Neighborhood Concept Plan. Final locations must be approved as part of a site development plan.
 - (2) Messages on Downtown Columbia identification signs and Downtown Columbia neighborhood identification signs shall be limited to the Downtown Columbia or neighborhood name. The maximum sign area for each Downtown Columbia and Downtown Columbia neighborhood identification sign is 32 square feet per side of the sign.
- (f) *Civic, Religious and Quasi-Public Signs.* Name, directional and informational signs, and emblems of service clubs, places of worship, civic organizations and quasi-public uses shall be

permitted on private property. Each sign shall be not more than 15 square feet in area. The top of such sign shall not exceed eight feet above grade. Illumination shall be in accordance with the restrictions set forth in section 3.508; and in the event that there is a need for more than one sign at one location, all such signs must be consolidated and confined within a single frame, subject to the review and recommendations of the Department of Inspections, Licenses and Permits.

- (g) *Farm Signs.* Signs displayed on any working farm by the owner or other operator for the purpose of advertising solely the products thereof shall be permitted. No single sign shall exceed 32 square feet in area. The total area of such signs shall not exceed 64 square feet.

(C.B. 1, 1972; C.B. 53, 1974; C.B. 77, 1981; C.B. 44, 1983; C.B. 34, 1985; C.B. 42, 1985; C.B. 62, 1988; C.B. 90, 1989; C.B. 17, 1995; C.B. 41, 2001, § 1; C.B. 56, 2010, § 2)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 3.502A. - Digital displays in Downtown Columbia.

- (a) *Digital Displays.* In Downtown Columbia, digital displays are allowed notwithstanding any other provision of this subtitle subject to the requirements set forth in this section.
- (b) For digital displays programmed with changing images which identify or advertise a use, product, business or service that is conducted or available on the premises where the digital display is located:
- (1) The maximum size of each digital display shall not exceed 150 square feet;
 - (2) The sum of (i) the area of each proposed digital display and (ii) the total area of any existing or proposed signage shall not exceed the total sign area permitted by subsection 3.501(c)(1)b.;
 - (3) Each digital display shall display an image that changes no more frequently than every two minutes between 7:00 a.m. and 2:00 a.m. and shall be nonoperational or nonchanging at all other times. Changes of image shall be instantaneous as seen by the human eye, and shall not use blinking, flashing, scrolling, fading, rolling, shading, dissolving, or similar effects as part of the change;
 - (4) The digital display shall not have audio;
 - (5) Each digital display shall be located below the roofline of a building;
 - (6) Except for government uses including public schools and colleges, each digital display shall be part of a downtown revitalization project;
 - (7) Each digital display must be at least 150 feet from a residence in a residential area where such sign would be prohibited;
 - (8) Each digital display must be equipped with automatic dimming capability that adjusts the luminance of the displayed information based on ambient light conditions so as to not exceed 5,000 NITs (candelas per square meter) during daylight hours and a maximum illumination of 500 NITs (candelas per square meter) between dusk to dawn as measured from the sign's face at maximum brightness. A written certification from the sign manufacturer that the light intensity of the digital display will be preset to conform to the brightness levels established by this code shall be required prior to approval;
 - (9) Each digital display shall be equipped with a default mechanism that will stop the messaging or freeze the image at 500 nits in one position when a malfunction in electronic programming occurs; and
 - (10) Each digital display must comply with all other provisions of this subtitle applicable to Downtown Columbia.

- (c) The Planning Board may approve a digital display that does not comply with the restrictions set forth in subsections 3.502A(b)(1), (2), (3), (4), or a digital display that has programming which includes identifying or advertising a use, product, business, or service that is not conducted or available on the premises where the digital display is located. The Planning Board shall consider the recommendation of the Design Advisory Panel as to the proposed sign and determine prior to the issuance of a permit by the Department of Inspections, Licenses and Permits that the following conditions will be met:
- (1) The requirements of paragraphs (5), (6), (7), (8), (9), and (10) of subsection 3.502A(b); and
 - (2) The digital display will not adversely affect the use or development of adjacent property;
 - (3) The digital display shall be well integrated into the architecture or design of the site and located and oriented in a manner such that the sign does not adversely impact any residential area adjacent to Downtown Columbia where such signs would be prohibited. In making this determination, the Planning Board must find that distance, intervening structures, topography, existing or proposed landscaping or adjustments to the standards provided for in subsection 3.502A(b)(7) or subsection 3.502A(b)(8) will assure a compatible relationship;
 - (4) The digital display shall be a size such that it is in scale with its setting and intended audience;
 - (5) The digital display will not cause a traffic or safety hazard;
 - (6) The digital display will not have a blighting influence as a result of a proliferation of such signs within a particular Downtown Columbia neighborhood;
 - (7) Each digital display that uses animation or changing images will incorporate technology that assures the image motion is smooth and avoids quick and frenetic changes of content; and
 - (8) Audio speakers used in connection with digital displays allowed by this subsection shall not be audible beyond the property on which the sign is located;
 - (9) The digital display will contribute to the overall vision of downtown revitalization;
 - (10) The digital display will conform to any applicable downtown neighborhood design guidelines;
 - (11) The digital display will provide public service or community enhancement programming reflective of the extent of the Planning Board's approval(s) under this subsection; and
 - (12) That the issuance of any permit for a digital display under this subsection shall be expressly conditioned on the continuing compliance with all of the requirements of this subsection and conditions set in the Planning Board's approval(s).

(C.B. 56, 2010, § 2)

Sec. 3.503. - Exemptions.

The following types of signs are exempt from all the provisions of this subtitle, except for construction and safety regulations and the following standards:

- (a) *Public Signs.* Signs of a noncommercial nature and in the public interest, erected by, or on the order of, a public officer in the performance of his public duty, such as directional signs, regulatory signs, warning signs and information signs.
- (b) *Temporary Signs.* Temporary signs not larger than 32 square feet announcing any public, charitable, educational, or religious event may be placed on the property at which the event will take place. Temporary signs announcing the event may be placed at other locations provided that the total area of these signs on any residential lot shall not exceed six square feet and the total area of these signs on any commercial or industrial lot shall not exceed 32 square feet. Such signs shall be permitted to be erected within a County public road right-of-way except in an area designated as an historic district in a form no larger than six square feet and of materials prescribed by the Department of Inspections, Licenses and Permits solely upon the

specific written approval of the Department of Inspections, Licenses and Permits in accordance with subsection 3.505a(b), provided that no more than two such signs are erected at any one time at any one location, and that placement of the signs does not create a situation hazardous to pedestrian or vehicular traffic. Such signs shall be allowed no more than 21 days prior to the event and must be removed within seven days after the event. Such signs may be illuminated in accordance with the restrictions set forth in section 3.508. If building mounted, these signs shall be flat wall signs and shall not project above the top of the wall. If ground mounted, the top shall be no more than 12 feet above ground level.

- (c) *Integral Signs.* Names of buildings, dates of erection, monumental citations, commemorative tablets and the like, when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction and made an integral part of the structure.
- (d) *Private Traffic Direction.* Signs directing traffic movement onto a premise or within a premise, not exceeding eight square feet in area for each sign. Illumination of these signs shall conform to section 3.508, except that standard traffic signal light devices may be used if needed. Horizontal directional signs on and flush with paved areas are exempt from these standards.
- (e) *Real Estate Signs.*
 - (1) *Signs on private property.* Temporary real estate signs not exceeding six square feet in area located on the subject property and limited to one such sign for each frontage of a home, lot, parcel or tract under two acres in area. Signs shall be removed within seven days of the sale.
 - (2) *Signs on approach routes.* Temporary real estate directional signs, not exceeding three square feet in area and four in number, showing a directional arrow and placed back of the property line, shall be permitted on approach routes to an open house. These directional signs announcing an open house may be placed in the County right-of-way between the hours of 4:00 p.m. Friday and noon on the following Monday. When a holiday occurs on a Monday or Friday, the hours in which these signs may be placed in the County right-of-way shall be extended by 24 hours to include the holiday. A Police Officer may remove these signs if in the opinion of the Police Officer, the signs so placed constitute a hazard to traffic.
 - (3) *Height of real estate signs.* The top of any temporary real estate signs shall not exceed three feet in height, except crossbar post signs located on the property, the crossbar of which shall be limited to no higher than five feet above the ground.
- (f) *Political Campaign Signs.* Signs announcing candidates seeking public political office and other data pertinent thereto shall be permitted up to a total area of nine square feet for each premises in a residential district and 32 square feet in a commercial or industrial district. These signs shall be located only on private property and shall be no less than 15 feet from the nearest edge of the pavement and no less than 100 feet from the nearest curb intersection of any street or road. These signs may be displayed 60 days prior to and seven days after the election for which intended. In cases where a final election follows within 75 days of a primary election, those candidates who won in the primary election may continue to display their signs during the interim period and up to seven days after the final election.
- (g) *Single-Family Residential Name and Street Address Signs.* Two single-family residential name signs not exceeding two square feet each in area shall be permitted per single-family dwelling. Such signs shall be allowed on mailboxes, but shall otherwise be set back at least six feet from the nearest property line and shall not be over five feet above the ground, whether freestanding or on a building. Two street number signs not exceeding two square feet in area shall be allowed in any district. Such signs shall be allowed on mailboxes and over doorways but shall otherwise be set back at least six feet from the nearest property line, shall not be over five feet above the ground when freestanding, and shall not be over ten feet above ground on a building.
- (h) *Flags.* Flags of a nation, State, municipality, educational institution or noncommercial organization. In addition, any commercial or industrial use may display its corporate emblem in

the form of a flag, provided that there is not more than one such flag on any parcel. In Downtown Columbia, flag poles shall not exceed the height of the building or 70 feet, whichever is less. Building wall mounted flag poles must comply with the projection criteria for "projecting signs" in Downtown Columbia. Each parcel shall be allowed a maximum of three flag poles.

- (i) *Vending/Dispensing Machines.* Permanent signs on vending machines, gas pumps or similar dispensing devices.
- (j) *Banners.* One temporary banner no more than 32 square feet in area is permitted for 14 days to announce the grand opening of an establishment. In Downtown Columbia, permanent and temporary banners are allowed on private land and may be mounted on buildings, street lights, and similar pole-like structures subject to the following:
 - (1) Permanent banners shall be mounted perpendicular to a building with permanent brackets and constructed of canvas or other durable awning type material. Permanent banners are counted toward the total sign area of the building as calculated in subsection 3.501(c)(1)b. of this subtitle.
 - (2) Seasonal banners may be displayed for up to 90 days and do not count towards the total sign area of a building provided the banner does not identify any specific commercial business. Seasonal banners shall not exceed 16 square feet per side. Seasonal banners shall be coordinated as to size, style, and placement.
 - (3) Temporary banners may announce a grand opening, entertainment, or other event and do not count towards the total sign area of a building. Temporary banners shall be removed after 14 days.
- (k) *Small Construction Identification Signs.* Signs six square feet in area or smaller to identify building contractors, professional firms and lending institutions are permitted at construction sites provided there are no more than three such signs per site.
- (l) *Athletic Playing Field Banners.* An entity that operates and maintains an athletic playing field used by youth sports teams may display temporary banners on the fences of the field. The top of the banner shall not be over eight feet above the ground. Notwithstanding section 3.508 of this subtitle, a banner shall not be illuminated. The banners may be displayed only:
 - (1) Facing the inside of the field; and
 - (2) From March 1 through December 1.

(C.B. 1, 1972; C.B. 77, 1981; C.B. 44, 1983; C.B. 34, 1985; C.B. 90, 1989; C.B. 106, 1989; C.B. 8, 2008; C.B. 56, 2010, § 2)

Sec. 3.504. - Nonconforming signs.

- (a) *Removed Immediately.* The Department of Inspections, Licenses and Permits shall order the removal of any sign erected or maintained in violation of the law as it existed prior to the date of the adoption of this subtitle; provided, however, that if such signs are redesigned or altered so as to conform to the law as it existed prior to the date of the adoption of this subtitle and a permit is applied for within 90 days of the effective date of this subtitle, these signs shall be regarded as nonconforming signs subject to the provisions of subsection (b) of this section. Removal shall be in accordance with subsection 3.511(d).
- (b) *Permitted.* Other signs existing at the time of the enactment of this subtitle and not conforming to its provisions, but which did conform to previous laws, shall be regarded as nonconforming signs which may be continued if properly re-paired and maintained as provided in this subtitle, if in conformance with other laws of the County, and if not prohibited under section 3.505 of this subtitle. Nonconforming signs which are structurally altered, relocated or replaced shall comply immediately with all provisions of this subtitle.

(C.B. 1, 1972; C.B. 77, 1981; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 3.505. - Prohibited signs.

- (a) *Removed Immediately.* The following signs are prohibited and shall be removed immediately in accordance with subsection 3.511(d):
- (1) Signs which imitate an official traffic sign or signal or which contain the words "stop," "go slow," "caution," "danger," "warning," or similar words, except as provided in subsection 3.503(d).
 - (2) Signs which are of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as a traffic-control device or which hide from view any traffic or street sign or signal or which obstruct the view in any direction at a street or road intersection.
 - (3) Signs which advertise an activity, business, product or service no longer produced or conducted on the premises upon which the sign is located. Where the owner or lessor of the premises is seeking a new tenant, such signs may remain in place for no more than 90 days from the date of vacancy.
 - (4) Except as otherwise provided by this subtitle, signs which contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar or moving devices. These devices, when not part of any sign, are similarly prohibited. However, strings of lights which are used to display merchandise or for security purposes are exempt from this section and shall comply with section 3.508 of this subtitle.
 - (5) Signs which are placed on a County right-of-way, except signs permitted pursuant to section 3.505A of this subtitle.
 - (6) Signs which are posted or otherwise attached to utility poles or trees.
 - (7) Banners other than those permitted pursuant to this subtitle.
 - (8) Inflatable device signs in Downtown Columbia.
 - (9) Signs which are erected, constructed, or maintained so as to obstruct a fire escape, required exit, or a window or door opening used as a means of egress.
 - (10) In Downtown Columbia, any sign with an area of three square feet or more that is advertising a business, product or service on a vehicle, trailer, or cart parked in a prominent location to be seen from a public roadway with the intent to use the vehicle, trailer or cart as a sign.
- (b) *Removal within One Year.* Except as otherwise provided by this subtitle, the following signs are prohibited and shall be removed, if not made to conform with the provisions of this subtitle within one year of the adoption of this subtitle, in accordance with subsection 3.511(d):
- (1) Signs which move in any manner or have a major moving part which gives an illusion of motion.
 - (2) Signs which are painted directly on the wall, exterior of a window or any other structural part of a building, unless the Board of Appeals shall grant a variance for such signs based on findings that they contribute significantly to the historical, architectural or aesthetic character in the area in which the sign is located.

(C.B. 1, 1972; C.B. 77, 1981; C.B. 44, 1983; C.B. 90, 1989; C.B. 56, 2010, § 2)

Sec. 3.505A. - Permitted signs in County rights-of-way.

- (a) *Signs Not Requiring Prior Approval (Signs in Rights-of Way)*. The following signs shall be allowed in the County rights-of-way without prior approval or permit:

Temporary real estate directional signs as specified in subsection 3.503(e).

- (b) *Signs Requiring Prior Approval (Signs in Rights-of-Way)*. The following signs shall be allowed in County rights-of-way provided that the sign is approved by the Department of Inspections, Licenses and Permits and that the Director of Inspections, Licenses and Permits issues a revocable permit conditioned upon removal of the sign upon the County's request, at no cost to the County:

- (1) Projecting signs as set forth in subsection 3.501(c)(2)b.;
- (2) Marquee signs as set forth in subsection 3.501(c)(2)d.;
- (3) Directional signs as set forth in subsection 3.501(c)(9);
- (4) Tall building signs as set forth in subsection 3.501(c)(2)f.;
- (5) Street banners as set forth in subsection 3.502(c);
- (6) Permanent identification signs as set forth in subsection 3.502(e);
- (7) Identification signs for residential apartment complexes and condominiums as set forth in subsection 3.501(b)(4);
- (8) Temporary subdivision directional signs as specified in subsection 3.502(b)(3); and
- (9) Temporary signs announcing public, charitable, educational, or religious events as set forth in subsection 3.503(b).

(C.B. 44, 1983; C.B. 34, 1985; C.B. 62, 1988; C.B. 106, 1989; C.B. 56, 2010, § 2)

Editor's note— C.B. 62, 1988, effective July 1, 1988, amended subsection (b) of this section but identified it as subsection (b) of § 3.507.

Sec. 3.506. - Human, animal or product form sign.

Signs which are shaped to resemble any human, animal or product form or any animation of any human, animal or product shall be permitted in commercial districts, commercial areas, in industrial districts, and in industrial areas, subject to all other requirements for signs in the district or area in which located. The sign shall be reviewed and approved by the Board of Appeals as consistent with the requirements, intent and purposes of this subtitle.

(C.B. 1, 1972; C.B. 77, 1981)

Sec. 3.507. - billboards.

- (a) *General*. Outdoor advertising structures, billboards and poster panels (referred to as billboards), which advertise products or businesses not connected with the site on which they are located, shall be permitted only as temporary uses on unimproved property in industrial or manufacturing districts. Erection of billboards may be authorized only by a special permit issued by the Board of Appeals. The maximum period for which such permits may be issued is one year; and except for permits for billboards containing directional information to an historic site, such permits shall not be renewable. Permits for billboards providing directional information to an historic site may be renewed where the Board makes the determinations required under section 3.513 of the Howard County Code.
- (b) *Location*. No billboard shall be closer than 100 feet to any property line, nor located closer than 660 feet to the right-of-way line of any highway which is part of the interstate highway system, nor closer than 200 feet to the right-of-way of any other street or road.

- (c) *Height.* No billboard shall be more than 20 feet in height from the ground level; provided, however, a variance in height may be allowed by the Board of Appeals, if it can be shown to the Board that excessive grades, building interference, bridge obstruction and the like exist, in which case the height may be increased to 40 feet.
- (d) *Area.* billboards may be single-face or double-face, but no billboard shall contain more than two signs or panels and shall not exceed in aggregate a total area of 500 square feet per facing.
- (e) *Illumination.* Illumination shall be in accordance with the restrictions set forth in section 3.508.
- (f) *Removal.*
 - (1) *Illegal.* The Department of Inspections, Licenses and Permits shall order the removal of any billboard erected or maintained in violation of law, as it existed prior to the date of adoption of this section, in accordance with subsection 3.511(d); provided, however, that any billboard existing on the effective date of this subtitle shall be granted nonconforming status as provided in subsection 3.507(f)(2), if within 90 days of the effective date of this subtitle, such billboard is redesigned or altered to comply with the law as it existed prior to the adoption of this subtitle.
 - (2) *Nonconforming.* Other billboards existing at the time, of enactment of this section and not conforming to its provisions, but which did conform to previous laws, shall be regarded as nonconforming billboards which may be continued, if properly repaired and maintained as provided in this section and if in conformance with other laws of the County. Nonconforming billboards which are structurally altered, relocated or replaced shall comply immediately with all provisions of this section.

(C.B. 1, 1972; C.B. 77, a 1981; C.B. 62, 1988; C.B. 65, 1989)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 3.508. - Illumination.

- (a) *Shading.* The light from any illuminated sign or billboard or from any light source, including interior of a building, shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect surrounding or facing premises nor adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Light shall not shine or reflect on or into residential structures.
- (b) *Blinking or Flashing.* Except as provided in section 3.502A of this subtitle, a sign shall not have blinking, flashing or fluttering lights or other illuminating devices which have a changing light operated as to create an appearance or illusion of writing or printing. A variance may be granted by the Board of Appeals for movement showing the date, the time and the temperature exclusively. Nothing contained in this section shall, however, be construed as preventing the use of lights or decorations related to religious and patriotic festivities. Beacon lights or search lights shall not be permitted as a sign for advertising purposes.
- (c) *Strobe and Incandescent Lamps.* No exposed reflective type bulbs and no strobe lights or incandescent lamps which exceed 15 watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public street or adjacent property.

(C.B. 1, 1972; C.B. 77, 1981; C.B. 56, 2010, § 2)

Sec. 3.509. - Permits and fees.

- (a) *Permit Requirements.* No sign or billboard shall be erected, altered or relocated without a sign permit issued by the Department of Inspections, Licenses and Permits. Any sign or billboard involving electrical components shall be wired by a licensed electrician in accordance with the

Howard County Electrical Code, and the electrical components used shall be in accordance with the Howard County Electrical Code.

- (b) *Applications.* The permit application shall be signed by the Applicant, and when the Applicant is any person other than the owner of the property, the permit application shall also be signed by the owner of the property or his authorized representative. It shall contain the location of the sign structure, the name and address of the sign owner and of the sign erector, drawings showing the design, dimensions and location of the sign, and such other pertinent information as the Department of Inspections, Licenses and Permits may require to ensure compliance with the laws of Howard County.
- (c) *Fees.* Fees for sign permits shall be as determined from time to time by resolution of the County Council. Such fees shall cover the cost of enforcing this section.
- (d) *Nullification.* A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of six months after the date of the permit. A permit may be renewed.
- (e) *Permit Exceptions.* The following operations shall not be considered as creating a sign or billboard and shall not require a sign permit:
 - (1) *Replacing copy.* The changing of the advertising copy or message on an approved painted or printed sign or on a theater marquee and similar approved signs which are specifically designed for the use of replaceable copy.
 - (2) *Maintenance.* Painting, repainting, cleaning and other normal maintenance and repair of a sign or a sign structure unless a structural change is made.
 - (3) *Nonilluminated exempt signs and window signs.* Signs exempt under section 3.503 of this subtitle and window signs are also exempt from permit requirements, unless illuminated.

(C.B. 1, 1972; C.B. 77, 1981; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 3.510. - Structural requirements.

All signs and billboards shall comply with the pertinent requirements of the Howard County Building Code.

(C.B. 1, 1972; C.B. 47, 2000)

Sec. 3.511. - Inspection; removal; safety.

- (a) *Inspection.* Signs and billboards for which a permit is required shall be inspected annually by the Department of Inspections, Licenses and Permits for compliance with this subtitle and the other laws of Howard County.
- (b) *Tagging.* All signs and billboards requiring permits shall display, in a place conspicuous to inspectors, evidence of the sign permit supplied by the Department of Inspections, Licenses and Permits and containing such data as may be designated by the Department.
- (c) *Maintenance.* All signs and billboards and components thereof shall be kept in good repair and in safe, neat, clean and attractive condition.
- (d) *Removal of Signs.* The Department of Inspections, Licenses and Permits shall order the removal of any sign or billboard erected or maintained in violation of this subtitle. Ten days' notice in writing shall be given to the owner of such sign, billboard or building, structure or premises on which such

sign or billboard is located, to remove the sign or billboard or to bring it into compliance with this subtitle.

Upon failure to remove the sign or billboard or to comply with this notice, the Department shall remove the sign or billboard immediately and without notice, if it reasonably appears that the condition of the sign or billboard is such as to present an immediate threat to the safety of the public. Any cost of removal incurred by the Department shall be assessed to the owner of the property on which such sign or billboard is located and may be collected in the manner of ordinary debt or in the manner of taxes and such charge shall be a lien on the property.

If a sign or billboard is placed illegally in the County right-of-way or if it is in the County right-of-way at times other than those permitted by this subtitle, the Department may remove the sign or billboard without notice to the owner.

- (e) *Abandoned Signs.* A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises. If the owner or lessee fails to remove the sign, the Department shall order it, removed in accordance with subsection (d) above. These removal provisions shall not apply where a succeeding owner or lessee conducts the same type of business and agrees to maintain the signs as provided in this subtitle or changes copy on the signs to advertise the type of business being conducted on the premises, provided the signs comply with the other provisions of this section.

(C.B. 1, 1972; C.B. 77, 1981; C.B. 62, 1988; C.B. 90, 1989)

Editor's note— Section 101 of C.B. 62, 1988 declared the bill effective July 1, 1989.

Sec. 3.512. - Administration and penalties.

- (a) *Administration, Interpretation and Penalties.*

(1) *Rules and regulations.* The Director of Inspections, Licenses and Permits may promulgate reasonable rules and regulations for the administration, enforcement and interpretation of this subtitle in accordance with the Howard County Administrative Procedure Act. These regulations shall provide for issuance of civil citations for violations of this subtitle without prior issuance of a notice of violation. The Director of Inspections, Licenses and Permits shall issue final interpretations of this subtitle.

(2) *Right of entry.* Upon presentation of the proper credentials, the Director or the Director's duly authorized representative may enter at reasonable times any building, structure or premises in Howard County to perform any duty imposed upon the Director by this subtitle.

- (b) *Rights of Appeal and Variances.* Upon denial of a sign permit by the Department of Inspections, Licenses and Permits, or to request a variance, a sign owner or owner of property on which a sign is located or for which a sign is requested may file an appeal or request for variance with the Board of Appeals within 30 days of the date of the Department's action. The Board of Appeals shall be authorized to hear such appeal or request for variance, in accordance with section 3.513. The appeal or request for variance shall be in writing in the form required by the Board of Appeals.

- (c) *Penalties.*

(1) *Criminal penalties.* Any person who violates this subtitle shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not less than \$250.00 nor more than \$500.00.

(2) *Civil penalties.* Alternatively or in addition to and concurrent with all other remedies, the provisions of this subtitle may be enforced pursuant to the provisions of title 24, "civil penalties," of the Howard County Code. A violation of subsection 3.503(e)(2) shall be a Class E offense; any other violation of this subtitle shall be a Class C offense. Each day that a violation continues shall be a separate offense.

- (3) *Other remedies.* In addition to and concurrent with all other remedies, the Director or the Director's duly authorized representative may seek civil relief in a court of competent jurisdiction. Such relief shall include but not be limited to injunctive relief.

(C.B. 1, 1972; C.B. 77, 1981; C.B. 32, 1985; C.B. 82, 1988; C.B. 90, 1989)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 3.513. - Variances.

- (a) *Variances Not Permitted.* Variances for signs prohibited by section 3.505 of the subtitle may not be granted.
- (b) The Board of Appeals may grant variances outside of Downtown Columbia from the provision of this subtitle where the following determinations are made:
 - (1) That there are unique physical conditions or exceptional topographical conditions peculiar to the property on which the proposed sign is to be located, including the location of existing buildings and other structures, irregularity, narrowness or shallowness of the lot, irregularity of the road right-of-way, location on a highway that has a dependency on nonlocal use, which conditions lead to practical difficulty and unnecessary hardship in complying strictly with the provisions of this subtitle; or
 - (2) That there are obstructions, such as excessive grade, building interference, structures or landscaping on abutting property or properties which seriously interfere with the visibility of a proposed sign, resulting in practical difficulties and unnecessary hardship in complying strictly with the provisions of this subtitle; or
 - (3) That there are historical, architectural or aesthetic characteristics which shall be considered; and
 - (4) That the variance, if granted, will not adversely affect the appropriate use or development of adjacent properties, nor result in a dangerous traffic condition; and
 - (5) That the requested variance is the minimum necessary to afford relief, and can be granted without substantial impairment of the intent, purpose and integrity of this subtitle; and
 - (6) That such practical difficulties or hardships have not been created by the Applicant; provided, however, that where required findings pursuant to section 3.513 are made, the purchase or lease of the property on which a proposed sign is to be located subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.
- (c) In Downtown Columbia, the Planning Board may approve a variance from the provisions of this subtitle where the proposed signage is approved by the Planning Board and the Board determines that:
 - (1) The proposed signage is otherwise allowed;
 - (2) The proposed signage is appropriate given its location and the anticipated scale and intensity of existing or planned adjacent uses;
 - (3) The proposed signage will not adversely affect the use or development of adjacent property, nor result in a dangerous traffic condition;
 - (4) The proposed signage will not be detrimental to the downtown revitalization; and
 - (5) Extraordinary hardships or practical difficulties may result from strict compliance with this subtitle or that the goals of downtown revitalization will be served to a greater extent by the proposed sign.

(C.B. 1, 1972; C.B. 77, 1981; C.B. 56, 2010, § 2)

Sec. 3.514. - Definitions.

- (a) *Area* means the sum of display surfaces, that are enclosed by a standard geometric figure, the sides of which make contact with the extreme points or edges of the sign, excluding the supporting structure which does not form part of the sign proper or of the display. The area of a freestanding sign shall be the area of the largest single face. In the case where there is more than one sign on the structure, the area shall include the aggregate area of all signs on the face. Where printed or graphic information identifying or advertising a use is displayed within a larger graphic representation such as a mural, painting, or other noncommercial artwork, area includes only the area within the smallest standard geometric figure or figures that can surround the printed or graphic or both, printed and graphic, information identifying or advertising the use.
- (b) *Banner* means a strip of cloth, canvas, plastic sheet, cardboard or similar flexible lightweight material with lettering or graphics on it.
- (c) *Billboards* means outside structures which advertise products or businesses not connected with the site on which they are located.
- (d) *Department* means the Department of Inspections, Licenses and Permits.
- (e) *Digital display* means a device or technology for the electronic display of information identifying or advertising a use, product, business or service including text, images, video, animation or motion of images, and interactivity and includes technologies such as LED, LCD, plasma displays, projected images and other emerging display types.
- (f) *Director* means the Director of the Department of Inspections, Licenses and Permits, or that person's designee.
- (g) *Downtown building frontage* means each linear segment of a building perimeter located within Downtown Columbia which adjoins a private street, public right-of-way, Downtown Community Commons, or Downtown Parkland.
- (h) *Downtown Columbia* means that area defined as "Downtown Columbia" in the Howard County Zoning Regulations.
- (i) *Downtown Columbia neighborhood* means each of the six neighborhoods described in the Downtown Columbia Plan: (Warfield, the mall, the Lakefront and Lakefront Core, the Crescent, Merriweather-Symphony Woods and Symphony Overlook).
- (j) *Downtown revitalization* shall have the meaning set forth in section 103 of the Howard County Zoning Regulations.
- (k) *Industrial park* means a tract of land ten acres or more in area that has been planned, developed and operated as an integrated facility for a number of individual industrial uses with special attention to circulation, parking, utility needs, aesthetics and compatibility.
- (l) *Inflatable device sign* means a sign that is cold air inflated made of flexible fabric, resting on the ground or attached to a structure and equipped with a portable blower motor that provides a constant flow of air into the device. *Inflatable device signs* may be restrained, attached, or held in place by a cord, rope, cable or similar method. An *inflatable device sign* is not an object that contains helium, hot air or lighter-than-air substance.
- (m) *Marquee* means a canopy or roof-like shelter attached to and supported by a building wall.
- (n) *Person* means any individual, corporation, association, firm, partnership and the like, singular or plural.
- (o) *Projection* means the distance by which a sign extends over public property or beyond the building line.

- (p) *Shopping center* means a shopping center shall be as defined in the zoning regulations.
- (q) Reserved.
- (r) *Sign* means a placard or structure containing graphic or printed information for identifying or advertising a use conducted on the premises where on such placard or structure is located. Sign shall include all exterior signs and all interior window signs.
- (s) *Sign, electric* means any sign, containing electric wiring. This does not include signs illuminated by an exterior flood light source.
- (t) *Sign, identification* means any sign which carries only the name of the firm, the major enterprise or the principal product offered for sale on the premises, or other graphic or printed information relevant to the business conducted on the property where the sign is located.
- (u) *Sign, monument building* means a sign where the entire base or bottom of the sign is ground-mounted.
- (v) *Sign, projecting* means a sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.
- (w) *Sign, roof* means a sign located on or above the roof of any building.
- (x) *Sign, tall building* means a sign that is located near the top of a building over 100 feet tall that identifies tenants of the building or the building name.
- (y) *Sign, temporary* means a banner, pennant, poster or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wallboard or other like materials and intended to be displayed for a limited period of time.
- (z) *Sign, wall, flat* means one affixed directly to the exterior wall or screening surface, confined within the limits thereof, and which projects from the surface less than 12 inches at all points.
- (aa) *Wall* means any vertical construction enclosing occupiable space.

(C.B. 1, 1972; C.B. 77, 1981; C.B. 62, 1988; C.B. 90, 1989; C.B. 56, 2010, § 2)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 3.515. - Historic districts.

Whenever an application for a sign permit is filed under these regulations for the erection of a sign in any area of Howard County classified as an "historic district," the application shall be subject to the approval of the Historic District Commission as well as the required approval of the Department of Licenses, Inspections and Permits.

(C.B. 1, 1972; C.B. 53, 1974)

Sec. 3.516. - Signs in Downtown Columbia; compliance and compatibility.

- (a) *Downtown Revitalization*. A sign proposed to be placed on property subject to an approved downtown revitalization final development plan shall comply with this subtitle and with Planning Board approved downtown neighborhood design guidelines for signage as determined by the Director in consultation with the Director of the Department of Planning and Zoning.
- (b) *Other Properties in Downtown Columbia*. A sign proposed to be placed on property in Downtown Columbia that is not subject to a downtown revitalization final development plan shall comply with this subtitle and shall be compatible in form, proportion, scale, color, materials, surface treatment, overall sign size, and the size and style of the lettering with the surrounding streetscape, adjacent

structures, and the goals of downtown revitalization. Such compatibility determination shall be made by the Director in consultation with the Director of the Department of Planning and Zoning with reference to the Downtown Columbia Downtown-Wide Design Guidelines and any existing Downtown Neighborhood Design Guidelines for signage for the neighborhood in which the sign is to be placed.

(C.B. 56, 2010, § 2)

Sec. 3.517. - Severability.

If any clause, sentence, part or parts of this subtitle, or of any section thereof, shall be held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining parts of this subtitle or of any section thereof. The County Council hereby declares that it would have passed the remaining parts of the subtitle or any section thereof if it had known such clause, sentence, part or parts of any section thereof should be declared invalid or unconstitutional.

(C.B. 1, 1972; C.B. 56, 2010, § 2)

Editor's note— C.B. 56, 2010, § 2, adopted Mar. 15, 2010, renumbered § 3.516 as § 3.517, no other changes were made to the section.

SUBTITLE 6. - DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS⁶

Footnotes:

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Editor's note— Section 101 of C.B. 62, 1988, which added this subtitle, declared the bill effective July 1, 1989.

Sec. 3.600. - General provisions.

General provisions applicable to this department are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 62, 1988)

Sec. 3.601. - Department of Inspections, Licenses and Permits.

- (a) *Head.* The Director of Inspections, Licenses and Permits shall be the head of the Department of Inspections, Licenses and Permits.
- (b) *Qualifications of Director of Inspections, Licenses and Permits.* The Director of Inspections, Licenses and Permits shall be appointed on the basis of qualifications and experience. The Director shall be trained in engineering or public administration and shall have had at least ten years of administration and management experience, including at least five years of supervisory experience in enforcement of building or similar codes.

- (c) *Duties and Responsibilities.* The Department of Inspections, Licenses and Permits shall be responsible for the protection of public health, safety and welfare by issuing licenses and permits and conducting inspections, and performing the following functions:
- (1) *Licenses; permits.* The Department of Inspections, Licenses and Permits shall issue all licenses and permits on behalf of the County, pursuant to the provisions of law.
 - (2) *Administration and enforcement function.* The Department of Inspections, Licenses and Permits shall administer and enforce codes, laws, rules, and regulations relating to housing, building, grading, signs, plumbing, electrical installations, gas installations, fire safety, taxicabs, concerts, amusement devices and facilities, public utilities, mobile home parks, rental housing and other areas as required by law.
 - (3) *Inspections.* The Department of Inspections, Licenses and Permits shall inspect facilities covered by the codes, laws, rules and regulations that it administers.
 - (4) *Other duties and responsibilities.* The Department of Inspections, Licenses and Permits shall perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 62, 1988)

SUBTITLE 7. - PROPERTY MAINTENANCE CODE FOR RENTAL HOUSING⁷

Footnotes:

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Editor's note— Bill No. 15, 2019, § 1, adopted May 14, 2019, repealed the former Subtit. 7, § 3.700 and enacted a new Subtit. 7 as set out herein. The former Subtit. 7 pertained to similar subject matter and derived from C.B. 63, 2004; C.B. 80, 2006, §§ 1, 2.

Sec. 3.700. - Howard County Property Maintenance Code for Rental Housing.

- (a) *Adoption of National Code.* Except as provided in subsection (b) of this section, the International Property Maintenance Code, 2018, as published by the International Code Council is hereby adopted as the Howard County Property Maintenance Code For Rental Housing.
- (b) *Local amendments.* The following amendments modify certain provisions of the adopted code.
 - (1) *In general.*
 - (i) As used in this subtitle, the term "this Code" shall mean the Howard County Property Maintenance Code For Rental Housing.
 - (ii) As used in this section, the term "code official" shall mean the Director of the Department of Inspections, Licenses and Permits or the Director's authorized designee.
 - (iii) Where the name of the jurisdiction is to be indicated in any section of this Code, insert "Howard County, Maryland".
 - (2) *Subsection 101.1 Title.*

Delete this subsection and substitute the following:

101.1 Title. These regulations shall be known as the Howard County Property Maintenance Code for Rental Housing, hereinafter referred to as "this Code".

(3) *Subsection 101.2 Scope.*

Delete this subsection and substitute the following:

101.2 Scope.

- (i) The scope of this Code is limited to existing structures in the following occupancies as defined in the Howard County Building Code:
 - a. Institutional, use group I-1; and
 - b. Residential,
 - i. Use groups R-1, R-2, R-4; and
 - ii. Use groups R-3 that are not owner-occupied, occupied by the owner's immediate family, or owner-occupied with 2 or more roomers or boarders.
- (ii) This Code shall not apply to the following existing occupancies as defined in the Howard County Building Code:
 - a. Assembly, all use groups;
 - b. Business, use group B;
 - c. Educational, use group E;
 - d. Factory and industrial use groups F-1 and F-2;
 - e. High hazard, all use groups;
 - f. Institutional, use groups I-2, I-3, and I-4;
 - g. Mercantile, use group M; and
 - h. Residential, use group R-3, if the dwelling is:
 - i. Owner occupied;
 - ii. Occupied by members of the owner's immediate family; or
 - iii. Owner occupied having no more than one roomer or boarder.

(4) *Subsection 101.3 Intent.*

Delete this subsection and substitute the following:

101.3 Intent. The purpose of actions taken by the jurisdiction pursuant to this Code is purely governmental in nature and are conducted solely for the public benefit. Actions taken pursuant to this Code are not to be construed as providing any warranty of condition to any person.

(5) *Subsection 101.5 Licensing.*

Add new subsection 101.5 after subsection 101.4 as follows:

101.5 Licensing. A structure within the scope of this Code shall not be occupied unless the property owner obtains the license required by title 14, subtitle 9 of the Howard County Code. The property owner may be subject to penalties and fines for illegally occupying a property without a rental license.

(6) *Subsection 102.6 Historic Buildings.*

Delete this subsection.

(7) *Subsection 102.7 Referenced Codes and Standards.*

- (i) Delete "chapter 8" and substitute "the Howard County Building Code as adopted in title 3, subtitle 1 of the Howard County Code, as applicable,".
- (ii) At the end of this subsection, insert the following:

102.7.3 Building. Whenever the term " *International Building Code* " is used in this Code, it shall mean the Howard County Building Code adopted pursuant to title 3, subtitle 1 of the Howard County Code.

102.7.4 Electrical. Whenever the term " *ICC Electrical Code* " is used in this Code, it shall mean the Howard County Electrical Code adopted pursuant to title 3, subtitle 2 of the Howard County Code.

102.7.5 Fire Prevention. Whenever the term " *International Fire Code* " is used in this Code, it shall mean the Howard County Fire Prevention Code adopted pursuant to title 17, subtitle 1 of the Howard County Code.

102.7.6 Plumbing and Gasfitting. Whenever the terms " *International Plumbing Code* " or " *International Fuel Gas Code* " are used in this Code, they shall mean the Howard County Plumbing and Gasfitting Code adopted pursuant to title 3, subtitle 3 of the Howard County Code.

102.7.7 Mechanical. Whenever the term " *International Mechanical Code* " is used in this Code, it shall mean the Mechanical Code of Howard County adopted pursuant to title 3, subtitle 1 of the Howard County Code.

102.7.8 Zoning. Whenever the term " *International Zoning Code* " is used in this Code, it shall mean the Howard County Zoning Regulations as adopted pursuant to title 16 of the Howard County Code.

- (8) *Section 103 Department of Property Maintenance Inspection.*

Delete the name of this section and substitute "Department of Inspections, Licenses and Permits".

- (9) *Subsection 103.1 General.*

Delete this subsection and substitute the following:

103.1 General. The Code Official is the Director of the Department of Inspections, Licenses and Permits or the Director's authorized designee.

- (10) *Subsection 103.2 Appointment.*

Delete this subsection.

- (11) *Subsection 103.3 Deputies.*

Delete this subsection.

- (12) *Subsection 103.4 Liability.*

Delete this subsection.

- (13) *Subsection 103.5 Fees.*

Delete this subsection.

- (14) *Subsection 104.3 Right of Entry.*

Delete this subsection and substitute the following:

104.3 Right of Entry. Subject to title 14, subtitle 9 and title 17, subtitle 10 of the Howard County Code, the Code Official is authorized to enter a dwelling unit, property, or premises at reasonable times solely for the purpose of inspecting for compliance with this Code. If entry is refused, the Code Official may seek a court order to permit entry and free access to the dwelling unit, property, or premises.

- (15) *Subsection 104.3.1 Occupant or Tenant to Give Access.*

Add new subsection 104.3.1 after subsection 104.3 as follows:

104.3.1 Occupant or Tenant to Give Access. Subject to title 14, subtitle 9 and title 17, subtitle 10 of the Howard County Code, an occupant or tenant of a dwelling unit, property, or premises shall give access to any part of the dwelling unit, property, or premises for the purpose of making inspections, maintenance, repairs, or alterations as are necessary to comply with this Code. Access must be provided during normal business hours or at a time that has been mutually agreed upon by both the landlord and the tenant.

- (16) *Subsection 104.3.2 Property Owner Right of Entry.*

Add new subsection 104.3.2 after new subsection 104.3.1 as follows:

104.3.2 Property Owner Right of Entry. Subject to title 14, subtitle 9 and title 17, subtitle 10 of the Howard County Code, the property owner shall give the tenant or occupant at least 24-hours written or verbal notice prior to entry for repairs.

Exception: emergency situations.

- (17) *Subsection 106.1 Unlawful Acts.*

Delete this subsection and substitute the following:

106.1 Unlawful Acts. An owner, occupant, or tenant shall not erect, construct, alter, extend, repair, remove, demolish, maintain, fail to maintain, provide, fail to provide, occupy, permit another person to occupy any premises, property, dwelling unit, or equipment regulated by this Code, or cause the same to be done in violation of any of the provisions of this Code; fail to obey a lawful order of the Code Official; or remove or deface a placard or notice posted under a provision of this Code.

- (18) *Subsection 106.3 Prosecution of Violation.*

Delete this subsection, rename, and substitute the following:

106.3 Enforcement and Penalties. A person who violates a provision of this Code is guilty of a misdemeanor and, upon conviction, is subject to a fine, not exceeding \$1,000, or imprisonment, not exceeding 30 days, or both. Alternatively, and in addition to and concurrent with all other remedies at law or at equity, the Department of Inspections, Licenses and Permits may enforce this Code with civil penalties as provided in title 24 "civil penalties" of the Howard County Code. A violation of this subtitle is a Class B offense. Each day that a violation continues is a separate offense.

- (19) *Subsection 106.4 Violation Penalties.*

Delete this subsection, rename, and substitute the following:

106.4 Revocation. The Director of the Department of Inspections, Licenses and Permits may suspend, revoke, or refuse to renew a rental housing license if the Code Official finds that an owner of a property has violated a provision of this Code, this title, or regulations that implement this title in connection with the construction, maintenance, alteration, or repair of a premises, property, dwelling unit, equipment, or land within Howard County. The Director may revoke a

rental housing license if it is discovered that the owner or applicant misrepresented themselves or falsified records relating to the license.

(20) *Subsection 106.5 Abatement of Violation.*

Delete this subsection.

(21) *Subsection 107.2 Form.*

(i) Item 4, after " *dwelling unit* or" delete "structure" and substitute "premises".

(ii) Delete items 5 and 6.

(22) *Subsection 107.5. Penalties.*

Delete "106.4" and substitute "106.3".

(23) *Subsection 108.1.5 Dangerous Structure or Premises.*

Delete item 11.

(24) *Subsection 108.2 Closing of Vacant Structures.*

(i) In the title delete "Closing of" and substitute "Securing".

(ii) In the first and second sentence, delete "close up" and substitute "secure against casual entry".

(iii) In the second sentence, delete "closed and".

(iv) In the second sentence, after "private persons", insert a period and delete the remainder of this section;

(v) After "persons." Insert "The owner is responsible for reimbursing the County for the cost of necessary repairs. The Director of Finance shall bill the owner for the cost of the work. The owner shall pay the bill for the work within 30 days of billing. If the owner does not pay the bill within 30 days, the Code Official may seek a court order requiring the owner to reimburse the County for the cost of repairs."

(vi) Delete subsection 108.2.1.

(25) *Subsection 108.4 Placarding.*

In the first sentence, delete "bearing" through the end of the sentence and substitute the following:

Bearing the phrase "unlicensed premises, unlawful to occupy any currently vacant dwelling unit in these premises or any dwelling unit becoming vacant until a rental housing license has been obtained."

(26) *Subsection 109.4 Emergency Repairs.*

Add the following to the end of this subsection:

The owner is responsible for reimbursing the County for the cost of necessary repairs. The Director of Finance shall bill the owner for the cost of the work. The owner shall pay the bill for the work within 30 days of billing. If the owner does not pay the bill within 30 days, the Code Official may seek a court order requiring the owner to reimburse the County for the cost of repairs.

(27) *Subsection 109.5 Costs of Emergency Repairs.*

Delete this subsection.

(28) *Subsection 109.6 Hearing.*

Delete the second sentence and substitute the following:

A person may appeal an order to take emergency measures to a Hearing Examiner of the Howard County Board of Appeals in accordance with the rules of procedure set forth in title 16, subtitle 3 of the Howard County Code.

(29) *Subsection 110.3 Failure to Comply.*

(i) After "private persons":

- a. Delete the comma and insert a period; and
- b. Delete the remainder of the section after "persons."

(ii) After "persons." insert the following:

"The owner is responsible for reimbursing the County for the cost of necessary repairs. The Director of Finance shall bill the owner for the cost of the work. The owner shall pay the bill for the work within 30 days of billing. If the owner does not pay the bill within 30 days, the Code Official may seek a court order requiring the owner to reimburse the County for the cost of repairs."

(30) *Section 111 Means of Appeal.*

Delete this section in its entirety.

(31) *Section 112 Stop Work Order.*

Delete this section in its entirety.

(32) *Section 202 General Definitions.*

(i) Delete the definition for "dwelling unit" and substitute the following:

Dwelling unit. A building, structure, or any portion of a building or structure that contains a single unit providing independent living facilities for one or more persons, including permanent provisions for living, eating, cooking, sanitation or sleeping. A dwelling unit shall include, without limitation, a multi-family house, single-family house, apartment, apartment house, boarding house, rooming house, dormitory, rooming unit, efficiency unit, hotel, motel, or a multi-family dwelling owned by a single owner.

(ii) Delete the definition for "owner" and substitute the following:

Owner. A person, agent, operator, firm, or corporation having a legal or equitable interest in the dwelling unit; holding recorded title in the official records of the state, county, or municipality; or jointly or severally having control of the property, including, without limitation, an executor, administrator, trustee, receiver, guardian, or other representative appointed according to law, and the senior officer, director, or trustee of the association of unit owners of a condominium.

(iii) Add the following alphabetically within this section:

- a. Normal business hours. 9:00 a.m. to 5:00 p.m.
- b. Sanitary condition. Promoting health and healthful living conditions by the elimination of dirt, feces, urine, garbage and rubbish.

(33) *Subsection 302.4 Weeds.*

Insert "12 inches" where indicated.

(34) *Subsection 302.4.1 Bushes and shrubs.*

Add new subsection 302.4.1 after subsection 302.4 as follows:

302.4.1 Bushes and Shrubs. Bushes and/or shrubs shall not block or interfere with ingress or egress.

(35) *Subsection 302.4.2 Trees and Branches.*

Add new subsection 302.4.2 after new subsection 302.4.1 as follows:

302.4.2 Trees and Branches. If, in the opinion of the Code Official, dead or diseased trees and branches present a hazard to persons or property, those trees and/or branches shall be removed.

(36) *Subsection 302.5 Rodent Harborage.*

In the second sentence, delete "exterminated" and substitute "eliminated".

(37) *Subsection 304.3.1 Premises Identification for Apartments and Condo Units.*

Add new subsection 304.3.1 after section 304.3 as follows:

304.3.1 Premises Identification for Apartments and Condo Units. Condo and apartment units shall have unit numbers posted on exterior doors to unit.

(38) *Subsection 304.14 Insect Screens.*

Delete "during the PERIOD from [date] to [date],".

(39) *Subsection 305.1.1 Unsafe Conditions.*

Delete this section in its entirety.

(40) *Subsection 305.3.1 Lead-Based Paint.*

Add new subsection 305.3.1 after subsection 305.3 as follows:

305.3.1. Lead-Based Paint. The owner of a dwelling unit shall comply with requirements of the Maryland Department of the Environment for lead-based paint and shall provide the required disclosures in accordance with State Law. A copy of the MDE lead certification must be provided to the local jurisdiction.

(41) *Subsection 307.1 General.*

In the first sentence, delete "more than four risers" and substitute "four or more risers".

(42) *Subsection 308.2.1 Rubbish Storage Facilities.*

(i) Delete the title of this section and substitute "Rubbish and Recycling storage facilities".

(ii) At the end of this subsection, after "rubbish." insert:

Exception: the occupant of a one-family dwelling shall be responsible for the safe and sanitary storage and removal of all rubbish and recyclables.

(43) *Subsection 308.3.1 Garbage Facilities.*

Add the following at the end of this subsection:

Exception: the occupant of a one-family dwelling shall be responsible for the safe and sanitary storage and removal of all garbage.

(44) *Subsection 309.1 Infestation.*

(i) In the first sentence delete "insect" and substitute "insect, vermin,".

(ii) In the second sentence:

- a. Delete "insects" and substitute "insects, vermin, "; and
- b. Delete "exterminated by approved processes" and substitute "eliminated by a process approved by the Department of Inspections, Licenses and Permits".

(45) *Subsection 309.1.1 Wildlife and Protected Species.*

Add new subsection 309.1.1 after subsection 309.1 as follows:

Subsection 309.1.1 Wildlife and Protected Species. Wildlife shall be handled in accordance with State and Federal guidelines.

(46) *Subsection 309.1.2 Occupant Responsibility.*

Add new subsection 309.1.2 after new subsection 309.1.1 as follows:

Subsection 309.1.2 Occupant Responsibility. The occupant shall prepare their dwelling unit for pest control treatment as necessary.

(47) *Subsection 309.2 Owner.*

Delete "prior to renting or leasing the structure".

(48) *Subsection 309.3 Single Occupant.*

Delete this subsection.

(49) *Subsection 309.4 Multiple Occupancy.*

Delete this subsection.

(50) *Subsection 309.5 Occupant.*

Delete this subsection.

(51) *Subsection 403.5 Clothes Dryer Exhaust.*

At the end of the paragraph, after "instructions" add "and local adopted mechanical codes".

(52) *Subsection 403.5.1 Dryer Venting Transition Ducts.*

Add new subsection 403.5.1 after subsection 403.5 as follows:

403.5.1 Dryer Venting Transition Ducts. Transition ducts used to connect the dryer to the exhaust duct system shall be a single length that is listed and labeled in accordance with UL 2158a. Transition ducts shall be a maximum of 8 feet (2438 mm) in length and shall not be concealed within construction.

(53) *Subsection 404.1 Privacy.*

At the beginning of the sentence, delete "Dwelling units" and substitute "Sleeping rooms within dwelling units".

(54) *Subsection 404.8 Location of Food Preparation Equipment.*

Add new subsection 404.8 after subsection 404.7 as follows:

404.8 Location of Food Preparation Equipment. A person shall not use portable cooking equipment including, but not limited to, a barbeque, charcoal or propane grill, or stove inside or within 15 feet of a multifamily dwelling.

(55) *Subsection 503. 4 Floor Surface.*

Delete "In other than dwelling units, every" and substitute "Every".

(56) *Subsection 505.2.1 Water Potability.*

Add new subsection 505.2.1 after subsection 505.2 as follows:

505.2.1 Water Potability: In order to become licensed or renew a license, owners of properties on private water systems must provide the Code Official with a legible copy of a passing well potability test that is no more than 4 years old. Results must be in conformance with existing COMAR (Code of Maryland Regulations) standards.

(57) *Subsection 505.3 Supply.*

At the end of the sentence, delete "defects and leaks" and substitute "contamination, defects, and leaks."

(58) *Subsection 506.4 Sewage Backup.*

Add new subsection 506.4 after subsection 506.3 as follows:

506.4 Sewage Backup. In the event of a sewage backup, the owner shall be required to immediately restore the premises to a clean and sanitary condition by a process approved by the Department of Inspections, Licenses and Permits.

(59) *Subsection 602.2 Residential Occupancies.*

Delete the subsection and replace with the following:

602.2 Residential Occupancies. Dwellings shall be provided with heating facilities that are continuously maintained, in good working order, and capable of maintaining a room temperature of 68 degrees F (20 degrees C) in all habitable rooms, bathrooms, and toilet rooms based on the winter outdoor design temperature for the locality. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters used, as a means to provide heating to meet the requirements of the section.

Exception: in areas where the average monthly temperature is above 30 degrees F (-1 C), a minimum temperature of 65 degrees F (18 degrees C) shall be maintained.

(60) *Subsection 602.3 Heat Supply.*

- (i) In the first sentence, delete "[date] to [date]" and substitute "October 1 to May 1"; and
- (ii) In exception #1, delete the second sentence.

(61) *Subsection 602.4 Occupiable Work Spaces.*

Delete "[date] to [date]" and substitute "October 1 to May 1".

(62) *Subsection 603.2 Removal of Combustion Products.*

Add the following as the second exception to this subsection:

Exception number 2: Portable unvented kerosene heaters are not permitted.

(63) *Subsection 604.4 Electrical Panel Clearances.*

Add new subsection 604.4 after subsection 604.3.2.1 as follows:

604.4 Electrical Panel Clearances. Materials shall not be stored in a manner that obstructs the electrical panel or otherwise creates a hazard. A clear unobstructed path to the electrical panel must be maintained.

(64) *Subsection 605.2.1 Painted Receptacles.*

Add new subsection 605.2.1 after subsection 605.2 as follows:

605.2.1 Painted Receptacles. Painted electrical receptacles (outlets) cannot be cleaned and must be replaced.

(65) *Subsection 605.3 luminaires.*

After "Every" insert "exterior exit,".

(66) *Subsection 607.1 general.*

After "maintained", insert "in good condition".

(67) *Subsection 701.3 Testing and Maintenance.*

Add new subsection 701.3 after subsection 701.2 as follows:

701.3 Testing and Maintenance. Sprinkler systems shall be inspected at least annually by a Maryland state licensed sprinkler contractor. Fire alarm systems shall be inspected at least annually by an approved company or individual. Inspection reports and deficiency correction reports must be provided annually to the Code Official.

(68) *Subsection 702.1.1 Emergency Planning.*

Add new subsection 702.1.1 after subsection 702.1 as follows:

702.1.1 Emergency Planning. The administration of every residential care facility or assisted living facility shall have a plan in effect to protect individuals in the event of a fire. The plan shall be in writing and shall be available to all supervisory personnel. The plan shall be amended to ensure the safety of all residents and shall be amended or revised as the residents or their needs change. Staff shall be instructed of their duties and responsibilities under the plan and a record of such instructions shall be maintained. A copy of the plan shall be readily available at all times within the facility.

(69) *Subsection 702.5 Arrangement.*

Add new subsection 702.5 after subsection 702.4 as follows:

702.5 Arrangement. The required path or travel from any room shall not be through another room that is not under the immediate control of the occupant of the first room or through a bathroom or other space subject to locking.

(70) *Subsection 704.2.3. Tampering.*

Add new subsection 704.2.3 after subsection 704.2.2 as follows:

704.2.3. Tampering. Any tenant or occupant tampering or interfering with the effectiveness of a smoke detector is in violation of this Code.

(71) *Subsection 704.6.1 where required.*

Delete exception #2 and renumber exception #3 to be exception #2.

(72) *Subsection 704.8 Sprinklers.*

Add new subsection 704.8 after subsection 704.7 as follows:

704.7 Sprinklers. Sprinklers shall be clean and free from corrosion, paint, and damage. Kitchen supplies or storage stock shall be at least 18 inches below sprinkler deflectors.

(73) *Section 706 Storage of Hazardous Materials.*

Add new section 706 after section 705 as follows:

706 Storage of Hazardous Materials.

706.1 hazardous materials. Unless storage complies with the applicable requirements of the Howard County Building Code and the Howard County Fire Prevention Code, a person shall not store or accumulate:

- (i) Combustible, flammable, explosive, or other hazardous materials, such as paints, volatile oils, or cleaning fluids; or
- (ii) Combustible rubbish, such as wastepaper, boxes and rags.

706.2 Storage of Vehicles that Contain Hazardous Materials. In a common area of a multi-family dwelling owned by one person, patio, balcony, hallway, or stairwell of a structure or premises, a person shall not store or accumulate a motorcycle, moped, gasoline-powered lawnmower, or other similar equipment that may contain a hazardous material including, without limitation, gasoline.

706.3 Storage of Items and Equipment in Multi-Family Dwellings, Hotels/Motels. All areas of egress, common travel and refuge shall be free of storage, furnishings, decorations and/or obstructions.

706.4 Storage in Sprinkler Equipment Rooms. Sprinkler equipment rooms may not be used as storage rooms.

706.5 Storage and Use of Open Flame/Fuel Fired Equipment. A person shall not use or store open flame/fuel fired equipment inside or within 15 feet of a multi-family dwelling.

(74) Delete Appendix A, Boarding Standard, in its entirety.

(C.B. 15, 2019, § 1)

SUBTITLE 8. - ON-SITE SEWAGE DISPOSAL SYSTEMS

Sec. 3.800. - Authority; application; purpose.

- (a) *Authority.* This subtitle is enacted pursuant to provisions of section 10-103 of the environment article of the Annotated Code of Maryland and provisions of the Code of Maryland Regulations that regulate on-site sewage disposal systems.
- (b) *Application.* This subtitle sets forth the minimum requirements that apply to on-site sewage disposal systems for homes and other establishments in Howard County where a public sewerage system is not available. All on-site sewage disposal systems shall be constructed, added to, or altered in accordance with this subtitle.
- (c) *Purpose.* The purpose of this subtitle is to protect the public health, safety, and welfare by establishing requirements and procedures for the ownership, operation, repair, and maintenance of on-site sewage disposal systems.

(Ord. No. 81, 2006, § 1)

Sec. 3.801. - Definitions.

Terms used in this subtitle have the meanings indicated.

- (a) *Approving authority.* For on-site sewage disposal systems regulated by this subtitle, the approving authority is the Health Officer for Howard County or the Health Officer's designee.
- (b) *Bedroom.*

- (1) Except as provided in paragraph (2) of this subsection, a bedroom is any space in the conditioned area of a dwelling unit or accessory structure that:
 - (i) Is 90 square feet or greater in size;
 - (ii) May be used as a private sleeping area; and
 - (iii) Has at least one window and one interior door.
 - (2) If a home office, library, or similar room is proposed, it may not be a bedroom if there is no closet; and
 - (i) The room contains permanently built-in bookcases around the perimeter of the room, desks, and other features that encumber the room;
 - (ii) A minimum four-foot-wide opening, without doors, into another room;
 - (iii) A half wall (four foot maximum height) between the room and another room; or
 - (iv) The room is a first floor room or basement area that does not have direct access to full bathrooms or "roughed in" plumbing that would provide direct access to future full bathroom facilities.
- (c) *COMAR*. The Code of Maryland Regulations.
- (d) *Conditioned space*. An area, room, or space normally occupied and being heated or cooled by any equipment for human habitation.
- (e) *Domestic sewage*. The liquid or water-carried wastes (including gray water and water treatment backwash) from all buildings including, but not limited to, residential buildings, bathhouses, clubhouses, floating homes, commercial buildings, and institutions.
- (f) *Lot*. "Lot" shall have the meaning stated in COMAR.
- (g) *Minor septic repair permit*. A permit issued for minor repairs or replacement made to an existing septic system component including the septic tank, distribution box, piping, or lift pump station.
- (h) *Mound system*. An on-site sewage disposal system utilizing a raised bed of sand fill with a distribution system constructed so as to distribute sewage equally over the ground surface located under the base of the mound.
- (i) *Nuisance* has the meaning stated in section 12.110 of the Howard County Code.
- (j) *On-site sewage disposal*. Disposal of sewage effluent beneath the soil surface at the site of its origination or other approved locations.
- (k) *On-site sewage disposal system*. All private methods of collecting, treating, and disposing of domestic sewage at the site of its origin or other approved locations including, septic tanks, privies, chemical toilets, alternative on-site systems and others.
- (l) *Person*. An individual, corporation, partnership, business trust, limited liability company, or any other type of business entity.
- (m) *Sewage disposal permit*. A permit issued by the Health Department for the:
 - (1) Design, installation, or construction of an on-site sewage disposal system, shared system, or multiused system; or
 - (2) Modification, alteration, repair, or connection to an on-site sewage disposal system, shared system, or multiused system.
- (n) *Shared system*. A water or sewerage system that serves more than one lot of land or more than one user on a single lot of land with water or sewerage systems located on the individual lots or on parcels owned in common by the users or a controlling authority.
- (o) *Waiver*. A modification to a provision of this subtitle granted by the approving authority.

(Ord. No. 81, 2006, § 1; C.B. 30, 2012, § 1)

Sec. 3.802. - Requirement to connect to public sewer.

Except for property located outside the planned service area for sewer service and the metropolitan district, whenever a public sewer main for public use exists in any street or alley that directly abuts a property, each owner of a building constructed for human habitation, occupancy, or use shall connect to the public sewer main where it is legally and economically available in accordance with this subtitle and section 12.105 of the Howard County Code.

(Ord. No. 81, 2006, § 1)

Sec. 3.803. - Waiver.

The approving authority may grant a waiver of a provision of this subtitle that is more stringent than the standards set forth in COMAR for unusual circumstances or extraordinary hardships where the approving authority believes that the modification is in compliance with the intent and purpose of this subtitle and that the modification does not lessen the health or environmental requirements of this subtitle and the requirements of COMAR 26.04.02.

(Ord. No. 81, 2006, § 1)

Sec. 3.804. - General provisions.

(a) *Disposal Methods.*

- (1) *Domestic sewage.* All domestic sewage shall be disposed of by an approved method of collection, treatment, and effluent discharge in accordance with COMAR and this subtitle. It is a violation of subsection 12.110(a)3 of the Howard County Code to improperly dispose of domestic sewage.
- (2) *Human body wastes.* Where water under pressure is not available, all human body wastes shall be disposed of by depositing them in approved privies, chemical toilets, or other installations that meet the standards of this subtitle and COMAR.
- (3) *On-site sewage disposal systems.* Water-carried sewage from bathrooms, kitchens, laundry fixtures, and other household plumbing shall pass through a septic or other approved sedimentation tank prior to its discharge into the soil. Where conventional sewage disposal systems are not feasible, consideration may be given to nonconventional methods of collection, treatment, and disposal. A food waste grinder connected to a sink may not be connected to a domestic on-site sewage disposal system. It is the owner's responsibility to maintain an on-site sewage disposal system as installed and to avoid creation of a public health nuisance.

(b) *Responsibility.* Any person who owns, installs, alters, or constructs an on-site sewage disposal system including, but not limited to, an owner, plumbing contractor, or sewage disposal system contractor, are jointly and severally responsible for compliance with this subtitle and for fulfilling the requirements of the design for the construction, addition, or alteration of on-site sewage disposal systems approved by the approving authority.

(c) *Prohibited Methods of On-site Sewage Disposal.*

- (1) *Cesspool or septic tank.* A cesspool, septic tank, or other means of private sewage disposal is not permitted wherever a sewer under public ownership adjoins the property in question. Each existing cesspool or other means of on-site sewage disposal shall be eliminated and abandoned. It is the owner's responsibility that abandoned sewage disposal systems are disconnected from the buildings, pumped out, and filled with earth.

- (2) *Insufficient lot area or improper soils.* When the approving authority finds there to be insufficient lot area or improper soil conditions for adequate sewage disposal for the building or land use proposed, a building permit shall not be issued and an on-site sewage disposal system shall not be permitted.
- (d) *Additions, Alterations and Changes.* On-site sewage disposal systems serving existing structures, for which additions, alterations, or changes in use are proposed, shall be determined by the approving authority as capable of handling existing and reasonably foreseeable increases in sewage flow based on soil permeability rate, amount, and type of usable soils, water table depth, use of property, and maximum sewage flow as outlined in the provisions of this subtitle.
- (e) *Construction Materials.* Materials of construction shall be as indicated in this subtitle and the National Standard Plumbing Code (2006), as adopted in Subtitle 3 of this title of the Howard County Code. Where materials are not shown or indicated by a standard or by a recognized testing agency specification, materials shall conform to the standards cited in the National Standard Plumbing Code (2006), as adopted in subtitle 3 of this title of the Howard County Code.
- (f) *Insanitary Conditions—Approval of Other Methods.* When there are existing public health hazards due to insanitary conditions caused by malfunctioning on-site sewage disposal systems and the unsanitary conditions cannot be eliminated through the use of conventional sewage disposal systems, the approving authority may grant a waiver to the requirements of this subtitle in accordance with section 3.803 and COMAR and may approve the installation of nonconventional sewage disposal systems.
- (g) *Separation of Groundwater.* The separation to the ground water shall be maximized for the installation of an on-site sewage disposal system and shallow system designs shall be required where feasible.
- (h) *Approving Authority.*
- (1) *Generally.* Wherever the provisions of this subtitle are more strict than the requirements contained in COMAR, the approving authority shall administer, enforce, and interpret the provisions of this subtitle and may adopt minimum standards in accordance with this subtitle and COMAR for the design and construction of on-site sewage disposal systems in the implementation of this subtitle.
- (2) *Stricter standards.* Nothing contained in this subtitle shall be construed to prevent the approving authority from requiring compliance with more strict standards than those contained herein where such stricter standards are essential to maintain a safe and sanitary condition.

(Ord. No. 81, 2006, § 1)

Sec. 3.805. - PERC certification plan requirements.

- (a) *PERC Certification Plan.* Except as provided in paragraph (1) of this subsection, before a building permit is issued, a PERC certification plan shall be submitted and approved that complies with the provisions of this subtitle.
- (1) A building permit may be exempt from a PERC certification plan when the proposed structure:
- (i) Does not increase the amount of living space;
 - (ii) Is less than 250 square feet and is not a garage; and
 - (iii) The existing on-site sewage disposal system is adequate for the existing property use.
- (2) A required PERC certification plan shall contain the following:
- (i) Identification of the property, road, street address if applicable, tax map page, parcel number, subdivision name (if appropriate); a purpose statement as appropriate (re-subdivision, sda adjustment, etc.).

- (ii) Name, address, and telephone number of the owner, developer, and the person preparing the plan.
- (iii) The date the plan was drawn, the plan scale (1:30—1:100), a scaled vicinity map and if not a preliminary plan, the PC # (percolation test fee receipt number, referenced in the approving authority correspondence).
- (iv) Health Officer signature block conditioned with "approved for private water and private sewerage systems."
- (v) Existing and any proposed property lines.
- (vi) Except for staked holes not dug, all excavated test holes observed by the approving authority, identified according to the original percolation testing proposal, or, as otherwise identified at the time of testing.
- (vii) Actual surveyed elevation (not based on County aerial topography) of each test hole.
- (viii) Legend symbols to distinguish holes, which passed, failed, or were held for future review (e.g., for wet season).
- (ix) Legend symbols to distinguish between existing holes previously documented and new holes.
- (x) For lots created after March 1972, proposed minimum 10,000 square feet sewage disposal area for each lot and for lots created before March 1972, proposed adequate area for an initial system and two repairs.
- (xi) Field verified/field run topography at two-foot intervals and statement certifying such. One-foot intervals are required for mound systems and systems with pipe depth less than two feet.
- (xii) Existing structures, wells, septic systems and sewage easements (list use and intent designated for each).
- (xiii) Three proposed well sites or 1,500 square feet of well zone with elliptical radius of 100 feet around the entire set/well zone for each lot.
- (xiv) If required, certification that a groundwater appropriations permit will be issued and all wells will be drilled prior to plat.
- (xv) Identification of streams, ponds, floodplains, 25 percent and greater slopes, soil types and soil type boundaries.
- (xvi) Suitable house site (55 feet x 70 feet) and driveway with building restriction lines as determined by other County agencies.
- (xvii) All existing wells, septic systems and sewage disposal easements within 100 feet of property boundaries and a note stating such. All existing and proposed wells, septic systems and sewage disposal systems that are located within 200 feet down gradient of existing or proposed septic systems and sewage disposal easements. The engineer shall use all reasonable efforts to find the location of all surrounding wells and septic systems and a note stating such.
- (xviii) Professional seal or signed statement that "I certify that the information shown heron is based on field work performed by me or under my direct supervision, and is correct, to the best of my knowledge and belief."
- (xix) Include the following statement "any changes to a private sewage easement shall require a revised perc certification plan."
- (xx) One of the following statements as applicable:
 - a. " *MDE sewage easement statement for lots created after March 1972*: This area designates a private sewage easement of at least 10,000 square feet as required by

the Maryland Department of Environment for individual sewage disposal. Improvements of any nature in this area are restricted. This easement shall become null and void upon connection to a public sewerage system. The County Health Officer shall have authority to grant adjustments to the private sewage easement. Recordation of a revised sewage easement shall not be necessary."; or

- b. " *MDE sewage disposal area statement for lots created before March 1972*: This area designates a private sewage disposal area as required by the Maryland Department of Environment for individual sewage disposal. Improvements of any nature in this area are restricted. This sewage disposal area shall become null and void upon connection to a public sewerage system. The County Health Officer shall have authority to grant adjustments to the private sewage disposal area."
- (xxi) For proposed subdivisions and retests of lots created after November 1985, certification of compliance with MDE ownership width requirements and the statement that "the lot(s) shown hereon complies/comply with the minimum ownership width and lot area as required by the Maryland Department of Environment."

(Ord. No. 81, 2006, § 1)

Sec. 3.806. - Permits required.

(a) *Sewage Disposal Permit; Minor Septic Repair Permit.*

- (1) *When required.* Where a public sewage disposal system is not available and construction is contemplated for a building for human occupancy or use, or an addition to or alteration of any existing on-site sewage disposal system is proposed, the master plumber, disposal system contractor, or owner shall, prior to beginning any construction, make an application to the approving authority for a minor septic repair permit or an on-site sewage disposal permit in accordance with the requirements of this section and subsection 12.106(a) of the Howard County Code in order to perform the necessary installation or modification to the existing on-site sewage disposal system.
- (2) *Percolation test application.* Before a permit to make the desired installation is issued, a percolation test application, in a form required by the approving authority, shall be obtained and approved. For single-family dwellings where it is necessary to replace an existing component of the septic system other than the soil absorption component, a percolation test application will not be required in order to obtain a minor septic repair permit. The approving authority shall require a soil evaluation, including percolation and other pertinent tests, to be conducted under its supervision, with such information to be made a part of the application.
- (3) *Percolation test rate results.* The conventional percolation test rate may range between two and 30 minutes per inch or up to 60 minutes per inch for a conventional sand mound system. The results of percolation tests shall be considered in conjunction with available information on topography, soil type and conditions, surface and subsurface drainage conditions, water table level, the history of failing septic systems in surrounding areas, and soil map data.
- (4) *Approval of percolation test application.* The percolation test application may be approved when the percolation certification plan is signed or, if a percolation certification plan is not required, other demonstration of adequate area for on-site sewage disposal is provided. The percolation test application is valid for two years from the date of payment of the required application fee. The signed percolation certification plan shall remain valid unless changes to the percolation certification plan are required.
- (5) *Changes to a signed percolation test plan.* Changes to a signed percolation certification plan after the percolation test application has expired may require a new percolation test application. Changes to the signed percolation certification plan that require additional testing shall require a new percolation test application.

- (6) *Issuance of sewage disposal permit.* A sewage disposal permit may be issued when a site plan submitted with the building permit application is approved.
 - (7) *Duration of permit.* A sewage disposal permit and a minor septic repair permit expire one year from the date of issuance.
 - (8) *Denial of permit.* A sewage disposal permit or minor septic repair permit shall be denied when, upon review of the application and required site plan, the approving authority finds that:
 - (i) The proposed design is inadequate to collect, treat and dispose of domestic sewage and effluent discharge in accordance with the standards set forth in this subtitle;
 - (ii) Soil and geological conditions are such as to preclude safe and proper operation of the desired installation; or
 - (ii) The construction would be detrimental to the general health and welfare of the residents or the environment.
 - (9) *Installation without permit not allowed.* Installation shall not be made without first obtaining a written sewage disposal permit from the approving authority.
 - (10) *Inspections.* The approving authority may make inspections during construction to determine compliance with this subtitle. No part of any installation shall be covered until approval by the approving authority has been granted. Any part of an installation that has been covered prior to final approval shall be uncovered upon order of the approving authority. Final written approval shall not be given until all pertinent data required has been submitted.
 - (11) *Final approval.* The on-site sewage disposal system shall not be put into use until final approval of the system installation has been granted by the approving authority.
- (b) *Sewage Scavenger Vehicle.*
- (1) *Permit required.* Each sewage scavenger vehicle that collects domestic sewage within Howard County shall obtain a sewage scavenger permit from the approving authority and pay the corresponding fee. Each permit issued is valid for one year from the date of issuance.
 - (2) *Inspection.* Each sewage scavenger vehicle to be issued a sewage scavenger permit to operate within Howard County shall first be inspected and approved by the approving authority. Inspections shall occur at the Office of the County Health Department (Environmental Health) unless an alternate site is mutually agreed upon prior to the inspection date. All company and vehicle information, along with an assessment of the operational functions of the vehicle, shall be required to complete the inspection process.

(Ord. No. 81, 2006, § 1; C.B. 30, 2012, § 1)

Sec. 3.807. - Design of an on-site sewage disposal system.

- (a) *Design Considerations.* The design of an on-site sewage disposal system shall take into consideration location with respect to wells or other sources of water supply, topography, water table, soil characteristics, area available, maximum occupancy of the building, and facilities requiring water usage and the necessity for water treatment equipment.
- (b) *Type of System.* The type of on-site sewage disposal system to be installed shall be determined on the basis of location, soil permeability, ground-water elevation, sewage flow, and any other limiting conditions identified by the approving authority.
- (c) *Sanitary Sewage.* The on-site sewage disposal system shall be designed to receive all sanitary sewage including laundry waste from a building. Backwash effluent from a swimming pool, spa, or water treatment equipment may be directed to an on-site sewage disposal system on a case by case basis. Drainage from a basement floor, sump pump, footing, or roof shall not enter the system.

Separate on-site sewage disposal systems may be required for backwash effluent from a swimming pool, spa, or water conditioning equipment.

- (d) *Discharge.* Treated sewage effluent may be discharged into the ground or through methods acceptable to the approving authority.
- (e) *Design Criteria.* The tables set forth in this subsection establish the minimum design criteria for determining sewage flows according to type of establishment or size of house.
 - (1) *Flow rates.* Except single-family dwellings on a shared system, the flow rates for individual homes shall include the use of all household appliances, except a food waste grinder flow rates shall be based on 150 gallons per day per bedroom.
 - (2) *Wastewater flow-on-site sewage disposal systems for uses other than certain single-family dwellings.* Wastewater flows shall be determined based on the square footage of the building and the existing or proposed use. All uses shall be considered in determining wastewater flows. Wastewater flows shall be in accordance with the following table:

Wastewater Flow Criteria for Designing On-site Sewage Disposal Systems for Uses Other Than Single-Family Dwellings That Are Not on a Shared System

Establishment	GPD* per Unit
Airport:	
Per employee	15
Per passenger	5
(add for food service facility)	
Animal shelter/kennels:	
Per run	25
Add per employee/shift	15
Assisted living facilities	100/bed
Banks	.04**
Beauty/barber shops:	
Per station	350
Bowling alley:	

	Per employee	15
	Per lane, no bar/food	75
	Per lane, bar only	125
	Per lane, bar and food	200
	Car wash	Per equipment specifications
	Community colleges:	
	Per employee and student	15
	(Add for food service)	
	Church/assembly hall:	
	Per seat	3
	(Add for food service)	
	Country club:	
	Per seat member per room	100
	Per non-resident	25
	Department store:	.04**
	With lunch counter	.08**
	Dinner theatre	20/seat
	Dance hall/night club	5/occupant
	(Add for food service)	
	Day care (per child):	

	Family	20/child
	Group	25/child
	Dentist office:	
	Per chair	450
	Low water use equipment	.09**
	Drive in theater:	
	Per car space	5
	Drug stores	.13**
	Dry goods store	.05**
	Factory (manufacturing plant):	
	Per employee per shift	15
	Add for showers per employee	10
	Fairground:	
	Per person	5
	Golf course (public):	
	Per 18 holes	3500
	Hospital	350/bed
	Laundry (coin operated):	
	Per machine per 24 hours	400
	Marinas:	

	Per slip, less than 25 feet	10
	Per slip, 25—35 feet	25
	Per slip, greater than 35 feet	75
	Boatels (per slip/space—divide by 3)	15
	Pump out station (per slip)	35
	(Storage volume only)	
	Medical office building	.62**
	Motel or hotel:	
	Per unit (no food, no kitchen)	125
	Per unit (with food/kitchen efficiency)	200
	Nursing home	200/bed
	Office buildings	.09**
	Parks:	
	Per person (with toilets provided)	10
	Add for showers	10
	Visitor center per parking space	45
	Prison/jail:	
	Per bed space	125
	Per employee/shift	15
	Residential apartments, condominiums, or single-family dwellings on a shared system	150/bedroom

	Rooming/boarding	75/bedroom
	Restaurant:	
	24-hour operation or fast food	75/seat
	Interstate/major highway	150/seat
	12-hour operation	50/seat
	Bar/tavern/pub	25/seat
	Banquet rooms	5/seat
	Carryout service	600
	Deli/convenience store	600
	Retail stores	.05**
	Schools (per student):	
	No food or showers	15
	Add for food	5
	Add for showers	10
	Boarding	100
	Service stations:	.18**
	State highway rest area (mini station)	2000
	Shopping centers	.18**
	Spas/saunas/jacuzzi	20 percent of volume
	Sports arena	5/seat

	(add for food service)	
	Supermarkets	.2**
	Swimming pools:	
	Per swimmer	10
	Per employee	15
	Theater/arena:	
	Per seat, no food	5
	(Add for food service)	
	Travel trailer park/camps:	
	Per Space	150
	Per space with sewer/service building	175
	Children's camp	50/person
	Labor camp	50/person
	Luxury camp	100/person
	Day camp (no meals)	15/person
	Warehouse	.03**

*Gallons per day

**Gallons per day per square foot

(Ord. No. 81, 2006, § 1)

Sec. 3.808. - Location of on-site sewage disposal system.

- (a) *Required Minimum Lot Size Where Public Water Is Available.* Where public water is available, the minimum lot size in which an on-site sewage disposal system may be installed shall conform with COMAR requirements.
- (b) *Required Minimum Lot Size with Private Water System.* Where public water is not available, the minimum lot size in which an on-site sewage disposal system may be installed shall conform with COMAR requirements.
- (c) *Distances.* The following minimum well and septic related distances shall be observed in locating the various components of the on-site sewage disposal system and any required replacement areas:

Distance

in Feet

Well to septic tank/system/septic easement	100
Well to new foundations	30
Well to pool	20
Well to deck	10
Well to roads	15
Well to driveways	10
Well to lot lines	10
Well to above ground liquid propane tank	10
Well to below ground liquid propane tank	100
Well water line to septic tank/system/easement	10
Well water line to pool	10
Well to tennis court	10
Septic easement to house/sunroom	20
Septic easement to pool	20
Septic easement to garage	20
Septic easement to deck/patio (not built on a foundation)	5
Septic easement to liquid propane tank	5
Septic easement to tennis court	10
Septic easement to lot lines	10
Septic tank to house without basement	10
Septic tank to house with basement	20
Septic tank to pool	10
Septic tank to garage	10
Septic tank to deck	5
Septic tank to liquid propane tank	5
Septic tank to tennis court	5
Stormwater infiltration device to well	100
Stormwater non-infiltrative device to well	50

Stormwater management to septic easement 25

- (d) *Site Requirements.* Each on-site sewage disposal system shall conform with the following general principles regarding site:
- (1) On-site sewage disposal systems shall be located at the point lower than the ground elevation of the well on the premises consistent with the general layout, topography, and surroundings, including abutting lots.
 - (2) Locations at a higher elevation may be used with the specific permission of the approving authority.
 - (3) On-site sewage disposal systems (and designated sewage disposal area) shall not be located up gradient of existing or proposed water wells within 200 feet.
- (e) *Waiver or modification.* The approving authority may waive or modify the requirements of this section for existing lots of record in Howard County in accordance with the waiver requirements set forth in section 3.803 of this subtitle.

(Ord. No. 81, 2006, § 1)

Sec. 3.809. - Percolation test.

- (a) *Percolation Testing.* Percolation tests to determine the absorption capacity of soil for septic tank effluent shall be conducted in accordance with this section and the results interpreted in accordance with this section.
- (b) *Application Rates.*
- (1) The percolation rate is the number of minutes for a one-inch drop after prewetting is noted.
 - (2) The size of the subsurface disposal system can be obtained from the following table for individual residences except single-family dwellings on a shared system:

Conventional Single-Family Residential, Except Single-Family Dwellings on a Shared System, Subsurface Septic System Wastewater Application Rates

Percolation Rate Minimum per Inch	Application Rate gallons per day per square foot
Less than 2	Not suitable*
2—5	1.2*
6—15	0.8*
16—30	0.6*

*EPA Design Manual On-site Wastewater Treatment and Disposal System, U.S. Environmental Protection Agency, Office of Water Program Operations, Office of Research and Development Municipal Environmental Research Laboratory, October 1980.

- (3) The size of the subsurface disposal system can be obtained from the following table for commercial and institutional establishments and single-family dwellings on a shared system:

**Conventional Commercial, Institutional, or Single-Family Dwellings on a Shared System
Subsurface Septic System Wastewater Application Rates**

Percolation Rate Minimum per Inch	Application Rate gallons per day per square foot
Less than 2	Not suitable*
2—15	0.8*
16—30	0.6*

*EPA Design Manual On-site Wastewater Treatment and Disposal System, U.S. Environmental Protection Agency, Office of Water Program Operations, Office of Research and Development Municipal Environmental Research Laboratory, October 1980.

Note: For commercial, industrial, or single-family dwellings on a shared system, advanced pretreatment may be used to resolve design issues and may increase the application rate, but in no case greater than 1.2 gpd/square feet.

- (c) *Number and Adequacy of Observations.* An adequate number of percolation and other pertinent observations, as required by the approving authority, shall be conducted within the area designated for the on-site sewage disposal system so as to determine that the area is suitable for sewage disposal. For each 10,000 square feet of sewage disposal area (proposed or approved) five percolation or observations are required proximate to the area designated for the on-site sewage disposal system. This may be waived or altered by the approving authority based on soil conditions.
- (d) *Additional Testing.* The approving authority may require additional percolation testing:
- (1) Where soil texture or structure varies or limiting geologic conditions are encountered; or
 - (2) When the approving authority deems it necessary to evaluate a larger disposal and recovery area for the estimated sewage flow.
- (e) *Rates Slower Than 30 Minutes.* Percolation rates slower than 30 minutes per inch may not be approved except for conventional sand mounds, alternative sand mounds, and innovative and alternative systems.
- (f) *Rates Between Two and Five Minutes.* A percolation rate of between two and five minutes per inch after prewetting will require disapproval if the approving authority finds that adequate protection of the ground water may not be provided.
- (g) *Distance from Groundwater.* The bottom of the septic drainage system shall be at least four feet above ground water. The minimum separation distance may be increased when, in the opinion of the approving authority, additional separation is needed to protect groundwater or where seasonal fluctuations occur.
- (h) *Time of Year That Tests May Be Conducted for Certain Soils.* In areas where the soil survey maps or soil borings indicate moderate or severe limitations based on seasonally perched or seasonally high water tables, soil percolation tests and any other tests as may be required shall be performed at

the time of the year when the highest water table can be expected at the on-site sewage disposal area, except as follows:

- (1) A repair; or
- (2) When there is evidence that a geological formation has a high and fluctuating water table during specified months of the year, the approving authority may specify the times during which the tests are to be made.

(Ord. No. 81, 2006, § 1)

Sec. 3.810. - Capacity of on-site sewage disposal systems, septic tanks, and flow rates.

(a) *Capacity of On-site Sewage Disposal Systems.* The capacity of on-site sewage disposal systems includes all portions of a house except patios, decks, open porches, carports, garages, and uninhabitable attics. Fifty percent of any unfinished basement having a ceiling height of seven feet or greater shall be included when computing the square footage of the house.

(b) *Septic Tank Capacity.*

(1) Minimum septic tank capacity for commercial and institutional establishments shall be calculated with the estimated daily peak sewage flow based on the table contained in subsection 3.805(e)(ii) of this subtitle or the best available information and the following equation:

(i) Flows of 1,500 gallons per day (gpd) or greater—

$$V = 1,125 \text{ Gallons} + 0.75Q$$

Where:

V = Minimum septic tank volume

Q = Estimated daily peak sewage flow

(ii) Flows of less than 1,500 gallons per day (gpd)—

$$V = 1.5Q$$

(2) All on-site sewage disposal systems serving a residential use shall be sized in accordance with the following criteria and tables. This table provides for use of automatic clothes washers and other household appliances except food waste grinders.

**Liquid Capacity of Septic Tanks
(Gallons) for Individual Homes**

Square Footage of House	Required Minimum Tank Capacity (gallons)
0 to 1,500	1,000
1,501 to 3,500	1,500
3,501 and up	2,000

- (c) *Septic Tank Construction.* Plans for all septic tanks including concrete, plastic, and fiberglass shall be approved by the approving authority prior to installation. Plans shall show all dimensions, reinforcing, structural calculations and such other pertinent data as may be required. Septic tanks shall be watertight and constructed of material to prevent excessive corrosion or decay. Each tank shall be structurally designed to withstand all anticipated earth or other loads and shall be installed level and on a solid bed. All fabricated septic tanks must be constructed in accordance with the plans approved by the approving authority. All septic tanks shall have a liquid depth of not less than 2½ feet and a length of not less than two nor greater than three times the width. Every septic tank must be a two-compartment tank. The inlet compartment shall have a capacity of not less than two-thirds of the total tank capacity. Cleanout devices and access panels shall be installed in such a manner as to allow both compartments to be properly serviced. Tanks constructed and or assembled in two sections shall be of the top seam construction type. Metal septic tanks shall not be permitted unless authorized by the approving authority.
- (d) *Septic Tank Installation Requirements.* The following requirements apply to the installation of septic tanks.
- (1) The inlet and outlet tees shall be located a minimum of six inches from the openings of the tank.
 - (2) The tees shall extend from near the top of the tank to a point 16 inches below the inverts of the openings.
 - (3) Sanitary tees shall conform to the following standards:
 - (i) The inlet tee's vertical leg must be a minimum of six inches in diameter and its horizontal leg a minimum of four inches in diameter.
 - (ii) The outlet tee's vertical and horizontal legs shall be a minimum of four inches in diameter.
 - (iii) The vertical leg of both the inlet and outlet tee must extend 16 inches below the invert of the horizontal leg and not less than three inches above the crown of the horizontal leg.
 - (iv) Tees shall be constructed of such 40 or SDR 35 PVC pipe.
 - (4) The tops shall have as a minimum, one 20-inch manhole with a handle over each compartment. For septic tanks installed deeper than six inches below finished grade, the manhole shall be raised by a method acceptable to the approving authority to within six inches below finished grade. Manholes not extended to grade shall have a pipe at ground surface marking the location of the manhole lid. Manholes extending above the ground surface shall be designed in a manner acceptable to the approving authority.
 - (5) The minimum thickness of the walls shall be four inches, or tanks with wall thicknesses between three to four inches thick may be used if they are water tightness tested with a method approved by the approving authority.
 - (6) The tops and bottoms of concrete tanks shall be four inches thick unless placed under a driveway, in which case they shall be a minimum of six inches thick.
 - (7) All concrete tank walls, tops, and bottoms shall be reinforced in a manner to ensure structural soundness and approved by the approving authority.
 - (8) All tanks shall be watertight.
 - (9) All pre-cast concrete septic tanks slated for use in Howard County shall bear the date on which they were poured. The date shall be permanently scribed in the concrete in such a location as to be conspicuous after the tank has been set in the hole. A tank may not be delivered to Howard County prior to the concrete achieving "working strength" and, in no case, in less than the minimum seven days' curing period. If tanks are made to different specifications for delivery to several counties, those tanks delivered to Howard County shall be marked "Howard County."
 - (10) The inlet and outlet of the tank shall be fitted with an approved type gasket, which will ensure the water tightness of the inlet and outlet piping.

- (11) The seam of pre-cast tanks shall be made watertight by the use of an approved sealant.
 - (12) The minimum 28-day compressive strength of concrete used to fabricate septic tanks and other sewage disposal components shall be 4,000 psi.
 - (13) The internal wall shall contain a slot of a minimum height of two inches, be located in the center of the liquid depth of the septic tank, and shall extend four feet in length.
 - (14) The design of the septic system determines the depth of the septic tank. The maximum earth cover on septic tanks shall be three feet for concrete tanks and two feet for plastic tanks. For installations deeper than as provided above, prior approval must be obtained from the approving authority.
- (e) *Limitation of Service.* A septic tank shall not serve more than one property unless authorized by the approving authority.
- (f) *Holding Tanks.* Sewage holding tanks may be used to resolve existing on-site sewage disposal system failures when community sewer facilities are not available and an acceptable on-site repair is not possible. Sewage holding tanks shall meet the criteria set forth in this subsection.
- (1) The Applicant shall submit with their application a maintenance contract acceptable to the approving authority that shall include an acceptable pumping schedule between the Applicant and a permit holder of a sewage scavenger vehicle permit.
 - (2) Holding tanks shall be of watertight construction and installed in such a manner as to minimize their potential for being impacted by ground or surface water. Where ground and surface waters exist, additional sealing methods for holding tanks, joints, or pipe connections may be required as necessary by the approving authority.
 - (3) Holding tanks shall be sized to accommodate seven days of sewage flow. Larger holding tank capacities may be required when such use, flow, or additional capacities are needed to maintain sanitary conditions.
 - (4) The minimum capacity of a holding tank system serving a single residential dwelling shall be no less than 3,000 gallons.
 - (5) Two or more holding tanks may be connected in series to reach the required storage capacity needed for existing use.
 - (6) Holding tanks shall be equipped with a high water level alarm connected to a dedicated circuit that shall provide an audible or visual signal and shall be installed in or on the building structure served by the holding tank system. The floats or other devices for the alarm shall be designed to activate when a minimum holding capacity equivalent to a 24-hour sewage flow is reached.
 - (7) Each compartment of a holding tank system shall have a manhole constructed to grade to allow access for system maintenance.
 - (8) Any property permanently served by a holding tank shall have a signed "consent agreement for use of holding tanks to correct failing sewage system" that shall be recorded into the land records of Howard County as a condition of approval.
- (g) *Abandonment.* When a building that was served by an on-site sewage disposal system is connected to a public sewerage system or otherwise taken out of service, the on-site sewage disposal system shall be properly abandoned by an approved septic system contractor or licensed plumber within 30 days of public sewerage connection or discontinued usage as follows:
- (1) *Tanks and seepage pits.* All septic tanks and seepage pits (i.e., drywells) shall be fully pumped out of liquid waste or effluent and then backfilled with clean fill dirt or other approved material. All metal tanks shall be collapsed in place or physically removed prior to backfilling.
 - (2) *Connections.* Unless used in the connection with the public sewerage system hook-up, any connection leading from the building to the abandoned system shall be fully severed at the building with the resulting opening into the building permanently capped or otherwise sealed.

(Ord. No. 81, 2006, § 1)

Sec. 3.811. - Distribution box.

- (a) *When Required.* A distribution box may be required when more than one line of subsurface sewage disposal drainfield trench or more than one seepage pit is used. All fabricated distribution boxes shall be constructed in accordance with this section and in accordance with the approved plans as submitted and approved by the approving authority.
- (b) *Connection.* Each lateral shall be connected separately to the distribution box and shall not be subdivided.
- (c) *Invert Level.* The invert of all distribution-box outlets shall be at the same level and approximately two inches above the bottom of the box. The inlet invert shall be at least one inch above the invert of the outlets. The size of the distribution box shall be sufficient to accommodate the number of lateral lines.
- (d) *Watertight.* The distribution box shall be of watertight construction arranged to receive the septic tank effluent sewer and with an outlet or connecting line serving each trench or seepage pit.
- (e) *Baffle.* A baffle shall be placed at right angles to the direction of the incoming tank effluent.

(Ord. No. 81, 2006, § 1)

Sec. 3.812. - Seepage pit.

- (a) *When Allowed.* Seepage pits may be used when found necessary and approved by the approving authority for the repair or replacement of existing septic systems:
 - (1) To supplement the subsurface disposal field; or
 - (2) In lieu of the subsurface disposal field where conditions require the operation of seepage pits.
- (b) *Construction of Seepage Pits.* Seepage pits shall be constructed as follows:
 - (1) Where seepage pits are used for septic tank effluent disposal, the number, diameter, and depth of the pits shall be determined after percolation tests have been made to ascertain the porosity of the soil.
 - (2) Seepage pits shall be constructed by totally gravel packing the excavated seepage pit in the following manner:

Before addition of aggregate, a six-inch perforated pipe shall be placed in the excavation and shall extend from the bottom of the pit to just above the completed gravel pack. The pipe shall have three rows of perforations located at 120 degree intervals around the pipe; each row of perforations shall consist of a minimum of 20 five-eighths-inch diameter holes for a ten-foot section of pipe. Schedule 40 PVC, SDR-35 PVC, or approved equal and sewer drain pipe (ASTM 2729) are all acceptable for this six-inch pipe. All sections of pipe are to be primed and glued. Above the gravel a transition to a four-inch section of SCH 40 pvc, SDR-35 PVC or approved equal pipe shall be made in such a way as to ensure the piping is continuous to the bottom of the dry well. This pipe is to be fitted with a cleanout cap which extends four inches above grade. A cast iron pipe and panella type cap shall be used as a sleeve to protect the PVC standpipe in traffic bearing area. The cast iron pipe shall rest on a concrete foundation in a manner approved by the approving authority. A geotextile fabric filter must be placed over the gravel pack to keep the backfill material out of the aggregate, except where poured in-place concrete tops are required to seal the dry well from surface water.
 - (3) Seepage pits shall be no closer than three times the diameter of the largest pit as measured from side to side.

(Ord. No. 81, 2006, § 1)

Sec. 3.813. - Drainfield trenches.

- (a) *Design and Construction.* Drainfield trenches shall be designed and constructed on the basis of the required effective percolation area.
- (b) *Filter Material.* The filter material shall cover the pipe and extend the full width of the trench and shall not be less than six inches deep beneath the bottom of the drain pipe, and two inches above the top of the pipe. The filter materials shall be washed gravel, crushed stone, or slag, ranging in size from ½ to 2½ inches and free of fines, dust, ashes, or clay. The filter material shall be covered by geotextile fabric specially designed to exclude sediment but allow the passage of water.
- (c) *Pipe Size and Spacing Requirements.* The minimum size pipe shall be four inches and the minimum spacing requirements for disposal fields shall conform to those set forth in the following table:

Size and Spacing of Drainfield Fields

Width of Trench at Bottom (inches)	Spacing Between Trenches (feet)*	Effective Absorption Area per Lineal foot of Trench
24	6.0	2.0
36	9.0	3.0

*A greater spacing is desirable where available area permits.

- (d) *Length of Laterals.* The maximum length of a lateral shall not exceed 100 feet. Laterals shall be designed of equal length unless equal distribution is accomplished by low pressure dosing.
- (e) *Disposal Lines.* Disposal lines shall be constructed of not less than four-inch perforated plastic pipe of a type approved by the approving authority. The perforated pipe shall contain three rows of perforations. Each row of perforations shall consist of a minimum of 20 five-eighths-inch diameter holes for a ten-foot section of pipe.
- (f) *Drainfield Trench.* The trench bottom shall be uniformly graded to slope no more than four inches per 100 feet. The drainfield pipe shall be laid at the same pitch as the bottom of the drainfield trench.
- (g) *Drainfield Trench Excavations.* Drainfield trench excavations shall be inspected before the addition of aggregate unless an alternative arrangement has been made with the approving authority.
- (h) *Inspection Pipe.* An inspection pipe shall be installed at the distal end of each lateral of a drainfield absorption system. The pipes shall be perforated in the aggregate, solid above the aggregate, and shall extend from the bottom of the trench to above finished grade. An approved cleanout cap shall be placed on top of the pipe. Both SDR 35 and SCH 40 PVC are approved for the inspection pipe.
- (i) *Deep Trenches.* In cases where State regulations would allow the use of deep absorption trenches, credit may be given for the added absorption area provided in deeper trenches with a resultant decrease in length of trenches. Such credit shall be given in accordance with the following table,

which gives the percentage of length of standard absorption trenches based on six-inch increments of increase in depth of filter material:

Percentage of Length of Standard Trench

Effective Depth of Gravel Below Pipe in Inches	Trench Width (in inches)			
	12	18	24	36
12	75	78	80	83
18	60	64	66	71
24	50	54	57	62
30	43	47	50	55
36	37	41	44	50
42	33	37	40	45

- (1) The standard absorption trench is one in which the filter material extends two inches above the six inches below the pipe.
- (2) For trenches or beds having width or depth not shown in the above table, the percent of length of standard absorption trench may be computed as follows:

Percent of length of standard trench =

$$\frac{W + 2}{W + 1 + 2D} \times 100$$

Where W = Width of trench in feet

D = Effective depth of gravel below pipe in feet

- (3) The separation between deep trenches shall be computed by using the following formula. The minimum separation between trenches shall be six feet.

Separation between trenches = Two times effective depth in trench + width of trench. In no case shall the required trench separation exceed 18 feet edge to edge.

(Ord. No. 81, 2006, § 1)

Sec. 3.814. - Grease interceptors.

- (a) *Design and Construction.* The following requirements apply to the design and construction of grease interceptors.
- (1) Grease interceptors shall be required for all buildings where food preparation, food processing, or waste from food operations occur except noncommercial single-family residential buildings.
 - (2) Where required, a grease interceptor shall be placed in an accessible location outside the building. It shall be located on the kitchen waste drain as close as possible to the kitchen. The discharge from a grease interceptor shall pass through a septic tank before it is discharged to the underground disposal system or other treatment facilities.
 - (3) All fabricated grease interceptors shall be constructed in accordance with the plans approved by the approving authority. Interior grease recovery units and metal grease interceptors are not permitted for use.
 - (4) A grease interceptor shall provide at least five gallons per individual seating unit and shall not be less than 500-gallon capacity. It shall be baffled to retain congealed grease on the surface of the liquid. The inlet pipe shall be baffled to a depth of six inches below the liquid level and the outlet shall be baffled to a depth six inches from the bottom of the grease interceptor.
- (b) *Other Designs.* Grease interceptor designs other than above may be used upon approval of the approving authority.

(Ord. No. 81, 2006, § 1)

Sec. 3.815. - Piping material.

All piping from the building drain to the distribution box shall be four inches or larger SDR-35 PVC, or SCH 40 DWV PVC pipe, or approved equal.

(Ord. No. 81, 2006, § 1)

Sec. 3.816. - Mounds and nonconventional systems.

Nonconventional systems where allowed, shall be installed according to plans submitted to and approved by the approving authority. Where mound systems are proposed, infiltrometer tests shall be conducted in the least permeable soil horizon, that is located in the upper 24 inches of soil. A mound system shall not be approved where the groundwater is less than 24 inches below the ground surface. Mound systems shall be installed according to plans approved by the approving authority. Mound system design shall meet, at a minimum, the requirements of COMAR or COMAR's corresponding design manual, whichever is the most current.

(Ord. No. 81, 2006, § 1)

Sec. 3.817. - Sewage effluent pumping equipment for on-site sewage disposal systems.

- (a) *Pump and Pit.* Where necessary to lift the septic tank effluent to the disposal area, an approved pump and pump pit shall be provided.
- (b) *Pit Design.* The pit shall be specifically designed for sewage effluent and shall be of sufficient capacity to accommodate the particular application. The pump pit shall be located after the septic tank and only septic tank effluent shall enter the pump pit unless otherwise authorized by the approving authority.

- (c) *Sump.* The sump containing the pump shall be watertight, accessible from grade with a 20-inch minimum manhole, and structurally sufficient for the existing or proposed use. Concrete components shall have their only construction seam located above the inlet to the sump.
- (d) *Alarm.* An audible or visual high water alarm shall be installed in the building per manufacturer's specifications. The high water alarm shall be on a separate electrical circuit from the pump.
- (e) *Minimum Emergency Capacity.* Unless otherwise specified by the approving authority, a minimum emergency capacity equal to the design flow shall be provided, the capacity to be measured between the invert of the inlet to the pit and the elevation at which the high water alarm is activated.
- (f) *Force Main Pipe.* The force main pipe between the pump and point of discharge shall be SCH 40 or SDR 21 PVC or approved equal. All SCH 40 and SDR 21 fittings in this line shall be pressure rated. Force mains shall be installed so as to prevent freezing and no shallower than 36 inches below grade.
- (g) *Electrical Connections.* All electrical connections to the pump and float switches shall be located outside the pump chamber and protected from the weather.
- (h) *Pump Pits Serving Nonresidential Uses.* All pump pits serving nonresidential uses must have duplex pumping equipment.

(Ord. No. 81, 2006, § 1)

Sec. 3.818. - Chemical toilets.

A chemical toilet shall not be erected or placed for use without prior approval from the approving authority.

(Ord. No. 81, 2006, § 1)

Sec. 3.819. - Privies and privy pits.

- (a) *Approval Required.* Prior to construction or installation, privies must be approved by the approving authority.
- (b) *Construction Requirements.* Where approved, privies shall be constructed as follows:
 - (1) A privy and privy pit shall be:
 - (i) Located and constructed to prevent the contamination of ground and surface water;
 - (ii) Constructed in such a manner as to be insect free and to prevent odor nuisances.
 - (2) A privy pit shall provide a watertight structure in the pit.
 - (3) A privy building shall be placed over the pit and shall be constructed as follows:
 - (i) The floor of a privy building shall be of wood or concrete with the privy seat of plastic or wood.
 - (ii) A vent located adjacent to the seat shall extend from the pit to a point above the roof of the building.
 - (iii) The seat shall be provided with a cover that shall be self-closing.
 - (iv) All openings shall be screened to prevent the entrance of flies.
 - (v) Earth shall be mounded on all sides of the building to prevent the entrance of rats to the pit.

- (4) When removable cans are used in a privy, they shall be placed in watertight vaults and provision made for removing the seat so the cans can be moved for disposal of the contents in a manner acceptable to the approving authority.

(Ord. No. 81, 2006, § 1)

Sec. 3.820. - Water service near sources of pollution.

- (a) *Pressure Water Supply Lines.* All pressure water supply lines shall be at least ten feet removed from any sewage disposal area or any area designated for future sewage disposal. All pressure water supply lines shall also maintain a minimum of ten feet separation from all septic tanks, distribution boxes, cesspools, or other potential sources of contamination.
- (b) *Where a Building Sewer Line is Crossed.* Where any pressure water supply line must cross the building sewer line, the bottom of the water service line within ten feet of the crossing shall be at least twelve inches above the top of the building sewer line. Where this condition cannot be met, a sleeve shall be installed over the water pipe, extending a minimum of ten feet on either side of the sewer pipe. The sleeve shall be made watertight by use of a nonhardening seal. The sleeving material shall be at least the same grade or schedule of material as the water pipe it is sleeving.

(Ord. No. 81, 2006, § 1)

Sec. 3.821. - Administration and enforcement.

- (a) *Stop Work Order.* For any provision of this subtitle that is more strict than COMAR requirements, the approving authority may issue a stop work order in accordance with section 114 of the Howard County Building Code as adopted in subtitle 1 of this title.
- (b) *Right of Entry.*
 - (1) *Inspections.* The approving authority shall have a right of entry at reasonable times for the purpose of performing an inspection in accordance with the provisions of this subtitle.
 - (2) *Emergency right of entry.* In addition to an inspection authorized by this section, the approving authority shall have the right to enter a building, structure, or premises where there is evidence that an actual or potential emergency exists that threatens or may threaten the public health and safety for the purpose of performing duties pursuant to this subtitle or to enforce the provisions of this subtitle. The approving authority or their authorized representative shall produce appropriate proof of identity prior to entry.
- (c) *Violations.*
 - (1) *Unlawful acts.* A person shall not perform any work, or cause the same to be performed, in conflict with or in violation of any provision of this subtitle.
 - (2) *Nuisance.* A violation of this subtitle is a nuisance as defined in section 12.110 of the Howard County Code. In addition to the authority set forth in this section, the approving authority may take action in accordance with section 12.110 of the Howard County Code to abate a violation of this subtitle.
 - (3) *Notice of violation.* The approving authority may serve a notice of violation on a person performing work that is regulated by this subtitle. A notice shall direct that the illegal action or condition be discontinued, shall direct the abatement of the violation, and shall set a reasonable time for abatement.
 - (4) *Prosecution of violation.* For any provision of this subtitle that is more strict than COMAR requirements, if the notice of violation is not complied with within the time set forth in the notice, the approving authority may request the legal counsel of the jurisdiction to institute the

appropriate proceeding at law or in equity to restrain, correct, or abate the violation, to require the removal or termination of the violation, and to criminally prosecute the permit holder.

(5) *Penalties.*

(i) *Criminal penalties.* A person, firm or corporation, or other entity which individually, collectively, or through others, constructs, erects, alters, or repairs any work in violation of any provision of this subtitle is guilty of a misdemeanor and, upon conviction, is subject to a fine, not exceeding \$1,000.00, or imprisonment, not exceeding 30 days, or both.

(ii) *Civil penalties.* Alternatively, and in addition to and concurrent with all other remedies at law or in equity, the approving authority may enforce the provisions of this subtitle with civil penalties, as provided in title 24, "civil penalties," of the Howard County Code, as follows:

- a. For any vehicle found to be operating in Howard County without a current valid sewage scavenger permit as required by section 3.804 of this subtitle, a first violation is a Class E offense and a subsequent violation is a Class C offense;
- b. A first violation of any other provision of this subtitle is a Class C offense and a subsequent violation is a Class A offense; and
- c. Each day that a violation continues is a separate offense.

(d) *Appeals.* Any person aggrieved by a decision relating to a permit that is based on a provision of this subtitle that is more strict than a COMAR requirement may appeal to Board of Health in accordance with the provisions of subsection 12.110(f) of this Code.

(Ord. No. 81, 2006, § 1)

Sec. 3.822. - COMAR regulations.

This subtitle shall not be construed to repeal or affect any powers of the State of Maryland State Department of the Environment under the provisions of the health-environment article of the Annotated Code of Maryland or COMAR.

(Ord. No. 81, 2006, § 1)

Sec. 3.823. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(Ord. No. 81, 2006, § 1)

SUBTITLE 9. - INDIVIDUAL POTABLE WATER SUPPLY SYSTEMS.

Sec. 3.900. - Definitions.

Terms used in this subtitle have the meanings indicated.

- (a) *Approving authority* means the Health Officer for Howard County or the Health Officer's designee.
- (b) *Individual potable water supply system* means a single system of pipes, pumps, and tanks using a system of groundwater to supply only a single lot. An individual potable water supply system does not include a public community or nontransient, noncommunity water supply.

(Ord. No. 81, 2006, § 1)

Sec. 3.901. - General regulations.

- (a) *Application.* The regulations in this subtitle apply to any individual potable water system where plumbing fixtures are installed for human occupancy.
- (b) *Authority of the Approving Authority.* The approving authority shall administer, enforce, and interpret the provisions of this subtitle. The approving authority may adopt minimum standards for individual potable water supply and distribution systems in the implementation of this subtitle.
- (c) *Pumps.* Pumps shall be installed only in wells in accordance with COMAR requirements and in springs and cisterns.
- (d) *Permits to Install Pumps.* Only registered master plumbers, certified well drillers, or certified pump installers may apply for permits to install pumps.
- (e) *Prohibited Systems.* When the approving authority finds there to be insufficient lot area or yield for an adequate individual potable water supply system for the building or land use proposed, a building permit shall not be issued and an individual potable water supply system shall not be permitted. An individual potable water supply system serving existing structures for which an addition, alteration, or change in use is proposed, shall be determined by the approving authority as capable of handling existing and foreseeable increases in water demand. A susceptibility analysis to existing or potential sources of contamination and additional water quality tests may be required at the discretion of the approving authority.
- (f) *Site Plans Required.* Before a building permit is issued, a site plan shall be submitted to the approving authority that shall contain the following:
 - (1) Detailed plans showing the location of the proposed structure to be served by the individual potable water supply system, and any existing or proposed structure within 30 feet of the property line.
 - (2) Location of all existing and proposed wells and water lines on the property and within 100 feet of the property line.
 - (3) Location of all existing and proposed septic systems, septic system reserve areas, building sewer lines, and public sewer facilities on the property and within 100 feet of the property line.
 - (4) A minimum separation of 30 feet shall be maintained between a proposed structure and an existing water supply well.

(Ord. No. 81, 2006, § 1)

Sec. 3.902. - Pumps.

- (a) *Pumps* shall be:
 - (1) Certified under Water Systems Council testing and rating standards;
 - (2) Installed in accordance with the manufacturer's recommendations;
 - (3) Located to facilitate necessary maintenance and repair, including overhead clearance for removal of drop pipe and other accessories; and
 - (4) Suitably mounted to avoid objectionable vibration and noise, and to prevent damage to pumping equipment.
- (b) *Pumping equipment* shall be installed to prevent the entrance of contamination or objectionable material either into the well or into the water that is being pumped.
- (c) *Pump controls and accessories* shall be protected from the weather.

(Ord. No. 81, 2006, § 1)

Sec. 3.903. - Controls—Devices.

The following controls are required on all pump installations:

- (a) Pressure switch;
- (b) Thermal overload switch;
- (c) Pressure relief valve on positive displacement pumps; and
- (d) Low water level cutoff switch is required on all pumps that have a capacity in excess of the source of water.

(Ord. No. 81, 2006, § 1)

Sec. 3.904. - Pump housing.

Except a separate structure housing pumping equipment, a water supply shall not be located within or under any building. When a separate structure is used to house the water supply, the pumping equipment shall have an impervious floor and rain tight walls and roof. Where a pump pit is used, it shall be of watertight construction and provided with a positive drain or sump pump to keep the pit dry.

(Ord. No. 81, 2006, § 1)

Sec. 3.905. - Storage equipment.

(a) *Storage Equipment Generally.* Storage equipment shall be as follows:

- (1) All tanks shall be certified under Water Systems Council standards for size and pressure;
- (2) All tanks shall be coated or made of material to resist corrosion;
- (3) Hydropneumatic tanks shall have a working pressure rating in excess of the maximum system pressure, but not less than 75 psi;
- (4) All tanks shall be constructed of materials and coatings that are nontoxic; and
- (5) All tanks shall be provided with a means of draining.

(b) *Atmospheric Storage Tanks.* Atmospheric storage tanks shall be provided with a cover as required in section 10.8.4. of the Howard County Plumbing Code.

(Ord. No. 81, 2006, § 1)

Sec. 3.906. - Cross connection prohibited.

There shall not be cross connection between an individual water supply system and other individual or public water supply systems.

(Ord. No. 81, 2006, § 1)

Sec. 3.907. - Separate service for each property.

An individual potable water supply system shall not serve more than one property or structure unless authorized by the approving authority.

(Ord. No. 81, 2006, § 1)

Sec. 3.908. - Connection to public water system required.

- (a) *Public Water Connection.* Except for property located outside the planned service area for water service and the Metropolitan District, wherever a water main for public use exists in any street or alley and directly abuts the property, the owner of all buildings constructed for human habitation, occupancy, or use shall connect to the public water main.
- (b) *Wells Prohibited.* A well for potable use shall not be constructed on a property accessible to an adequate public water supply.

(Ord. No. 81, 2006, § 1)

Sec. 3.909. - Responsibility to abandon wells.

Wherever a replacement well is installed and the original well is abandoned, it is the owner's responsibility to abandon and seal a previously existing water supply in a manner satisfactory to the approving authority.

(Ord. No. 81, 2006, § 1)

Sec. 3.910. - Potability requirements.

Any well intended to serve a building for human use or habitation shall meet the potability requirements of COMAR 26.04.04 and 26.04.01 prior to occupancy.

(Ord. No. 81, 2006, § 1)

Sec. 3.911. - Administration and enforcement.

This subtitle shall be administered and enforced by the approving authority in accordance with the requirements of section 3.821 of the Howard County Code.

(Ord. No. 81, 2006, § 1)

Sec. 3.912. - Waiver.

The approving authority may grant a waiver of a provision of this subtitle that is more stringent than the standards set forth in COMAR for unusual circumstances or extraordinary hardships where the approving authority believes that the modification is in compliance with the intent and purpose of this subtitle and that the modification does not lessen the health or environmental requirements of this subtitle and the requirements of COMAR 26.04.02.

(Ord. No. 81, 2006, § 1)

Sec. 3.913. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(Ord. No. 81, 2006, § 1)

SUBTITLE 10. - ENERGY EFFICIENCY AND ENVIRONMENTAL DESIGN

Sec. 3.1000. - Short title.

This subtitle may be cited as the Howard County Green Buildings Law.

(C.B. 47, 2007, § 1)

Sec. 3.1001. - Statement of purpose and policy.

The purpose of this subtitle is to protect the public health and welfare by incorporating measures into the planning, design, construction, and operation of certain buildings and the building's site in order to mitigate the energy and environmental impacts of the building so that the building is energy efficient, sustainable, cost-effective, accessible, functional, productive, generates less waste, and improves the health and productivity of the building's occupants.

(C.B. 47, 2007, § 1)

Sec. 3.1002. - Definitions.

Unless specifically defined in this section, terms used in this subtitle have the meanings set forth in the Howard County Building Code adopted in subtitle 1 of this title.

(a) *Commissioning team* means a group that is:

(1) Made up of some or all of the following:

- (i) The owner;
- (ii) Occupants;
- (iii) Operations and maintenance staff;
- (iv) Design professionals; and
- (v) Contractors; and

(2) Responsible for ensuring, through documented verification, that all new building systems perform and interact according to original design documents and the owner's operation needs.

(b) *Department* means the Department of Inspections, Licenses and Permits.

(c) *Director* means the Director of the Department of Inspections, Licenses and Permits or the Director's designee.

(c-1) *Downtown Columbia* means that area defined as Downtown Columbia in subsection 103.A.41 of the Howard County Zoning Regulations.

(d) *Green Building Council* means the U.S. Green Building Council that implements the LEED rating system.

(e) *LEED* means the series of leadership in energy and environmental design rating systems as developed by the green Building Council.

(f) *LEED accredited professional* means a licensed professional engineer, licensed architect, or registered landscape architect who is accredited by the Green Building Council as having the knowledge and skills necessary to participate in the design process, to support and encourage integrated design, and to streamline the leadership in energy and environmental design project application and certification process.

(g) *LEED checklist* means the checklist approved by the Green Building Council That sets forth the credit and point system for the LEED rating system.

- (h) *LEED rating system* means the leadership in energy and environmental design rating system as may be adopted and amended from time to time and may include, without limitation, the following:
 - (1) LEED-NC for new construction; and
 - (2) LEED-CS for core and shell.
- (i) *New construction* means construction of a building that requires a Howard County building permit or an addition to an existing building. New construction does not include the renovation of an existing structure that does not change the gross floor area of the existing structure.
- (j) *Publicly funded building* means a building for which the County finances at least 30 percent of the cost of:
 - (1) New construction; or
 - (2) A lease for the use of new construction, inclusive of options, for a period of greater than 20 years.

(C.B. 47, 2007, § 1; C.B. 47, 2009, § 1; C.B. 14, 2010, § 1)

Sec. 3.1003. - Applicability; exceptions.

- (a) *Applicability.* Except as provided in subsection (b) of this section, the following new construction shall comply with the requirements of this subtitle:
 - (1) New construction of a publicly funded building with 10,000 square feet or more of gross floor area; and
 - (2) New construction of buildings that are not publicly funded and have 50,000 square feet or more of gross floor area, or in downtown Columbia 10,000 square feet or more of gross floor area, in the following occupancy categories:
 - (i) Assembly Group A;
 - (ii) Business Group B;
 - (iii) Institutional Group I;
 - (iv) Mercantile Group M;
 - (v) Mixed occupancies if:
 - a. A majority of the use is an occupancy included in this subsection; and
 - b. The building is two stories or more; and
 - (vi) The following residential occupancies:
 - a. Residential R-1; and
 - b. Residential R-2.
- (b) *Exceptions.* The requirements of this subtitle shall not apply to:
 - (1) New construction of a publicly funded building in the E or I-3 occupancy categories;
 - (2) New construction of a nonpublicly funded building in the R-2 occupancy that is:
 - (i) Made up of only residential dwelling units; and
 - (ii) Less than five stories in height;
 - (3) New construction of a building that does not have an HVAC system; and
 - (4) Other new construction as may be set forth by regulation of the Director.

(C.B. 47, 2007, § 1; C.B. 14, 2010, § 2)

Sec. 3.1004. - Standards for compliance.

- (a) *Publicly Funded Buildings.* New construction of a publicly funded building that is subject to this subtitle shall:
- (1) Achieve a certification from the Green Building Council of a silver level rating or higher in one of the following LEED 2009 rating systems:
 - (i) New construction; or
 - (ii) Core and shell; or
 - (2) Comply with energy and environmental design standards that the Director may adopt by regulation as equivalent to a silver level rating in the appropriate LEED rating system.
- (b) *Other Buildings.* New construction of a nonpublicly funded building that is subject to this subtitle shall:
- (1) Achieve a certification from the Green Building Council of certified-level rating or higher in one of the following LEED 2009 rating systems:
 - (i) New construction; or
 - (ii) Core and shell; or
 - (2) Comply with energy and environmental design standards that the Director may adopt by regulation as equivalent to a certified-level rating in the appropriate LEED rating system.

(C.B. 47, 2007, § 1; C.B. 47, 2009, § 1)

Sec. 3.1005. - Required submissions; condition of approval; certificate of use and occupancy.

- (a) *Required Submissions—Site Development Plan Application.* In addition to other documents required to be submitted with a site development plan application in accordance with section 16.156 of this Code, an applicant for new construction subject to this subtitle shall submit to the Director of the Department of Planning and Zoning:
- (1) Documentation showing that the project:
 - (i) Has been registered with the Green Building Council and that the applicable LEED registration fee has been paid; or
 - (ii) Meets energy and environmental design standards that the Director may adopt by regulation as equivalent to the appropriate LEED rating system; and
 - (2) A checklist that:
 - (i) Shall be prepared, signed, and dated by the project LEED accredited professional; or
 - (ii) If the Director has adopted equivalent standards by regulation, is approved by the Director as demonstrating that the applicant meets the equivalent standards.
- (b) *Required Submissions—Building Permit Application.* In addition to other documents required to be submitted with a building permit application, an applicant for new construction subject to this subtitle shall submit to the Director:
- (1) (i) Documentation showing that the project has been registered with the Green Building Council and an updated LEED checklist that shall be prepared, signed, and dated by the project LEED accredited professional; or

- (ii) If the Director has adopted equivalent standards by regulation, an updated checklist that is approved by the Director as demonstrating that the Applicant meets the equivalent standards;
 - (2) Any other document or information the Director finds necessary to determine whether the building will achieve the applicable standard under section 3.1004 of this subtitle;
 - (3) If applicable, documentation that the LEED design features and specifications have been reviewed and approved by the project's LEED accredited professional; and
 - (4) General notes or individual detail drawings on all construction documents showing or explaining the green building measures used to attain the applicable LEED rating.
- (c) *Required Submissions—Use and Occupancy Permit.* Prior to issuance of a use and occupancy permit, an applicant for new construction subject to this subtitle shall submit documents demonstrating that the building design and submittal requirements have been reviewed by a commissioning team.
- (d) *Condition of Approval.* The requirements of this section shall be a condition of approval set forth on the site development plan and the building permit.
- (e) *Twelve Months after Receipt of a Certificate of Use and Occupancy.* Within 12 months of receipt of a certificate of use and occupancy, an Applicant for new construction subject to this subtitle shall apply to the Green Building Council for certification.
- (f) *Thirty-Six Months after Receipt of a Certificate of Use and Occupancy.* Within 36 months of receipt of a certificate of use and occupancy, the Applicant for new construction subject to this subtitle shall provide proof to the Director that the required LEED-level rating or an equivalent standard as may be adopted by regulation of the Director was obtained.

(C.B. 47, 2007, § 1)

Sec. 3.1006. - Expedited review.

An application for a building permit shall receive expedited review by the Department if the checklist submitted with the building permit application indicates that the Applicant is seeking certification at the gold or platinum-level rating or an equivalent standard as may be adopted by regulation of the Director.

(C.B. 47, 2007, § 1)

Sec. 3.1007. - Waivers; fee-in-lieu.

- (a) *Waivers; Standards for Granting.* The Director may grant a waiver to the requirements of this subtitle where, by reason of unique physical characteristics of the property including exceptional topographic conditions or the size or shape of the property, strict compliance with the requirements of this subtitle would result in an unwarranted hardship to an Applicant for a building permit. For purposes of this section, unwarranted hardship does not include financial hardship.
- (b) *Request.* A request to waive the requirements of this subtitle shall:
 - (1) Be in writing in a form required by the Director;
 - (2) Be accompanied by supporting information that justifies the request including letters, statements, or test results; and
 - (3) Include, where applicable, technical documentation to demonstrate that compliance cannot be achieved.
- (c) *Fee-In-Lieu.* Except for a publicly-funded building, an Applicant who is granted a waiver shall be required to pay a fee-in-lieu into the green building fund that is:

- (1) Calculated on a square-foot basis at a rate established in a fee schedule adopted by resolution of the County Council; and
- (2) Due before the building permit is granted.

(C.B. 47, 2007, § 1)

Sec. 3.1008. - Green Building Fund.

- (a) *Fund Established.* The Director of Finance shall establish an account to be known as the Green Building Fund and no monies deposited in this account may revert to the general fund.
- (b) *Source of Monies in Fund.* The Green Building Fund shall contain:
 - (1) Fees-in-lieu as required by section 3.1008 of this subtitle; and
 - (2) All interest earned on money in the fund.
- (c) *Use of the Green Building Fund.* Monies in the Green Building Fund may be used by the County for the purpose of:
 - (1) Finding ways to reduce energy consumption;
 - (2) Providing technical assistance to the following building owners seeking to achieve certification from the Green Building Council of certified-level rating or higher:
 - (i) Building owners retrofitting existing commercial buildings to the LEED for existing buildings, 2009 rating system; or
 - (ii) Building owners developing newly constructed commercial buildings with less than 50,000 gross square feet to the following LEED 2009 rating systems:
 - a. New construction; or
 - b. Core and shell; and
 - (3) Providing education, training, and outreach to the public and private sectors in green building practices.

(C.B. 47, 2007, § 1; C.B. 47, 2009, § 1)

Sec. 3.1009. - Rules and regulations.

The Department may adopt rules and regulations to administer this subtitle.

(C.B. 47, 2007, § 1)

Sec. 3.1010. - Report.

- (a) *Content of report.* The Director shall submit to the County Executive and, subject to section 22.1000 of the County Code, the County Council a report that lists, based on the preceding calendar year:
 - (1) For buildings that were required to comply with this subtitle:
 - (i) The number and types of buildings; and
 - (ii) The level of certification obtained;
 - (2) For buildings that were exempt from this subtitle:
 - (i) The number and types of buildings; and

- (ii) The reason for the exemption; and
- (3) The number of waivers to the requirements of this subtitle that the Director approved including:
 - (i) The reason for the waiver; and
 - (ii) Any condition attached to the waiver, such as a fee-in-lieu.
- (b) *Timing of Report.* The report is due not later than March 1 of each year.

(C.B. 47, 2007, § 1; C.B. 43, 2018, § 1)

Sec. 3.1011. - Enforcement.

- (a) *Building Code.* Except for violations of section 3.1004 of this subtitle, this subtitle may be enforced in accordance with the Howard County Building Code as adopted in subtitle 1 of this title.
- (b) *Civil Penalties.* Except for new construction of publicly funded buildings that are subject to this subtitle, the Director may institute the following alternative and concurrent remedies:
 - (1) The Director may institute any action at law or equity, including injunction or mandamus, to enforce subsection 3.1005(e) of this subtitle;
 - (2) The Director may enforce subsection 3.1005(e) of this subtitle with civil penalties in accordance with title 24 of this Code and a violation of subsection 3.1005(e) is a Class A offense; and
 - (3) Each day that a violation continues is a separate offense.

(C.B. 47, 2007, § 1)

Sec. 3.1012. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 47, 2007, § 1)

SUBTITLE 11. - MISCELLANEOUS

Sec. 3.1100. - Coal tar.

- (a) *Scope of Section.* This section applies to any product that is used to seal the surface of driveways, parking areas, and other pavement and that contains levels of polycyclic aromatic hydrocarbons (PAHs) greater than 10,000 milligrams per kilogram, including, but not limited to, coal tar pitch or ethylene cracker residue.
- (b) *Findings.* The County Council finds that, under some conditions, certain pavement sealing products contaminate water, soil, and air, and therefore control of these pavement sealing products is necessary to protect the public health, safety, and welfare.
- (c) *Prohibition.* A person shall not sell, offer for sale, or apply to pavement a pavement sealing product described in subsection (a) of this section.
- (d) *Penalty.*
 - (1) A violation of this section is a Class A civil violation under title 24 of the County Code.
 - (2) For purposes of this section, the Department of Inspections, Licenses and Permits has the duties of the Enforcement Official under title 24 of the County Code.

(C.B. 60, 2018, § 1)

TITLE 4 - CONTRACTS, PURCHASING AND PROPERTY^[1]

Footnotes:

--- (1) ---

State Law reference— General authority relative to purchasing and property, Ann. Code of Md. art. 25A, § 5(B), (F).

SUBTITLE 1. - PURCHASING^[2]

Footnotes:

--- (2) ---

Editor's note— Section 1 of C.B. 1, 1983, repealed former subtitle 1, §§ 4.100—4.118, derived from C.B. 24, 1969, and C.B. 51, 1977; and § 2 enacted a new subtitle 1, §§ 4.100—4.111.

Sec. 4.100. - Short title.

This subtitle shall be known and may be cited as the "Purchasing Code" of Howard County.

(C.B. 1, 1983; C.B. 39, 1994)

Sec. 4.101. - Purpose.

The purpose of this subtitle is:

- (a) To implement and make effective the purchasing policies provided by article VIII of the Howard County Charter;
- (b) To promote uniformity in purchasing procedures in various user agencies to effect maximum savings for all purchases out of County funds;
- (c) To encourage public confidence in public procurement procedures;
- (d) To foster effective broad-based competition within the free enterprise system;
- (e) To make purchases out of County funds from firms and individuals who do not engage in unlawful discriminatory employment practices;
- (f) To foster equal business opportunity for businesses owned by minority individuals, women, individuals with disabilities;
- (g) To promote business opportunities for veteran-owned business enterprises; and
- (h) To promote the purchase of supplies, materials, equipment and services best suited for the needs of each user agency.

Except as otherwise provided by law, this subtitle shall be applicable to all purchases and contracts for supplies, materials, equipment and contractual services for any County department or agency, and for any State agency authorized by law to utilize the County procurement system.

(C.B. 1, 1983; C.B. 78, 1993, § 1; C.B. 39, 1994; C.B. 78, 1995; C.B. 7, 2008, § 3; C.B. 8, 2018, § 1)

Sec. 4.102. - Definitions.

For purposes of this subtitle, the following definitions shall apply:

- (a) *Auction bid* means a bid:
 - (1) Submitted through an electronic commerce portal;
 - (2) That is in response to an invitation for auction bids; and
 - (3) That must conform to a prescribed format identified in the invitation for auction bids.
- (b) *Capital project* means any public improvement undertaken by the County, including the construction or reconstruction in whole or in part of any road, bridge, street, building, or water, sewer, or stormwater facility, or any similar physical structure or facility necessary in carrying out the activities of County Government including any related preliminary studies and surveys.
- (c) *Commodity* means an article of trade or value, something that is bought or sold, any moveable tangible item that is produced or used as the subject of trade or commerce including, without limitation, goods, materials, supplies, or equipment.
- (d) *Construction* means the process of building, altering, repairing, improving or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.
- (e) *Contract* means an agreement, enforceable by law, between two or more competent parties, to do or not to do something not prohibited by law, for a consideration. A contract includes supplemental agreements to original contracts.
- (f) *Contract modification* means any written alteration in the price or any other provision of an existing contract whether initiated unilaterally by the County or by mutual action of the parties to the contract. It includes change orders, contract amendments and supplemental agreements. Contract modification does not include a contract amendment required by law.
- (g) *Contract review committee (CRC)* means a standing executive committee established to review purchasing actions.
- (h) *Contractual services* means services required by the County, but not furnished by its own employees.
- (i) *Cooperative purchasing* means the combining of requirements of two or more public entities in order to obtain the benefits of volume purchases or for a reduction in administrative expenses, or both.
- (j) *County* means Howard County, Maryland, including the County Council and any Department, Commission, Council, Board, Bureau, Committee, institution, authority, Agency, government corporation or official of the Howard County Government.
- (k) *County Purchasing Agent* means the Chief Administrative Officer as set forth in article VIII of the Howard County Charter.
- (l) *Debarment* means the disqualification of a person from the award of a contract by the County for a specified period of time of a year or more. See section 4.117 "Vendors and Purchasers."
- (n) *Disabled business enterprise (DBE) means a business enterprise:*
 - (1) Which is:
 - (i) At least 51 percent owned by one or more individuals with disabilities; or

- (ii) In the case of any publicly owned corporation, at least 51 percent of the stock of which is owned by one or more individuals with disabilities; and
 - (2) Whose ownership interest is real and continuous, and not created solely to meet the disabled-owned business provisions of the Equal Business Opportunity Program; and
 - (3) Whose general management and daily business affairs and essential productive operations are controlled by one or more individuals with disabilities; and
 - (4) Which has been certified by the Equal Business Opportunity Commission as a disabled business enterprise.
- (o) *Electronic* means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (p) *Emergency*:
- (1) The development of a dangerous condition caused by a breakdown in machinery or a threatened termination of essential services; or
 - (2) Any unforeseen circumstance causing curtailment or diminution of an essential service or which presents an imminent threat to public safety, welfare or the environment.
- (q) *Expedite* means to facilitate or hasten delivery of goods ordered by purchaser, generally according to the contract terms.
- (r) *Formal bidding* means a process pursuant to section 4.107 of this subtitle for procuring supplies or services costing \$30,000.00 or more or for disposing of surplus supplies valued at \$30,000.00 or more.
- (s) *Gratuity* means a payment, loan, subscription, advance, deposit of money, service or anything of any present or future monetary value with more favorable terms than those granted to the public generally, unless consideration of equal or greater value is received.
- (t) *Informal bidding* means a process pursuant to section 4.109 of this subtitle for the procurement of supplies or services costing less than \$30,000.00 or for disposing of surplus supplies valued at less than \$30,000.00.
- (u) *Insurance* means a contract:
- (1) In which one party, for a fee, undertakes to protect another party against loss, damage, or liability arising from an unknown or contingent incident; and
 - (2) That provides coverage that bids a party to indemnify another against specified loss in return for premiums paid.
- (v) *Joint venture* means an association of two or more individuals, partnerships, corporations, or combinations thereof, founded to carry on a simple business activity.
- (w) *Minority business enterprise (MBE)* means a business enterprise:
- (1) Which is:
 - (i) At least 51 percent owned by one or more minority individuals; or
 - (ii) In the case of any publicly owned corporation, at least 51 percent of the stock of which is owned by one or more minority individuals; and
 - (2) Whose ownership interest is real and continuous, and not created solely to meet the minority-owned business provisions of the Equal Business Opportunity Program; and
 - (3) Whose general management and daily business affairs and essential productive operations are controlled by one or more minority individuals; and
 - (4) Which has been certified by the Equal Business Opportunity Commission as a minority business enterprise.

- (x) *Minority individual* means an individual who belongs to one of the following groups: African American, Asian American, Hispanic American, Native American, woman, or disabled.
- (y) *Person* means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, sole-proprietorship, or any other legal entity.
- (z) *Procurement* means the buying, purchasing, renting, leasing or otherwise obtaining of any supplies, services or construction, including such component functions as description of requirements, solicitation and selection of sources, preparation and award of contract.
- (aa) *Procurement card* means a payment method whereby user agencies make purchases directly from suppliers using a credit card that:
 - (1) Has predetermined transaction limits and monthly limits; and
 - (2) Is issued by a bank or major credit card provider.
- (ab) *Professional services* means the services of attorneys, physicians, architects, engineers, or other individuals or organizations providing services of a similar professional nature which require specialized knowledge and skills and involve the application of specialized knowledge and intellectual skills in the performance of the services.
- (ac) *Purchasing* means the act and function of responsibility for the acquisition of equipment, materials, commodities, and services.
- (ad) *Request for proposal* means a method for acquiring goods or services in which discussions or negotiations may be conducted with responsible offerors who submit proposals in the competitive range. A request for proposal includes all documents, including those attached or incorporated by reference, that are used for soliciting proposals.
- (ae) *Responsive bidder* means a person who has submitted a written offer for the furnishing of supplies or services or both in conformity with the specifications and conditions included in the solicitation.
- (af) *Responsible bidder* means a person who has the capability in all respects to fully perform the contract requirements and who has the integrity and reliability to assure good-faith performance.
- (ag) *Services* means the furnishing of labor, time or effort by a contractor, not involving the delivery of specific end products other than reports which are incidental to the required performance. This term includes "professional services" but does not include employment agreements.
- (ah) *Signature*:
 - (1) *A manual or electronic identifier: or*
 - (2) *The electronic result of an authentication technique that is:*
 - (i) *Attached to or logically associated with a record; and*
 - (ii) *Intended by the person using it to have the same force and effect as a manual signature.*
- (ai) *Sole source purchase* means the purchase of a commodity or service that is only available from one supplier, usually because of its technological, specialized, unique, or proprietary character.
- (aj) *Specifications* means any description of the physical or functional characteristics, or of the nature of, a supply or service.
- (ak) *Supplies* means all property, including but not limited to equipment, parts, material, printing, insurance and leases on real and personal property, excluding acquisition of a permanent interest in real property for a public use.
- (al) *Surplus supplies* means any supplies no longer having any use to the holding agency. This includes obsolete supplies, scrap materials and nonexpendable supplies that have completed their useful life cycle.

- (am) *Suspension* means the disqualification of a person from the award of a contract by the County for a temporary period of time, less than one year, pending the completion of an investigation or during any legal proceedings. See section 4.117 "Vendors and Purchasers".
- (an) *User agency* means any agency of the County, including the County Council, and any Department, Commission, Council, Board, Bureau, Committee, Institution, Authority, Agency, Government Corporation or other establishment or official of the Howard County Government. "User agency" also means any entity which, by State law, is authorized and elects to follow local purchasing laws or which, by State law, is required to follow local purchasing laws.
- (ao) *Veteran* means:
 - (1) A person who served on full time active duty in the United States Armed Forces, other than active duty for training, and was discharged or released under conditions other than dishonorable; or
 - (2) A person who was disabled from a disease or injury incurred or aggravated in the line of duty while performing active duty for training or inactive duty training in the United States Armed Forces.
- (ap) *Veteran-owned business enterprise (VOBE)* means a business enterprise that is verified by the Center for Verification and Evaluation of the United States Department of Veterans Affairs as a veteran-owned small business enterprise.
- (aq) *Woman business enterprise (WBE)* means a business enterprise:
 - (1) Which is:
 - (i) At least 51 percent owned by one or more women; or
 - (ii) In the case of any publicly owned corporation, at least 51 percent of the stock of which is owned by one or more women; and
 - (2) Whose ownership interest is real and continuous, and not created solely to meet the woman-owned business provisions of the Equal Business Opportunity Program; and
 - (3) Whose general management and daily business affairs and essential productive operations are controlled by one or more women; and
 - (4) Which has been certified by the Equal Business Opportunity Commission as a women business enterprise.

(C.B. 1, 1983; C.B. 62, 1988; C.B. 5, 1989; C.B. 77, 1993; C.B. 78, 1993; C.B. 38, 1994; C.B. 39, 1994; C.B. 6, 2003, §§ 2, 3; C.B. 7, 2008, § 3; C.B. 72, 2017, § 1; C.B. 8, 2018, §§ 1, 3)

Sec. 4.103. - Authority and duties of the County Purchasing Agent.

In addition to those functions and responsibilities listed in title VIII of the Howard County Charter or indicated elsewhere in this subtitle, the Howard County Purchasing Agent:

- (a) Shall have the powers, duties and authority relating to the procurement of supplies, services and construction and the management, control, sale and disposal of supplies;
- (b) Shall develop and distribute the Purchasing Manual of the County, subject to the approval of the County Executive;
- (c) Shall serve as the principal contracting officer of the County;
- (d) Shall develop and implement an Equal Business Opportunity Program, subject to the approval of the County Executive and the County Council and incorporating the provisions of section 4.122 of this subtitle, which is designed to assure the participation of minority business

enterprises, woman business enterprises and disabled business enterprises in the purchasing activities of the County;

- (e) Shall prepare a purchasing manual governing the operating procedures of the County purchasing system;
- (f) Shall distribute and enforce this subtitle and the purchasing manual and the Equal Business Opportunity Program.
- (g) Shall sell, trade, exchange or otherwise dispose of surplus supplies belonging to the County.
- (h) May maintain a bulletin board in the approximate area of the main purchasing office and shall maintain an electronic bulletin board on the County Internet Web site;
- (i) Shall submit to the County Executive and, subject to section 22.1000 of the County Code, the County Council an annual report of the work of the purchasing office which shall include a summary of the progress and efforts made by the County in achieving the goals and measures set forth in this subtitle;
- (j) Shall debar bidders declared irresponsible pursuant to section 4.117 "Vendors and Purchasers" of this subtitle;
- (k) Shall submit to the County Executive and, subject to section 22.1000 of the County Code, the County Council a monthly report of all emergency purchases and expedited purchases of \$30,000.00 or more, indicating the amount of such purchases and an explanation of the circumstances;
 - (l) May delegate authority:
 - (1) To designees to administer the Purchasing Code; and
 - (2) To the assistant purchasing Administrator to sign purchase orders for less than \$30,000.00.
- (m) May prescribe forms to be used in the requisitioning and ordering of supplies, services and construction;
- (n) May require statistical data from using agencies;
- (o) May cancel invitations to bid, requests for proposal or other solicitations, or reject all bids, parts of bids, or bids for any one or more supplies or services included in a proposed contract when, in the judgment of the Purchasing Agent, the public interest would be served;
- (p) May waive the competitive bidding requirements for small purchases and sales that are less than the formal bid threshold;
- (q) May authorize the awarding of a sole-source contract;
- (r) May establish and maintain programs for inspection, testing and acceptance of supplies and services, including a compliance monitoring program;
- (s) May suspend bidders pending investigation of possible debarment;
- (t) May undertake programs involving joint or cooperative purchases with other public jurisdictions at all levels of government;
- (u) Shall carry out the procurement policies set forth in subtitle 5 "Purchasing of Products Made from Recycled Materials" of this title;
- (v) Shall include in the report required under subsection 4.103(i) of this subtitle a listing of all invitations for bids and requests for proposals issued each fiscal year. The report shall list the contracts awarded during the reporting period, the contract amounts, the lowest bid price, the name of the successful contractor and subcontractors, and the contracts awarded in which security requirements have been waived;
- (w) Shall be responsible for the final decisions on bid protests;

- (x) Shall keep statistics on businesses that participate in the Equal Business Opportunity Program;
- (y) Shall control and supervise all property accounting;
- (z) Shall award contracts for insurance;
- (aa) Shall develop and implement a Veteran-Owned Business Enterprise Program which is designed to assure the participation of veteran-owned business enterprises in the purchasing activities of the County; and
- (ab) Shall keep statistics on veteran-owned business enterprises that participate in the Veteran-Owned Business Enterprise Program.

(C.B. 1, 1983; C.B. 5, 1989; C.B. 77, 1993; C.B. 78, 1993; C.B. 38, 1994; C.B. 39, 1994; C.B. 6, 2003, § 2; C.B. 7, 2003, § 3; C.B. 72, 2017, § 1; C.B. 8, 2018, §§ 1, 3; C.B. 43, 2018, § 1)

Sec. 4.103A. - Searchable purchasing data.

- (a) (1) In this section the following words have the meanings indicated:
 - (2) (i) *Recipient entity* means an entity that receives a County award.
 - (ii) *Recipient entity* includes:
 - 1. A nonprofit entity;
 - 2. A corporation, association, partnership, limited liability company, limited liability partnership, sole proprietorship, or other legal business entity;
 - 3. A grantee, contractor, subcontractor, or subgrantee; or
 - 4. A government other than Howard County or a unit of a government other than Howard County.
 - (iii) *Recipient entity* does not include:
 - 1. An individual who receives County, State or Federal assistance payments; or
 - 2. A County employee who receives a County salary or wages.
 - (3) (i) *County award* means financial assistance or an expenditure by the County, including:
 - 1. A grant, subgrant, loan, award, cooperative agreement, or other form of financial assistance; and
 - 2. A contract, subcontract, purchase order, or other payment.
 - (ii) *County award* does not include money transferred from one unit of County Government to another unit of County Government.
 - (iii) *County award* shall mean a single award and not an aggregated award.
 - (4) *Searchable website* means a website that allows the public to:
 - (i) Search and aggregate County funding by any element required under subsection (c) of this section;
 - (ii) Ascertain through a single search the total amount of County funding awarded to a recipient entity; and
 - (iii) Download data that results from a search.
- (b) The searchable website required by this section need not include a County award that is less than \$30,000.00.
- (c) The Purchasing Agent shall have a single, searchable website that includes for each County award:

- (1) The name of the recipient entity and, if applicable, the parent entity of the recipient entity;
 - (2) The amount of the County award;
 - (3) The transaction type;
 - (4) The name of the unit of County Government making the County award;
 - (5) The budget program fund source;
 - (6) A descriptive purpose of the County award;
 - (7) The location of the recipient entity and the primary location of performance under the County award; and
 - (8) Any other relevant information that the Purchasing Agent specifies.
- (d) The searchable website shall be accessible by the public at no cost and allow the user to:
- (1) Search by fiscal year;
 - (2) Search electronically by field in a single search; and
 - (3) Offer comments on the site and recommend improvements.
- (e) This section does not require disclosure of any information that:
- (1) The County does not routinely obtain; or
 - (2) Is exempt from disclosure under County, State, or Federal law.

(C.B. 9, 2008, § 1)

Sec. 4.104. - Rules and procedures; purchasing manual.

- (a) *Preparation and revision* means the County Purchasing Agent shall:
- (1) Prepare a purchasing manual containing the necessary rules, regulations and procedures to implement:
 - (i) This subtitle;
 - (ii) Subtitle 5 "Purchasing of Products Made from Recycled Materials" of this title;
 - (iii) Subtitle 6 "Equal Business Opportunity" of this title;
 - (iv) Article VIII of the Howard County Charter;
 - (v) Applicable laws of Maryland regarding purchasing; and
 - (2) Review the purchasing manual annually and revise the manual as needed.
- (b) *Approval by County Council.* The purchasing manual shall be submitted with the approval of the County Executive to the County Council for its approval by resolution. Amendments to the purchasing manual shall also be subject to such approval before they take effect. Obvious errors, forms, instructions for use of forms, and organizational charts contained in the purchasing manual shall not be considered a part of the purchasing manual.
- (c) *Enforcement.* After approval of the purchasing manual by the County Council (or any amendments), the County Purchasing Agent shall distribute it to all County user agencies. The County Purchasing Agent shall enforce the provisions of the purchasing manual.

(C.B. 1, 1983; C.B. 33, 1992; C.B. 39, 1994; C.B. 6, 2003, § 2; C.B. 7, 2003, § 3; C.B. 72, 2017, § 1)

Sec. 4.105. - Advisory committee on standardization.

There shall be an advisory committee on standardization to develop County-wide standards for supplies and services used by more than one agency of County Government. The advisory board shall be composed of the County Purchasing Agent and the Directors of each department or the Directors' designees. The County Purchasing Agent shall be the Chairperson of the Committee.

Editor's note— C.B. 39, § 1, effective Sep. 9, 1994, added § 4.105 and renumbered and amended § 4.105 as § 4.106, and also renumbered and amended § 4.106 as § 4.109. Prior to adoption of said bill, § 4.105 pertained to competitive bidding; purchases and sales over \$15,000 and derived from C.B. 1, 1993; C.B. 118, 1989; C.B. 77, 1993; C.B. 38, 1994; § 4.106 pertained to exemptions from formal competitive bidding and derived from C.B. 1, 1983; C.B. 5, 1989; C.B. 77, 1993; C.B. 37, 1994 and C.B. 38, 1994.

Sec. 4.106. - Procurement methods; multi-step process; waivers; exemptions.

- (a) *Formal Bidding Exceptions.* All County procurement contracts shall be awarded by formal bidding pursuant to section 4.107, except as otherwise provided in the following sections:
- (1) Section 4.108 "Competitive Sealed Proposals";
 - (2) Section 4.109 "Informal Bidding";
 - (3) Section 4.110 "Sole Source Purchases";
 - (4) Section 4.111 "Emergency Purchases";
 - (5) Section 4.112 "Expedited Procurement";
 - (6) Section 4.113 "Professional Services";
 - (7) Section 4.114 "Purchases Requiring Confidentiality";
 - (8) Section 4.115 "Contracts With Other Government Agencies";
 - (9) Section 4.116 "Procurement Card Transactions"; and
 - (10) Section 4.123 "Auction Bids."
- (b) *Purchasing Manual.* The purchasing manual shall include detailed procedures regarding the bidding process and all alternate procurement methods, authorized pursuant to this subtitle.
- (c) *Multi-methods :* A combination of purchasing methods may be used including, but not limited to expressions of interest and requests for proposals, for both capital and non-capital projects, all at the discretion of the County Purchasing Agent.
- (d) *Multi-Step Purchasing Methods:*
- (1) Multi-step purchasing is a method of purchasing which progresses in increments from informational requests to final solicitation approval/purchasing.
 - (2) Step 1 involves a formal solicitation requesting information, technical data, or samples. The purchasing office and the user agency evaluate the respondents' data to determine acceptable vendors. In step 2 the acceptable vendors are requested to provide price quotations, proposals or bids.
 - (3) A method may be used under which both price and technical proposals are submitted at the same time in separate sealed envelopes. However, the price information may not be reviewed until the technical evaluation is complete and the vendor found acceptable by the purchasing office and the user agency. The sealed pricing and bid information from vendors found unacceptable during the technical evaluation shall be returned unopened to the vendors.

- (4) In all other respects, multistep sealed purchasing methods shall be treated in the same ways as other purchasing methods.
- (e) *Waiver Provisions:*
- (1) *Informal bidding.* At the sole discretion of the County Purchasing Agent, the informal competitive bidding requirements may be waived for purchases or sales that are less than the formal bid threshold.
- (2) *Formal bidding.*
- (i) The County Purchasing Agent, with the approval of the County Executive, may waive formalities in competitive bidding as the interest of the County may require.
- (ii) The County Council may, by resolution, authorize the County Purchasing Agent to waive the formal competitive bidding requirements of this subtitle for any single purchase or sale if, in the judgment of the County Council, the waiver will best serve the interest of the County.
- (f) *Exemption for Insurance.* The procurement of insurance including, without limitation, casualty, property, and liability insurance is exempt from the competitive bidding provisions of this subtitle. The County Purchasing Agent shall award contracts for insurance.
- (g) *Exemption for retirement plans .* The procurement of services and supplies related to management of the Howard County Police and Fire Employees Retirement Plan and the Howard County Retirement Plan is exempt from the bidding requirements of this subtitle.

(C.B. 6, 2003, § 2; C.B. 7, 2007, § 3; C.B. 72, 2017, § 1)

Note— See editor's note following § 4.105.

Sec. 4.106A. - Contract review committee.

- (a) *Composition.* The Contract Review Committee (CRC) shall be composed of:
- (1) The County Chief Administrative Officer or designee;
- (2) The County Auditor or designee; and
- (3) The Director of the Department of Finance or designee.
- (b) *Rules of Procedure.* The CRC is authorized to adopt rules of procedure in considering matters within its authority.
- (c) *Authority.* CRC approval by majority vote is required for the following:
- (1) A sole-source contract for \$100,000.00 or more;
- (2) A procurement contract for \$1,000,000.00 or more that receives less than three responsive bids; and
- (3) A procurement contract for \$100,000.00 or more where:
- (i) No responsive bid was received;
- (ii) Time did not permit a re-bid; and
- (iii) The Office of Purchasing engaged in competitive negotiations with potential vendors and proposes to award a contract upon the completion of negotiations.

(C.B. 6, 2003, § 2; C.B. 32, 2003, § 1; C.B. 7, 2008, § 3)

Sec. 4.107. - Formal bidding; purchases and sales of \$30,000.00 or more.

- (a) Except as provided otherwise by this subtitle, the purchase of supplies or services involving an expenditure of \$30,000.00 or more shall be accomplished through a formal bid procedure, with the contract being awarded to the lowest responsive, responsible bidder.
- (b) Except as provided otherwise by this subtitle, the sale of surplus supplies with an estimated value of \$30,000.00 or more shall be accomplished through a formal bid procedure, with the contract being awarded to the highest responsive, responsible bidder.
- (c) No contract, sale or purchase shall be subdivided to avoid the requirements of this section.

(C.B. 21, 1995; C.B. 6, 2003, § 2; C.B. 72, 2017, § 1)

Editor's note— C.B. 39, § 1, effective Sep. 9, 1994, amended former § 4.105 subsection (a) to be renumbered as § 4.107 entitled "formal bidding; purchases and sales of \$15,000 or more". Said former subsection (a) of § 4.105 pertained to competitive bidding required and derived from C.B. 1, 1983; C.B. 118, 1989; C.B. 77, 1993.

Sec. 4.108. - Competitive sealed proposals.

- (a) When the County Purchasing Agent determines that competitive sealed bidding is not practical or not advantageous to the County, a contract may be awarded based upon competitive sealed proposals.
- (b) Public notice of the requests for proposals shall be given in the same manner as public notice for competitive sealed bids.
- (c) The request for proposals may state the relative importance of price and other evaluation factors. Price may not be the sole evaluation factor. Numerical ratings may be used at the discretion of the Purchasing Agent.
- (d) A request for proposals may be utilized to procure a combination of services and tasks, under a single contract, including but not limited to design, construction, financing, operations and maintenance services and tasks, for both capital and non-capital projects, all at the discretion of the County Purchasing Agent.
- (e) Each competitive sealed proposal may be negotiated to obtain the best offer from the supplier.

(C.B. 39, 1994; C.B. 6, 2003, § 2; C.B. 72, 2017, § 1)

Sec. 4.109. - Informal bidding.

- (a) All purchases of supplies or services involving less than \$30,000.00 are considered small purchases.
- (b) All sales of surplus supplies with an estimated value of less than \$30,000.00 are considered small sales.
- (c) All small purchases and small sales for \$10,000.00 or more and less than \$30,000.00 are subject to informal competitive bidding as follows:
 - (1) A small purchase contract shall be awarded:
 - (i) To the lowest responsive, responsible bidder; or
 - (ii) With the approval of the County Purchasing Agent, based on best value following informal competitive sealed proposals;

- (2) A small sale contract shall be awarded to the highest responsive, responsible bidder; and
- (3) In conducting the informal competitive bidding the County Purchasing Agent shall use procedures set forth in the purchasing manual.
- (d) No contract, purchase or sale shall be subdivided to avoid the requirements of this subsection.

(C.B. 28, 1998; C.B. 6, 2003, § 2; C.B. 7, 2003, § 3)

Note— See editor's note following § 4.105.

Sec. 4.110. - Sole-source purchase.

- (a) The County Purchasing Agent may award a contract for supplies and services without competition when:
 - (1) The supplies or services are only available through one source;
 - (2) There are unique circumstances that make competitive bidding commercially impracticable; or
 - (3) The purchase is for software support or maintenance or both.
- (b) Before authorizing a sole source purchase, the County Purchasing Agent shall have a written justification prepared explaining that the specifications for supplies or services are not overly restrictive for the County's needs, that only one supplier of the particular supplies or services exists and that the sole source purchase serves the best interests of the County.
- (c) Sole source purchases may be obtained by seeking the supplier's best offer through negotiation.
- (d) Any sole source contract between the County and any person which contains an option or options to renew which would have the effect of extending the term of the contract beyond three years shall be sent to the County Council for approval by a resolution prior to the beginning of the fourth year of the contract and each subsequent renewal option, if any, thereafter.

(C.B. 7, 2003, § 3)

Editor's note— C.B. 39, § 1, effective Sep. 9, 1994, amended former § 4.105 subsections (b) and (c) to be renumbered as § 4.110 entitled "sole-source purchase" and § 4.111 entitled "emergency purchases". Said former subsections (b) and (c) pertained to same subject matter and derived from C.B. 1, 1983; C.B. 118, 1989; C.B. 77, 1993.

Sec. 4.111. - Emergency purchases.

- (a) If an emergency occurs during regular business hours, the user agency shall immediately notify the County Purchasing Agent, who shall either purchase the required supplies or services from a responsible vendor or authorize the agency to do so.
- (b) If an emergency occurs at times other than regular business hours, the user agency may purchase the required supplies or services directly. Whenever practical, the user agency shall first secure competitive telephone bids from responsible bidders and purchase the required supplies or services from the lowest responsible bidder meeting specifications.
- (c) If a purchase is made at times other than regular business hours, the user agency shall provide written backup material to the County Purchasing Agent on the next regular County business day following the purchase.

(C.B. 7, 2003, § 3)

Note— See editor's note following § 4.110.

Sec. 4.112. - Expedited procurement.

- (a) *When Used.* An expedited procurement may be used in a situation which is not an emergency but where prompt action best serves the public interest, including but not limited to avoiding potential loss of Federal or State revenues to the County if rapid procurement actions are not taken, or to situations that, if prompt action were not taken, would have an adverse impact on the economic welfare of the County or important economic development in the County.
- (b) *Advance Approval by County Purchasing Agent.* Expedited procurements require the prior written approval of the County Purchasing Agent.
- (c) *Use of Competitive Process When Practicable.* To the extent practicable, the competitive process of this subtitle shall be used when making an expedited procurement, except that the County Purchasing Agent may:
 - (1) Waive the public notice requirements; or
 - (2) Justify in writing a noncompetitive selection by explaining how the expedited procurement would be in the best interests of the County and explaining why a competitive solicitation cannot be made:
 - (i) Due to insufficient time between the County's first knowledge of the need to make the procurement and the date when the contract must be performed; or
 - (ii) For such other reasons that preclude the use of competition.

(C.B. 39, 1994; C.B. 7, 2008, § 3)

Sec. 4.113. - Professional services.

- (a) *Use of Competitive Process Where Practicable.* Except as provided in subsection (b) below of this section, the purchase of professional services shall be made through a competitive bidding process pursuant to the provisions of this subtitle, whenever practical. When it is not practical to purchase professional services using one of the methods authorized in this subtitle, then the user agency shall consult with the County Purchasing Agent to select a provider of professional services by using another method which will provide as much competition as is practical, given the nature of the services and the circumstances under which the services are needed.
- (b) *Selection of Architects and Engineers.* Architectural and engineering professional services shall be procured on the basis of qualifications and competitive negotiations in accordance with the procedures set forth in the purchasing manual governing architectural and engineering services.
- (c) *Exemption for County Council.* The County Council is exempt from the competitive bidding provisions of this subtitle when awarding professional service contracts. The awarding of contracts by the Council for professional services shall be the responsibility of the Executive Secretary to the Council at the direction and with the approval of the Council.

(C.B. 1, 1983; C.B. 5, 1989; C.B. 77, 1993; C.B. 38, 1994; C.B. 39, 1994)

Sec. 4.114. - Purchases requiring confidentiality.

- (a) *When Used.* This process may be used for the procurement of services that are confidential in nature, such as, but not limited to:
 - (1) Legal services needed in conjunction with threatened or pending litigation;

- (2) Appraisal of property to be acquired; and
 - (3) Collective bargaining.
- (b) *Use of Competitive Process Where Practicable.* Whenever practical, the purchase of services requiring confidentiality shall be made through a competitive bidding process pursuant to the provisions of this subtitle. However, if confidentiality is required, the advertising and public notice provisions of this subtitle may be waived. If there is only one respondent, or a single source, the County Purchasing Agent may authorize the user agency to negotiate the best offer.

(C.B. 39, 1994)

Sec. 4.115. - Contracts with other government agencies.

When used. This process is used:

- (a) When a pricing advantage may be obtained by purchasing goods or services through contracts or surplus lists established by other governmental purchasing/supply agencies, including Federal, State, and local government agencies;
- (b) When it is to the County's advantage to contract with State or Federal agencies created to assist local governments with particular types of projects; or
- (c) When it is in the County's advantage to contract with other counties or public entities including, without limitation, a Board of Education, community college, or library.

(C.B. 39, 1994; C.B. 6, 2003, § 2; C.B. 7, 2008, § 3; C.B. 72, 2017, § 1)

Sec. 4.116. - Procurement card transactions.

Designated County employees shall be authorized to use a procurement card (similar to a credit card) for purchases of a designated amount. Procurement cards shall not be used as a means of avoiding standard purchasing procedures (i.e., dividing a transaction into several smaller transactions). Requisitions for procurement card transactions are not required. Card usage shall be in compliance with Howard County policy and procedure.

(C.B. 6, 2003, § 2; C.B. 7, 2008, § 3)

Editor's note— Section 1 of Council bill 6, 2003, adopted April 7, 2003, renumbered former §§ 4.116—4.122 as §§ 4.117—4.123, as set forth below. Section 2 of that bill added a new § 4.116, as set forth above.

Sec. 4.117. - Vendors and purchasers.

- (a) *Criteria to be Considered in Determining Lowest Responsive, Responsible Bidder and Highest Responsive, Responsible Bidder.*
 - (1) The ability, capacity, organization, facilities and skill of the bidder to perform the contract or provide the service required;
 - (2) The ability of the bidder to perform the contract or provide the service promptly, within the time specified and without delay or interference;
 - (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
 - (4) The quality of performance of previous contracts or services;

- (5) The bidder's previous compliance with laws and regulations relating to the contract or service;
 - (6) Whether or not the bidder is in arrears to the County on debt or contract;
 - (7) Whether or not the bidder is a defaulter on surety to the County;
 - (8) Whether or not the bidder is delinquent in County taxes or assessments;
 - (9) Whether or not the bidder has violated or attempted to violate the fair employment practices described in section 4.119, "Ethics and Fair Employment Practices";
 - (10) The resale value and life cycle costs of a proposed purchase;
 - (11) The net cost to the County of the goods and services;
 - (12) The ability of the bidder to provide future maintenance and service for the use of the supplies;
 - (13) The sufficiency of the financial resources of the bidder to perform the contract; and
 - (14) Other information the County Purchasing Agent believes to have a bearing on the decision to award the contract.
- (b) *Suspension.* With approval of the County Purchasing Agent, the Purchasing Administrator may suspend a person from receiving the award of a contract:
- (1) For up to one year pending the completion of an investigation; or
 - (2) During any legal proceedings concerning conduct that might lead to debarment.
- (c) *Suspension Procedures.* If the Purchasing Administrator seeks to suspend a person:
- (1) The Purchasing Administrator shall issue a written decision to suspend that includes:
 - (i) The reason for the suspension; and
 - (ii) A statement that the person may meet with the Purchasing Administrator within 30 days of the decision;
 - (2) The Purchasing Administrator shall send a copy of the decision to the County Purchasing Agent; and
 - (3) The County Purchasing Agent shall approve, revise, or remand the decision within 15 days of the decision.
- (d) *Reasons for Declaring a Bidder Irresponsible.* The County Purchasing Agent may declare a bidder irresponsible if the bidder:
- (1) Fails, upon written request, to provide proof of the bidder's responsibility;
 - (2) Has, as a vendor to or contractor with the County, repeatedly made slow or unsatisfactory delivery of supplies or services;
 - (3) Has violated any provisions of this subtitle or other subtitles of this title;
 - (4) Has, within the previous 12 months, been found by a court of competent jurisdiction to have engaged in an unlawful employment practice as described in section 4.119 "Ethics and Fair Employment Practices" of this subtitle; or
 - (5) Has offered a gratuity to an official or employee of the County.
- (e) *Debarment.* If the County Purchasing Agent determines a bidder is irresponsible, the County Purchasing Agent shall debar the person from bidding on County contracts for at least one year. A determination to debar may be based on the debarment list of another governmental entity. The County Purchasing Agent shall give the debarred bidder a written statement detailing the reasons for debarment and shall advise the debarred bidder of the right to appeal.

- (f) *Appeal of Debarment.* A person debarred from bidding may, within 30 days of debarment, appeal the debarment to the Howard County Board of Appeals. The Board of Appeals shall hear the appeal according to its rules of procedure.

(C.B. 1, 1983; C.B. 38, 1994; C.B. 39, 1994; C.B. 6, 2003, §§ 1, 2; C.B. 7, 2008, § 3)

Sec. 4.118. - Certification of funds; contract administration; multiyear contracts; conflicts.

- (a) *Certification of Availability of Funds.* An order for \$10,000.00 or more for the purchase of supplies or services shall not be issued until the Director of Finance has first certified that funds for the designated purpose are available.
- (b) *Contracts:*
- (1) *Prohibition.* Cost plus a percentage of cost contracts are prohibited. Contracts based upon percentage discounts from, or percentages added to, prices listed in a manufacturer's published price list in general distribution are not considered to be cost plus a percentage of cost contracts.
 - (2) *Preferences.* Subject to the limitations of this section, any type of contract that will promote the best interests of the County may be used. However, preference shall be given to types of contracts as follows:
 - (i) Fixed price;
 - (ii) Cost reimbursement; and
 - (iii) Lump sum.
 - (3) *Accounting.* Except for a firm fixed price contract, a contract type may not be used unless the County Purchasing Agent determines that the contractor's accounting system:
 - (i) Will permit timely development of all necessary cost data in the form required by the specific type of contract contemplated; and
 - (ii) Is adequate to allocate costs in accordance with generally accepted accounting principles.
 - (4) *Contract modifications.* Every contract modification, change order, or adjustment in contract price initiated by a government agency relating to contracts for services, supplies or construction projects shall be subject to the prior written approval of the County Purchasing Agent. If the modification, change or adjustment initiated by a government agency increases the contract price by 15 percent or more of the contract award amount, the County Purchasing Agent shall not execute the modification, change or adjustment unless all of the following conditions are met:
 - (i) The Purchasing Office has a written plan that sets forth internal control procedures;
 - (ii) Certification by the Director of Finance that sufficient funds are available;
 - (iii) The Purchasing Office files with the County Auditor the contract in which the price has been increased along with written justification supporting the need for the modification, change or adjustment; and
 - (iv) The Purchasing Office retains for audit purposes documents relating to the modification, change or adjustment.
 - (5) *Legal and fund sufficiency.* All contract forms shall be approved by the office of law as to form and legal sufficiency and by the Director of Finance for sufficiency of funds.
 - (6) *Signed by County Executive.* All contracts shall be signed on behalf of the County by the County Executive or his designee.

- (7) *Conflict of interest.* All contracts shall contain a clause, to be signed by the contractor, stating that the person has read and understands the provisions of the Howard County Charter and Howard County law dealing with conflicts of interest.
 - (8) *Statements under oath.* All contracts valued at or above the formal bid threshold shall be accompanied by the following statements to be signed under oath by the vendor or purchaser certifying that the vendor or purchaser has not:
 - (i) Been a party to an agreement to bid a fixed or uniform price.
 - (ii) Offered nor will offer any gratuity to any County official or employee.
 - (iii) Violated any of the fair employment provisions of section 4.119 "Ethics and Fair Employment Practices" of this subtitle.
- (c) *Multiyear Contracts:*
- (1) If the nature of such transactions reasonably requires the making of a multiyear contract, the County may contract to purchase supplies or services for periods of more than one year if funds for the total cost of the contract are available at the time the contract is executed and committed for the purposes of the contract.
 - (2) Any contract requiring the payment of funds from appropriations of subsequent fiscal years shall be made or approved by ordinance, pursuant to section 612 of the Howard County Charter.
- (d) *Conflicts.* In the event that State or Federal assistance requirements conflict with the provisions of this subtitle, the County is authorized to comply with the terms and conditions of the State or Federal assistance requirements.

(C.B. 1, 1983; C.B. 5, 1989; C.B. 77, 1993; C.B. 38, 1994; C.B. 39, 1994; C.B. 28, 1998; C.B. 6, 2003, §§ 1, 2; C.B. 7, 2008, § 3; C.B. 72, 2017, § 1)

Sec. 4.119. - Ethics and fair employment practices.

- (a) *Conflict of Interest.* Bidders, vendors, purchasers and County employees involved in the purchasing process shall be governed by the provisions of the Howard County Charter and Howard County law regarding conflict of interest. No vendor shall offer a gratuity to an official or employee of the County. No official or employee shall accept or solicit a gratuity.
- (b) *Discouragement of Uniform Bidding:*
 - (1) It is the policy of the County to discourage uniform bidding by every possible means and to endeavor to obtain full and open competition on all purchases and sales.
 - (2) No bidder may be a party with other bidders to an agreement to bid a fixed or uniform price.
 - (3) No person may disclose to another bidder, nor may a bidder acquire, prior to the opening of bids, the terms or conditions of a bid submitted by a competitor.
- (c) *Fair Employment Practices:*
 - (1) Bidders, vendors and purchasers may not engage in unlawful employment practices as set forth in subtitle 2 "Human Rights" of title 12 of the Howard County Code, Section 14 of Article 49B of the Annotated Code of Maryland or Sections 703 and 704 of Title VII of the Civil Rights Act of 1964 as amended. Should any bidders, vendors or purchasers engage in such unlawful employment practices, they shall be subject to being declared irresponsible or being debarred pursuant to the provisions of this subtitle.
 - (2) The Howard County Office of Human Rights shall notify the County Purchasing Agent when any bidder is found, by a court of competent jurisdiction, to have engaged in any high unlawful employment practices.

- (3) If any bidder has been declared to be an irresponsible bidder for having engaged in an unlawful employment practice and has been debarred from bidding pursuant to this subtitle, the Howard County Office of Human Rights shall review the employment practices of such bidder after the period of debarment has expired to determine if violations have been corrected and shall, within 30 days, file a report with the County Purchasing Agent informing the agent of such corrections before such bidder can be declared to be a responsible bidder by the County Purchasing Agent.
- (4) Payment of subcontractors. All contractors shall certify in writing that timely payments have been made to all subcontractors supplying labor and materials in accordance with the contractual arrangements made between the contractor and the subcontractors. No contractor will be paid a second or subsequent progress payment or final payment until such written certification is presented to the County Purchasing Agent.

(C.B. 1, 1983; C.B. 38, 1994; C.B. 39, 1994; C.B. 6, 2003, §§ 1, 2)

Sec. 4.120. - Rainforest wood products purchasing prohibition.

- (a) *Short Title.* This section shall be known as the Rain Forest Protection Act of 1991.
- (b) *Prohibitions.* Except as provided in subsection (c), Howard County, or a contractor pursuant to a contract with Howard County, shall not purchase any of the following wood products:

Scientific Name	Common Name
<i>Vouacapoua americana</i>	acapu
<i>Pericopsis elata</i>	afromosia
<i>Shorea almon</i>	almon
<i>Peltogyne spp.</i>	amaranth
<i>Guibourtia</i>	amazaque
<i>Aningeria spp.</i>	aningeria
<i>Dipterocarpus grandiflorus</i>	apitong
<i>Ochroma lagopus</i>	balsa
<i>Viorla spp.</i>	banak
<i>Anisoptera thurifera</i>	bella rosa
<i>Guibourtia arnoldiana</i>	benge

<i>Detarium senegalese</i>	boire
<i>Guibourtia demeusii</i>	bubinga
<i>Prioria copaifera</i>	cativo
<i>Antiaris africana</i>	chenchen
<i>Dalbergia retusa</i>	concobolo
<i>Cordia spp.</i>	cordia
<i>Diospyros spp.</i>	ebony
<i>Aucoumea klaineana</i>	gaboon
<i>Chlorophora excelsa</i>	iroko
<i>Acacia koa</i>	koa
<i>Pterygota macrocaro</i>	koto
<i>Shorea negrosensis</i>	red lauan
<i>Pentacme contorta</i>	white lauan
<i>Shorea polysperma</i>	tanguile
<i>Terminalia supurba</i>	limba
<i>Aniba duckei</i>	louro
<i>Khaya ivorensis</i>	African mahogany
<i>Swietenia macrophylla</i>	American mahogany
<i>Tieghemella heckelii</i>	makore
<i>Distemonanthus benthamianus</i>	movingui

<i>Pterocarpus soyauxii</i>	African paduak
<i>Pterocarpus angolensis</i>	angola paduak
<i>Aspidosperma spp.</i>	peroba
<i>Peltogyne spp.</i>	purpleheart
<i>Gonystylus spp.</i>	ramin
<i>Dalbergia spp.</i>	rosewood
<i>Entandrophragma cylindricum</i>	sapele
<i>Shorea philippinensis</i>	sonora
<i>Tectona grandis</i>	teak
<i>Lovoa trichilioides</i>	tiger wood
<i>Milletia laurentii</i>	wenge
<i>Microberlinia brazzavillensis</i>	zebra wood

All contracts for the purchase of wood products entered into after the effective date of this subtitle [August 1, 1991] shall comply with the provisions of this section. For purposes of this subtitle, wood products are those exposed wood areas which are visible to the eye.

- (c) *Exemptions.* The County Purchasing Agent shall only exempt an item or type of wood product from the requirements of this subtitle upon:
- (1) Written evidence showing the use of tropical wood or wood products is deemed necessary for historical restoration or to repair existing facilities, that such item has no acceptable nontropical wood equivalent and that imposing the requirements on that item or type would cause undue hardship; or
 - (2) Written evidence showing that the tropical wood item or type has been harvested from a preexisting plantation, managed to maintain environmental functions, including watershed stability and erosion control practices, sustained yield production, and positive impact on the well being of local communities; or
 - (3) Written evidence showing that the use of a tropical wood item would be an environmentally superior alternative to a native or imported wood type presently in use in Howard County; or
 - (4) Written evidence showing that the wood products were required to be purchased under a contract entered into prior to the effective date of this subtitle. The provisions of this subtitle

shall not apply to any procurement that is under the formal bid threshold. The provisions of this subtitle shall not apply to any joint or cooperative purchasing program authorized in accordance with subsection 4.103(t). Notwithstanding any exemptions provided by this section, the County Purchasing Agent shall make every effort to purchase only those items not containing tropical wood or wood products.

(d) *Enforcement:*

- (1) Any person submitting a bid shall certify, to the best of the person's knowledge and belief, in writing to the County Purchasing Agent that any wood or wood products to be supplied pursuant to a contract with Howard County complies with this subtitle.
- (2) The County Purchasing Agent may not accept a bid from a person who does not provide the certification required by this subsection, unless an exemption pursuant to subsection (c) is granted.
- (3) The County Purchasing Agent may promulgate regulations and take any necessary actions provided under section 4.121 "Violations" of this subtitle to enforce this subtitle.

(C.B. 65, 1991; C.B. 38, 1994; C.B. 39, 1994; C.B. 6, 2003, §§ 1, 2; C.B. 72, 2017, § 1)

Sec. 4.121. - Violations.

- (a) *Price Fixing.* The County Purchasing Agent shall void the bid of a bidder who has been found to be a party to a fixed-price bid agreement.
- (b) *Disclosure of Terms of Bid.* The County Purchasing Agent shall void the bid of a bidder who has disclosed the terms or conditions of his bid to another bidder prior to the opening of bids.
- (c) *Acquiring Terms of Bid.* The County Purchasing Agent shall void the bid of a bidder who has acquired the terms and conditions of a competitor's bid prior to the opening of bids.
- (d) *Violation of Section 4.106 "Procurement methods" and Section 4.107 "Competitive bidding; Purchases and Sales Over \$30,000.00".* Any violation of section 4.106 "Procurement methods" and section 4.107 "Competitive bidding; purchases and sales over \$30,000.00" shall constitute an offense punishable upon conviction by imprisonment for a period not to exceed six months or a fine not to exceed \$1,000.00 or both.
- (e) *Unlawful Purchases and Sales.* It shall be unlawful for any County officer or employee to order the purchase of any supplies or contractual services or to sell supplies except pursuant to this subtitle. Any purchase order, sale or contract made contrary to the provisions of this subtitle shall be voidable.
- (f) *Violations of Subtitle.* Any County officer, agent or employee knowingly violating any provision of this subtitle is subject to removal from office.
- (g) *Wage Requirements.* A violation of section 4.122A of this subtitle is a Class A civil offense and, in addition to a fine, the County Purchasing Agent may suspend or debar the violator under section 4.117 of this subtitle.

(C.B. 1, 1983; C.B. 65, 1991; C.B. 39, 1994; C.B. 6, 2003, §§ 1, 2; C.B. 51, 2007, § 2; C.B. 7, 2008, § 3)

Sec. 4.122. - Equal Business Opportunity Program.

- (a) *Purpose.* The purpose of these provisions is to foster overall equity and fairness to all citizens in relation to business enterprises conducting business with the County.

- (b) *Adoption of Equal Opportunity Business Program.* Pursuant to subsections 4.103(d) and (e) of this subtitle, the County Purchasing Agent shall develop and implement an Equal Business Opportunity Program, subject to the approval of the County Executive and of the County Council, by resolution. The County Purchasing Agent shall seek the input of the Equal Business Opportunity Commission in the development of the program.
- (c) *Elements of the Equal Business Opportunity Program.* The Equal Business Opportunity Program shall include, but is not limited to, the following elements:
- (1) *Goals.* Reasonable equal business opportunity participation goals for each category of certified business firms to include provisions for periodic review and update of such goals.
 - (2) *Methods for providing equal business opportunity.* Structuring of the procurement process so that business opportunities are provided to minority business enterprises, woman business enterprises and disabled business enterprises through the mechanisms of subcontracting, direct award of contracts and fostering of joint ventures.
 - (3) *Notification of County's equal business opportunity goals.* Procedures for notifying the public and respondents to County solicitations of the County's equal business opportunity goals.
 - (4) *Certification.* Certification of minority business enterprises, woman business enterprises and disabled business enterprises. The program shall provide for the Equal Business Opportunity Commission, established under the provisions of subtitle 6 of this title, to undertake the certification process on behalf of the County, pursuant to criteria and procedures set forth in the program.
 - (5) *Monitoring contract execution.* Procedures for monitoring contract execution of firms awarded contracts under these provisions.
 - (6) *Data.* Procedures for collecting and maintaining statistical data which measure the effectiveness of the Equal Business Opportunity Program.
 - (7) *Waiver of subcontracting goals.* Procedures for approving a waiver of a portion of or all of the subcontracting goals established for minority business enterprises, woman business enterprises or disabled business enterprises in any contract where a participation goal exists.
 - (8) *Enforcement.* Adequate measures for enforcement of Equal Business Opportunity Program provisions.

(C.B. 78, 1993; C.B. 39, 1994; C.B. 6, 2003, §§ 1, 2; C.B. 7, 2008, § 3)

Sec. 4.122A. - Wage requirements.

- (a) *Covered employer* defined. In this section, *covered employer* means a contractor or subcontractor that is subject to this section.
- (b) *Scope:*
- (1) A County contract for procurement of contractual services shall require the contractor and any subcontractor to comply with the wage requirements of this section.
 - (2) This section does not apply to:
 - (i) A contractor who:
 1. Employs fewer than five employees when the contractor submits a bid or proposal; and
 2. Does not employ five or more employees at any time the contract is in effect as a result of performing the contract;
 - (ii) A contractor who, at the time a contract is signed:

1. Has received less than \$100,000.00 from the County in the most recent 12-month period; and
 2. Will be entitled to receive less than \$100,000.00 from the County under that contract in the next 12-month period;
- (iii) A County contract with a governmental entity;
 - (iv) A County contract with a nonprofit organization that has qualified for an exemption from Federal income taxes under section 501(c)(3) of the Internal Revenue Code;
 - (v) A County contract awarded under section 4.110, 4.111, or 4.112 of this subtitle;
 - (vi) A County contract for electricity, telephone, cable television, water, sewer, or similar service delivered by a regulated public utility;
 - (vii) An employer to the extent that the employer is expressly precluded from complying with this section by the terms of any Federal or State law, contract, or grant; and
 - (viii) A County contract entered into under cooperative procurement with another government or organization of governments.
- (c) *Solicitation Requirements:*
- (1) Each bid or proposal to provide contractual services shall specify how the covered employer will comply with the wage requirements of this section.
 - (2) To avoid the imposition of any requirement under this section, a covered employer shall not:
 - (i) Subdivide a contract;
 - (ii) Pay an employee through a third party; or
 - (ii) Treat an employee as a subcontractor or independent contractor.
- (d) *Health Insurance.* If a covered employer commits in its bid or proposal to provide health insurance to an employee who provides services to the County, the covered employer may:
- (1) Certify in its bid or proposal the per-employee hourly cost of the employer's share of the premium for that insurance; and
 - (2) Reduce the wage paid under subsection (e) to an employee covered by the insurance by all or part of the per-employee hourly cost of the employer's share of the premium.
- (e) *Wage Requirement:*
- (1) A covered employer shall pay to each employee an hourly rate sufficient to at least equal 125 percent of the Federal poverty guidelines for a family of four individuals calculated on the basis of a 40-hour work week for 52 weeks.
 - (2) For purposes of this subsection, the Federal poverty guidelines are the most recent of those that are updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).
 - (3) The hourly rate shall be rounded to the nearest multiple of five cents.
 - (4) The wage rate calculated under this subsection shall be paid to an employee during the time the employee actually provides services to the County.
- (f) *Exceptions to Wage Requirement.* The wage requirements of this section do not apply to an employee:
- (1) Who performs no measurable work related to any contract with the County;
 - (2) Who participates in a government operated or government sponsored program that restricts the earnings of or wages paid to employees to a level below the wage required under this section;

- (3) Who participates for not longer than 120 days in a calendar year in a government operated or government sponsored summer youth employment program;
 - (4) For whom a different wage rate is expressly set in a collective bargaining agreement; or
 - (5) For whom a higher wage rate is required by a Federal, State, or County law.
- (g) *Enforcement.*
- (1) The County Purchasing Agent shall require each covered employer to:
 - (i) Certify that the employer and any subcontractor will comply with this section;
 - (ii) Keep the records necessary to show compliance;
 - (iii) Submit the records to the Purchasing Agent on request of the Purchasing Agent; and
 - (iv) Publicize the requirements of this section to any employees who may be covered by this section.
 - (2) The County Purchasing Agent shall enforce this section and investigate any complaint of a violation.
 - (3) An employer shall not discharge or otherwise retaliate against an employee for asserting a right under this section or for filing a complaint of violation. Any retaliation is a violation of this section punishable under section 4.121 of this subtitle.
 - (4) Each contract subject to this section:
 - (i) May specify that liquidated damages for noncompliance with this section include the amount of unpaid wages, with interest, and that the contractor is jointly and severally liable for noncompliance by a subcontractor.
 - (ii) Shall specify that an aggrieved employee, as a third-party beneficiary, may bring a civil action to:
 1. Enforce the payment of wages due under this section;
 2. Recover wages due under this section with interest; and
 3. Recover reasonable attorney's fees.
- (h) *Annual report.* Subject to section 22.1000 of the County Code, on or before September 1 of each year, the County Purchasing Agent shall report to the County Council and the County Executive on the operation of this section during the previous fiscal year.

(C.B. 51, 2007, § 1; C.B. 43, 2018, § 1)

Sec. 4.123. - Auction bids.

- (a) *Authorized.* Auction bids may be used as a method for the:
- (1) Procurement of commodities with an estimated contract value of \$30,000.00 or more; or
 - (2) Sale of personal property that has become obsolete and unusable with an estimated contract value of \$30,000.00 or more.
- (b) *Invitation.* An invitation for auction bids may be issued whenever the Purchasing Agent determines that it is in the best interest of the County for a procurement contract to be based on auction bids.
- (c) *Public notice.* Public notice of an invitation for auction bids shall be the same as public notice required for formal written contracts.
- (d) *Determining the Successful Bidder.* Factors to be considered in determining the successful bidder shall be the same as criteria to be considered in determining "lowest responsive, responsible bidder" and "highest responsive, responsible bidder" under subsection 4.117(a) of this subtitle.

(C.B. 7, 2008, § 3)

Sec. 4.124. - Electronic procurement.

- (a) *Authority.* The Office of Purchasing may conduct procurement by electronic means including the solicitation, bidding, award, execution, protest, and administration of a contract.
- (b) *Effect of Electronic Bid.* Bidding on a solicitation by electronic means is consent by the bidder to conduct all elements of the procurement by electronic means that the Office of Purchasing agrees to conduct by electronic means.
- (c) *Electronic Signature.* Electronic procurement shall include the acceptance of an electronic signature.

(C.B. 7, 2008, § 3)

Sec. 4.125. - Public access to bidding materials.

- (a) *Documents Open to Inspection.* Except as provided in subsection (b) of this section, documents that are open to inspection by Title 10, Subtitle 6 of the State Government Article of the Annotated Code of Maryland shall be available for public inspection upon written request during normal business hours.
- (b) *Proposals Open to Inspection.* Proposals submitted in response to requests for proposals and other specialized procurement methods shall be available for public inspection after:
 - (1) An award has been made; or
 - (2) A decision has been made to cancel the procurement.

(C.B. 7, 2008, § 3)

Sec. 4.126. - Capital projects.

- (a) *Determination by Director of Public Works.* The Director of Public Works shall determine whether a proposed capital project is to be constructed by a contractor or by the County's employees.
- (b) *Competitive Bids.* If the Director of Public Works determines that a capital project will be constructed by a contractor, the County Purchasing Agent shall secure competitive bids pursuant to this subtitle.
- (c) *Approvals Required.* The award of a capital contract shall not be made without the written approval of the Director of Public Works, the Director of Finance, and the County Executive.
- (d) *Increased Project Costs.* If the projected cost of a capital project increases to an amount that is more than the amount appropriated for the project, the County Executive shall request additional funding by submitting a supplementary budget appropriation ordinance or an interproject transfer of appropriations ordinance to the County Council for County Council approval.

(C.B. 7, 2008, § 3)

Sec. 4.127. - Security on procurement contracts.

- (a) *Bid Deposit:*
 - (1) *Construction contracts.*

- (i) For construction contracts with an estimated value of \$50,000.00 or more up to and including, \$100,000.00, the County Purchasing Agent may require a bid deposit in an amount equal to two percent of the contract value.
 - (ii) For construction contracts for \$100,000.00 or more, the County Purchasing Agent may require a bid deposit in an amount equal to five percent of the contract value.
- (2) *Supply and service contracts.*
- (i) Except as provided in subparagraph (ii) of this paragraph, a bid deposit may not be required by the County Purchasing Agent when contracting for the purchase of supplies or services.
 - (ii) The County Purchasing Agent may require a bid deposit in an amount deemed adequate when contracting for:
 - a. Supplies that are unique or customized to County specifications; or
 - b. When contracting for services of a noncompetitive nature.
- (b) *Performance and Payment Security.*
- (1) *Construction contracts.* When contracting for construction work, the following shall apply:
 - (i) Performance security. For every construction contract with an estimated value of \$50,000.00 or more, the County Purchasing Agent may require performance security in an amount deemed adequate.
 - (ii) Payment security. For every construction contract with an estimated value of \$50,000.00 or more, the County Purchasing Agent shall require payment security in an amount equal to 100 percent of the contract amount.
 - (iii) Release of security. When 70 percent of a construction project has been completed, the County Purchasing Agent may reduce the amount of the performance and payment security required to 50 percent of the contract amount and retain the remaining 50 percent of the security to ensure completion of the project and payment of subcontractors.
 - (2) *Supply contracts.* When contracting for supplies that are unique or customized to County specifications, the County Purchasing Agent may require a performance or payment security, or both, in an amount deemed adequate by the County Purchasing Agent.
 - (3) *Service contracts.* When contracting for services of a noncompetitive nature, the County Purchasing Agent may require a performance or payment security, or both, in an amount deemed adequate by the County Purchasing Agent.

(C.B. 7, 2008, § 3)

Sec. 4.128. - Inspections.

- (a) *Tests to Determine Quality.* The County Purchasing Agent may require tests of samples and deliveries in order to determine quality in relation to specifications. These tests may be performed in the facilities of a user agency or in an outside laboratory.
- (b) *Inspection by User.* User agencies shall inspect deliveries of supplies or furnishing of services to assure conformance with the specifications of the purchase order or contract.
- (c) *Additional Authorized Inspections.* The County Executive, upon the recommendation of the County Purchasing Agent, may authorize any user agency with the necessary facilities and staff to inspect deliveries to other agencies.

(C.B. 7, 2008, § 3)

Sec. 4.129. - Surplus supplies.

- (a) *Reports*. All user agencies shall submit to the County Purchasing Agent reports showing stocks of all surplus supplies.
- (b) *Transfer to Other Agencies*. The County Purchasing Agent may transfer surplus supplies to other using agencies instead of filling requisitions for new supplies.
- (c) *Disposal*. If the County Purchasing Agent determines that the surplus supplies cannot be used by any agency of the County, the County Purchasing Agent may dispose of the surplus supplies and seek to gain the maximum value for the County in the disposition by:
 - (1) Trading in the surplus supplies;
 - (2) Auctioning or selling surplus supplies, including selling them for scrap value of dismantling them for recovery of valuable parts;
 - (3) If no value can be realized from the surplus supplies, by destroying them.
- (d) *Sale or lease to other governmental entities*. With the approval of the County Executive and the County Council, and upon such terms and conditions as the County Purchasing Agent deems proper, the County Purchasing agent may sell or lease surplus supplies to a State or any political subdivision or agency of a State, or to the Federal Government.

(C.B. 7, 2008, § 3; C.B. 72, 2017, § 1)

Sec. 4.130. - Veteran-Owned Business Enterprise Program.

- (a) *Purpose* . It is the policy of Howard County Government to encourage increased participation by veteran-owned business enterprises in the procurement of all goods and services through all solicitations by the County.
- (b) *Adoption of the Program* . Pursuant to subsections 4.103(aa) and (ab) of this subtitle, the County Purchasing Agent shall implement a Veteran-Owned Business Enterprise Program. The County Purchasing Agent shall seek the input of the Commission for veterans and military families in the implementation of the Program.
- (c) *Goals* . The Office of Purchasing shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve an overall minimum of one percent of the County's total dollar value of procurement contracts to be made directly or indirectly with veteran-owned business enterprises.
- (d) *Notification of Goals* . The Office of Purchasing shall notify the public and respondents to County solicitations of Program goals.
- (e) *Data* . The Office of Purchasing shall collect and maintain statistical data which shall measure the effectiveness of the Program.
- (f) The provisions of this subtitle do not apply the County's procurement procedures to the extent that the County determines that those provisions are in conflict with an applicable State or Federal program.
- (g) *Procurements Conducted by Formal Bidding* . Procurements conducted by formal bidding shall be in accordance with section 4.107 of this Code.
- (h) *Procurements Conducted by Competitive Sealed Proposals* . Procurements conducted by competitive sealed proposals shall be in accordance with section 4.108 of this Code.
- (i) *Investigation of Complaints*. The Administrator of the Office of Purchasing shall investigate sworn, written allegations that a business verified by the Center for Verification and Evaluation of the United

States Department of Veterans Affairs has engaged in any of the prohibited acts set forth in subsection (k) of this section:

- (j) *Hearing on Complaints.* If the Administrator of the Office of Purchasing investigation indicates that there is reasonable cause to believe that the allegation is correct, the Administrator of the Office of Purchasing shall submit the results to the Purchasing Agent, which may conduct a hearing on the allegation. The Purchasing Agent may recommend the Office of Purchasing take other appropriate action consistent with the County Code.
- (k) *Prohibited Acts; Prohibition from Further Contracting with the County.*
- (1) *Prohibited acts .* A person may not:
 - (i) Practice fraud or deceit for the purpose of obtaining verification;
 - (ii) Provide to the County incomplete or substantially inaccurate ownership or financial information;
 - (iii) Fail to report a change which affects a businesses' verified status with the Center for Verification and Evaluation of the United States Department of Veteran's Affairs; or
 - (iv) Violate any provision of this title.
- (2) *Prohibition from further contracting with the County .* A business or person who commits an act prohibited by this subsection may be debarred or suspended from further contracting opportunities with the County as set forth in section 4.117 of this subtitle.

(C.B. 8, 2018, § 1)

Sec. 4.131. - Severability.

If any provision of this subtitle or its application to any person or circumstance is held invalid for any person, such invalidity shall not affect the other provisions or any other application of this subtitle which can be given effect without the invalid provisions or application; and to this end, all provisions of this subtitle are hereby declared to be severable.

(C.B. 1, 1983; C.B. 65, 1991; C.B. 39, 1994; C.B. 6, 2003, § 1; C.B. 7, 2008, § 2; C.B. 8, 2018, § 1)

Editor's note— C.B. 8-2018, § 1, adopted Feb. 8, 2018, enacted a new § 4.130 and renumbered the former § 4.130 as 4.131, as set out herein. The historical notation has been retained with the amended provisions for reference purposes.

Note— Formerly numbered as § 4-123.

SUBTITLE 2. - REAL PROPERTY

Sec. 4.200. - Acquisition of real property.

The County Executive is authorized to acquire, by purchase, gift or lease for public purposes, as such purposes are set forth in any capital improvement expenditure appropriation ordinance, the fee simple or leasehold or such other interest as the County Executive may deem to be necessary or desirable in any real property located within the County, including any or all property rights, interest, easements or franchises in the same. If the County Executive is unable to agree with the owner or owners on the purchase price of such property or interest therein, he shall thereupon request the County Council to authorize and direct the office of law to institute, in the name of the County, the necessary legal

action to acquire by condemnation the real property or any interest therein. No resolution authorizing and directing the condemnation of any interest in real property shall be adopted by the Council until after the owner or owners of the subject real property shall have had an opportunity to be heard by the Council in open hearing after due notice. A public hearing held pursuant to this section shall be limited to the question of necessity for the taking and no issue of value of the land which is the subject of the condemnation proceeding can be raised. No real property or interest therein shall be purchased, by condemnation or otherwise, unless funds for the same shall have been included in the capital budget, the award of a condemnation jury notwithstanding. All such purchases herein provided for shall be accomplished in accordance with budgetary procedures as described in the Howard County Charter. All necessary legal proceedings shall be accomplished in accordance with article 21 of the Code of Public General Laws of Maryland and the rules of court adopted pursuant thereto.

(C.B. 21, 1974)

Sec. 4.201. - Disposition of real property.

- (a) Except as hereinafter provided, any property acquired by the County by gift, purchase, lease, condemnation or otherwise, except by or through a tax sale or conveyance from the Howard County School Board as surplus school property and no longer needed for public purposes may be disposed of as the Council may, by resolution, provide. The Council shall, in the resolution providing for the disposition of real property, declare that the same is no longer needed for public purposes and shall authorize the County Executive to sell the same by formal, written contract to the highest responsible bidder, after public advertisement inviting proposals for three successive weeks in one or more newspapers of general circulation published in Howard County. The advertisement shall state the location and description of the property and such terms and conditions as the Council may provide. The Council may, in its resolution, provide that the sale of said public property shall be by public auction, giving the terms and conditions thereof; and said auction shall be advertised as to time and place for three consecutive weeks in one or more newspapers of general circulation in Howard County, stating the location and description of the property and such terms and conditions as the Council may provide.
- (b) The County Council may, upon request by the County Executive and after public hearing that has been duly advertised, by its resolution, authorize the County Executive to waive the advertising and bidding requirements of this section for an individual conveyance of real property if, in the judgment of the County Council and the Executive, the interests of the County will be best served thereby.
- (c) Any real property acquired by the County at regular tax sales conducted under article 81 of the Code of Public General Laws is hereby deemed not needed for public purpose. The County Executive shall cause to be kept a current inventory of all property acquired by the County at regular tax sales, which inventory shall be offered for review to various County and State agencies; and said agencies shall have the right of first refusal to acquire any or all of the several parcels by payment to the Director of Finance or by transfer of appropriations in the amount of all costs incurred and back taxes lost by Howard County as a result of the acquisition of the said parcel or parcels. The County Executive shall be authorized to sell all or several of the parcels of such real property provided no County or State agency has indicated its desire to acquire said parcels, from time to time, to the highest responsible bidder after public notice for three consecutive weeks in one or more newspapers of general circulation published in Howard County inviting written offers to purchase said parcel or parcels; or the County Executive may, in his discretion, offer the parcels individually at public auction for three consecutive weeks in one or more newspapers of general circulation published in Howard County. Provided, however, the County Executive may sell or refuse to sell any said parcel at the price and upon the terms and conditions offered or bid as he shall decide most beneficial to the County in each case.
- (d) *Procedure for Administrative Release of Utility Easements.*

- (1) The owner of real property in Howard County may petition the Director of Public Works, in writing, to release a utility easement on the property that was acquired by the County during the land development process in accordance with title 16 of this Code.
 - (2) The petition shall be in a form prescribed by the Director.
 - (3) Upon receipt of a petition to release a utility easement under this section, and if the Director finds that the easement is no longer needed for public purposes, the Director shall prepare a notice, to be published in at least one newspaper of general circulation in the County, proposing to release the easement to the petitioner.
 - (4) The notice shall describe the procedure for objecting to the release of the easement, including:
 - (i) A requirement that the objection be made in writing; and
 - (ii) The date by which an objection must be received by the Director, which shall be at least 14 days after publication of the notice.
 - (5) If the Director receives a written objection to the release, the Director shall seek to release the easement in accordance with subsection (e) of this section.
 - (6) If the Director does not receive a written objection to the release within the time specified in the notice of intent to release the easement, the Director shall approve the petition and arrange for release of the easement to the petitioner.
- (e) *Procedure for Easement Release by Resolution.*
- (1) If the Director of Public Works receives a timely written objection to a proposed easement release under subsection (d) of this section, the Director shall prepare a resolution to be introduced to the County Council to authorize the release.
 - (2) The Director shall give written notice of the resolution to the person who objected to the release, informing the person:
 - (i) That the resolution is to be introduced;
 - (ii) Of the scheduled dates for public hearing and final consideration of the resolution; and
 - (iii) Of the procedure for submitting testimony to the Council regarding the resolution.
 - (3) If the resolution is approved, the Director shall arrange for release of the easement to the petitioner.
- (f) The County Executive shall be authorized to execute and deliver to the purchaser a good and sufficient deed conveying all of Howard County's right, title and interest in any real property conveyed under the provisions of this section.

(C.B. 22, 1974; C.B. 24, 1975; C.B. 13, 1984; C.B. 51, 2003 §§ 1, 2)

Sec. 4.201A. - Fee simple acquisition of land through installment purchase agreements.

- (a) *Definitions.* Words and phrases used in this section shall have their usual meanings, except as defined herein.
- (1) *Appraised value* means the amount, determined by the County, based on at least two appraisals, which the County would pay for land if the County acquired the land for cash.
 - (2) *Date of determination* means a date certain, prior to the settlement date, as of which the appraised value and market rate are determined.
 - (3) *Installment purchase agreement* means an agreement by which the County purchases land but pays for the land over a term of years, at a rate of interest and according to a principal payment schedule.

- (4) *Installment purchase agreement payments* mean all the incremental costs incurred by the County in acquiring land through the installment purchase agreement, and includes:
 - (i) Costs incurred by the County in negotiating and closing the transaction, including negotiation and bond counsel fees;
 - (ii) Scheduled principal payments; and
 - (iii) Interest payments.
 - (5) *Market rate* means the true interest cost, at which the County's general obligation bonds would be sold as of the date of determination, based on consideration of the current market conditions and the market conditions and circumstances of the County's previous bond sale.
 - (6) *Present value* means the present cash value on the date of determination, calculated as of the date of settlement, of the installment purchase agreement payments discounted at the market rate.
- (b) *Procedure:*
- (1) If the County determines that there may be a significant economic benefit to the County by acquiring land in fee simple through an installment purchase agreement, the County may do so pursuant to the procedures and under the conditions provided in this section.
 - (2) The County shall determine the appraised value as of the date of determination. The County will negotiate with the property owner to reach a proposed agreement on the principal amount to be paid for the property, the annual interest rate paid on the unpaid principal, and the term and schedule for payment of the principal.
 - (3) After the terms of a proposed agreement are negotiated, the Director of Finance shall review the terms of the proposed agreement and shall prepare a report which includes the following information:
 - (i) The appraised value as of the date of determination;
 - (ii) The market rate as of the date of determination;
 - (iii) A schedule listing the installment purchase payments;
 - (iv) The present value;
 - (v) An evaluation of the extent of the economic benefit to the County of acquiring the land under the installment purchase agreement rather than in a bond funded cash purchase.
- (c) *Conditions under Which an Installment Purchase of Land May Be Used:*
- (1) The County may purchase land in fee simple through an installment purchase agreement provided that the present value of the installment purchase agreement payments is less than the appraised value by an amount which provides a significant economic benefit to the County.
 - (2) The installment purchase agreement shall be approved by ordinance of the County Council, pursuant to the provisions of section 612 of the Howard County Charter regarding the payment of funds from appropriations of a later fiscal year.

(C.B. 51, 1991)

Sec. 4.202. - Acceptance and disposition of surplus school property.

- (a) *Purpose.* It is the purpose of this section to provide a procedure for the County's acceptance, retention or disposition of surplus school property in a manner that will provide for an early decision on the utilization of the building and site in order to prevent deterioration and vandalism; simultaneously consider utilization by the County Government, leasing and sale; provide for

community participation; and foster a decision that will be in the best interest of the citizens of Howard County, taking into consideration the following criteria:

- (1) Furtherance of the public welfare. This should include, but not be limited to, the following areas: Education (life-long), human services, housing, nonprofit organizations, cultural, governmental, recreational, and community needs.
 - (2) Respect for any specific or unique characteristics of the structure; the historical value, if any; and compatibility with the neighborhood.
 - (3) Consideration of the financial aspects, including, but not limited to, the cost of operating and maintaining the building; outstanding debt service, if any; renovation costs, if any; and the value of the building and site; capacity of user to pay.
- (b) *Application.* Except for exchanges of real property pursuant to section 4.203, the provisions of this section shall apply to any land and improvements which the State superintendent of schools has found to be surplus and the State Board of Public Works has approved for disposition to the Howard County Government.
- (c) *Evaluation of Building and Site.* Within 45 days after receiving notification from the Board of Education that a school and site is no longer needed for education purposes, the County Executive shall have completed an evaluation and report of the building and site. The report shall contain such information as floor plans, maintenance costs, condition of utilities, operating and rehabilitation costs, an appraisal of the value of the building, existing zoning requirements, outstanding bond debt, if any, and other information about the building and the site. The County Executive shall provide copies of the report to the County Council, the surplus school use committee as established in paragraph (d) of this section and he will also make it available to all interested persons.
- (d) *Surplus School Use Committee.* Also within 45 days after notification by the Howard County Board of Education that a particular school and site is no longer needed for education purposes, the Howard County Council, by resolution, shall appoint a surplus school use committee. The surplus school use committee shall be composed of ten members and six nonvoting ex officio members. Seven of the ten members shall represent the following areas: Human services, education, government, culture and arts, housing, and the community. In addition, there shall be three at-large members. The ex officio members shall include representation from the Department of Public Works, the Department of Community Resources and Services, the Howard County Housing Commission, the Department of Housing and Community Development, the Economic Development Authority, the Department of Fire and Rescue Services, the Office of Budget, and the County Council. The committee may call upon the County Executive to provide experts as needed.
- (e) *County Executive Public Meeting:*
- (1) Within 45 days after completion of the report as required in paragraph (c) of this section, the County Executive shall hold a public meeting, after public notice for two successive weeks in one or more newspapers of general circulation in Howard County.
 - (2) The purpose of the meeting shall be to discuss the information contained in the report and to receive oral and written information concerning possible public and nonpublic uses and combinations of uses for the school and site that may include sale, lease, or retention of the building for County Government use or mixed use.
- (f) *County Executive Options:*
- (1) Within 45 days after the public meeting, the County Executive shall inform the County Council of his decision. The Executive may decide to retain the property for County Government use, to recommend a non-County Government use to the surplus school use committee and of County Council, or he may decide to make no recommendation.
 - (2) If the County Executive decides to retain the property for County Government use, he shall take appropriate action; and no further action shall be taken by the surplus school use committee.

- (3) If the County Executive decides that there is no County Government use for the property, he shall inform the County Council.
- (g) *Surplus School Use Committee Public Meeting.* If the County Executive decides that there is no County Government use for the property, the Council shall within 30 days direct the surplus school use committee to conduct a public meeting to solicit specific proposals to be submitted within 30 days of the public meeting. The surplus school use committee shall, through the Secretary of the County Council, be responsible for providing public notice as defined in subparagraph (e)(1) of this section which shall include the criteria as stated in paragraph (a) of this section.
- (h) *Surplus School Use Committee Recommendations.* Within 45 days after the deadline for submitting proposals, the Committee shall forward its final recommendation(s) to the County Council in accordance with the criteria stated in paragraph (a) of this section.
- (i) *County Council Public Meeting.* Within 45 days after the deadline for submitting specific proposals, the Executive Secretary of the County Council shall schedule a public meeting between the Council and the Committee providing public notice as defined in subparagraph (e)(1) of this section, at which time the Committee shall present its recommendation(s) to the Council. Upon making its final recommendations to the Council, the Committee will become defunct unless the Council takes action to continue the Committee.
- (j) *County Council resolution.* The County Council as a whole, or individual councilmember's, may introduce a resolution or resolutions directing the retention or disposition of the surplus school and site and the general use of the land and improvements of the school and site. The County Council shall hold a public hearing on the resolution, providing public notice as defined in subparagraph (e)(1) of this section. The County Executive shall carry out the directive of any resolution approved by the Council.

(C.B. 13, 1983; C.B. 26, 1994; C.B. 12, 2016, § 1)

Sec. 4.203. - Exchange of real property for educational purposes.

- (a) *Authority to Use Exchange Procedure.* When the Board of Education determines that real property of the Board is no longer needed for educational purposes, but that other property is available which is needed for educational purposes and that the owner is willing to convey the other property to the County for the Board of Education in exchange for the school property, the procedure in this section may be used instead of the procedure set forth in section 4.202.
- (b) *Exchange Procedure.* After the Board of Education has received approval of a property exchange from the State Superintendent of Schools, the interagency committee for school construction (IAC) and any other State agencies which must consent to the property transfer, the property transfer may take place provided that the County Executive agrees to the proposed transfer and the County Council approves the transfer by resolution. Property conveyed to the County as a conduit pursuant to this procedure is deemed not needed for a public purpose of Howard County, Maryland, and therefore is not subject to the procedures of section 4.201 of the Howard County Code.

(C.B. 26, 1994)

Sec. 4.204. - Severability.

If any section, paragraph or provision of this subtitle shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this subtitle.

(C.B. 13, 1983; C.B. 26, 1994)

SUBTITLE 3. - DISPOSITION OF UNCLAIMED PERSONAL PROPERTY AND WEAPONS, LAWFULLY SEIZED WEAPONS, FOUND PERSONAL PROPERTY AND FOUND WEAPONS³¹

Footnotes:

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Editor's note— Section 1 of C.B. 40, 1983, adopted July 5, 1983, repealed former subtit. 3, §§ 4.300—4.303, derived from C.B. 20, 1976; and § 2 enacted a new subtit. 3, §§ 4.300—4.310.

State Law reference— Forfeiture of handguns, Ann. Code of Md., Criminal Procedure article, § 13-101 et seq.

Sec. 4.300. - Definitions.

Words and phrases used in this subtitle shall have their usual meanings except as defined below:

- (a) *County Executive* means the County Executive of Howard County or his/her designee.
- (b) *Found property* means any personal property, excluding motor vehicles and weapons, which has been found by an individual and turned over to the Howard County Police Department pending identification of the owner. The property shall be considered as found property if the finder wishes to keep it after the required advertising. Otherwise, it shall be considered as unclaimed property.
- (c) *Found weapon* means any firearm, air or gas-propelled pistol or rifle or any weapon designed to inflict bodily injury, which has been found by an individual and turned over to the Howard County Police Department.
- (d) *Lawfully seized weapon* means any firearm, air or gas-propelled pistol or rifle or any weapon designed to inflict bodily injury which was used in the Commission of a crime or seized as contraband and which has remained in the custody of a County agency for 30 days after final disposition of the criminal case associated with its seizure. *Lawfully seized weapon* does not apply to handguns which are worn, carried or transported in violation of State law or weapons which are found in close proximity to contraband controlled substances in violation of State law, the seizure and disposition of which are governed by procedures in State forfeiture law.
- (e) *Unclaimed property means:*
 - (1) Any abandoned or stolen personal property, excluding motor vehicles and weapons, which has remained unclaimed in the custody of a County agency for at least 30 days.
 - (2) Any lawfully seized personal property except motor vehicles or weapons, which has remained unclaimed in the custody of a County agency for 30 days after final disposition of the criminal case associated with its seizure.
 - (3) Any property found by an individual which the finder does not wish to keep.
- (f) *Unclaimed weapons* means any abandoned or stolen firearm, air or gas-propelled pistol or rifle, or any weapon designed to inflict bodily injury which has remained unclaimed in the custody of a County agency for at least 30 days.

(C.B. 40, 1983; C.B. 30, 1992)

Sec. 4.301. - Requirement to notify owner.

- (a) *Mail.* The County Executive shall make a reasonable effort to ascertain the owner of any unclaimed property, unclaimed weapons, found property or found weapons. If the owner is known, the County

Executive shall give him/her written notification indicating that the property or weapon is in the custody of a County agency and subject to disposition unless claimed within 30 days of the mailing of the notification, after which all claims shall be barred.

(b) *Newspaper Advertising:*

- (1) *Found property.* The County Executive shall insert an advertisement in one or more newspapers published in the County indicating that property has been found and is in the custody of the County. The advertisement shall indicate the nature of the property and that it will be turned over to the finder unless claimed by the owner within 30 days of publication of the advertisement, after which all claims shall be barred.
- (2) *Unclaimed property; unclaimed weapons; found weapons.* The County Executive shall advertise in one or more newspapers published in the County, any unclaimed property, found weapon or unclaimed weapon. The advertisement shall indicate:
 - (i) The nature of the property and that it is subject to disposition by sale, donation, conversion to public use, or scrapping; or
 - (ii) The nature of the weapon and that it is subject to disposition by conversion to public use, donation to a recognized historic organization, or scrapping unless claimed by the owner within 30 days of the advertising, after which all claims shall be barred.
- (3) When the same advertisement is also used to advertise the sale of the property if the owner does not claim it, the advertisement shall indicate the place and terms of the sale and the date of the sale, which shall be no earlier than 40 days after publication of the advertisement.

(C.B. 40, 1983; C.B. 30, 1992)

Sec. 4.302. - Authority to dispose of property and weapons.

- (a) *Unclaimed Property.* The County Executive shall dispose of any unclaimed property by sale, donation, conversion to public use or scrapping, pursuant to the provisions of this subtitle.
- (b) *Found Property.* The County Executive shall return any found property to the individual who found it, pursuant to the provisions of this subtitle.
- (c) *Unclaimed and Lawfully Seized Weapons.* The County Executive shall dispose of unclaimed and lawfully seized weapons by conversion to public use or by scrapping, or, if the weapons are antique shotguns, rifles or handguns, by donating them to a recognized historic organization for display purposes only, pursuant to the provisions of this subtitle.
- (d) *Found Weapons.* After found weapons have been in County custody for at least 30 days and, after advertising, have not been claimed by their owner, the County Executive may dispose of them by conversion to public use or by scrapping, or, if the weapons are antique shotguns, rifles or handguns, by donating them to a recognized historic organization for display purposes only, pursuant to the provisions of this subtitle.

(C.B. 40, 1983; C.B. 30, 1992)

Sec. 4.303. - Reserved.

Editor's note— Section 4.303, relating to advertising the disposition of property and weapons, derived from C.B. 40, 1983, was repealed by C.B. 30, 1992.

Sec. 4.304. - Returning found property to finder.

If no owner has claimed found property within ten days of the notification placed pursuant to section 4.301 of this subtitle, the County Executive shall turn the property over to the finder, upon the finder's payment of the cost of required advertising.

(C.B. 40, 1983)

Sec. 4.305. - Sale of unclaimed property.

The County Executive may sell unclaimed property. The sale shall take place no sooner than ten days after the advertising required by section 4.302 of this subtitle. The Director of Finance shall deposit the proceeds of the sale, less the expenses of sale, storage, repair, valid liens and other lawful charges, in the general fund.

(C.B. 40, 1983)

Sec. 4.306. - Donation of unclaimed property to a recognized charitable agency.

The County Executive may authorize the donation of unclaimed property to a recognized charitable agency. The donation shall take place no sooner than ten days after the advertising required by section 4.302 of this subtitle.

(C.B. 40, 1983)

Sec. 4.307. - Conversion of unclaimed property, unclaimed weapons, lawfully seized weapons and found weapons to public use.

The County Executive may convert to public use any unclaimed property, unclaimed weapon, lawfully seized weapon or found weapon. The conversion to public use shall take place no sooner than ten days after publication of the advertising required by section 4.302 of this subtitle.

(C.B. 40, 1983)

Sec. 4.308. - Scrapping of unclaimed property, unclaimed weapons, lawfully seized weapons and found weapons.

The County Executive may scrap unclaimed property which is of little or no value (less than \$25.00). The County Executive shall also scrap all unclaimed, lawfully seized and found weapons which are not converted to public use or donated pursuant to the provisions of this subtitle.

(C.B. 40, 1983)

Sec. 4.309. - Custody of property and weapons.

The County Executive shall place all unclaimed property, found property, unclaimed weapons, lawfully seized weapons and found weapons in the custody of the Howard County Police Department, which shall keep a record of the property and weapons and the disposition.

(C.B. 40, 1983)

Sec. 4.310. - Fee for towing and storage of forfeited motor vehicles.

Prior to the finality of forfeiture proceedings, the County has the option of releasing a motor vehicle lawfully seized pursuant to State or Federal laws pertaining to the forfeiture of motor vehicles for controlled dangerous substances offenses. If the County elects to release a lawfully seized motor vehicle to any person or entity with a primary legal interest, that person or entity shall pay the County a fee for towing, storage and maintenance of the vehicle pursuant to a fee schedule approved by resolution of the County Council, plus any other costs incurred by the County during the forfeiture process. The vehicle shall not be released until all fees and costs have been paid.

(C.B. 13, 1992)

Sec. 4.311. - Severability.

If any section, paragraph or provision of this subtitle is held to be invalid or unenforceable for any reason, the invalidity or unenforceability of the section, paragraph or provision shall not affect any of the remaining provisions of this subtitle.

(C.B. 40, 1983; C.B. 13, 1992)

SUBTITLE 4. - RESERVED^[4]

Footnotes:

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Editor's note— Subtitle 4, "Sanctions Against South Africa," derived from C.B. 26, 1986, C.B. 59, 1987, and C.B. 62, 1988, was repealed by C.B. 75, 1993.

Secs. 4.401—4.406. - Reserved.

SUBTITLE 5. - PURCHASE OF RECYCLED AND ENVIRONMENTALLY PREFERABLE PRODUCTS AND EQUIPMENT^[5]

Footnotes:

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Editor's note— C.B. 35, 2003, § 1, adopted June 2, 2003, changed the title of subtitle 5 from "Purchasing of products made from recycled materials" to "Purchase of recycled and environmentally preferable products and equipment".

Sec. 4.500. - statement of purpose.

The purpose of this subtitle is to require establishment of a plan to increase purchases of products made from recycled materials, to exercise leadership for County purchasing system users and to demonstrate to manufacturers that a consistent, long-term demand exists for products made from recycled materials.

(C.B. 33, 1992)

Sec. 4.501. - Definitions.

For the purposes of this subtitle, the following words and phrases have the meanings given in this section:

- (a) *Environmentally preferable product and equipment (EPP)* means a product or equipment that possesses one or more of the following environmentally beneficial qualities:
 - (1) Maximizes recycled or reused product content;
 - (2) Maximizes potential for reuse or recycling;
 - (3) Minimizes resources used for producing, manufacturing, transporting; operating, maintaining or disposing;
 - (4) Eliminates or minimizes the toxic or degrading agents in product content or manufacturing process;
 - (5) Minimizes pollution;
 - (6) Minimizes adverse effect on human health; or
 - (7) Minimizes environmental degradation.
- (b) *Percentage price preference* means the percentage for which a responsive bid may exceed the lowest responsive bid that is not an EPP.
- (c) *Product preference* means the preference given a product containing recycled material when all other factors are the same.
- (d) *Recycled material* means material recovered from or otherwise diverted from the waste stream. It includes post-consumer waste, industrial scrap material, obsolete inventories and recycled paper. It does not include mill broke or similar paper waste generated in a paper mill prior to completion of the paper-making process or, in other industries, those materials and by-products generated in and commonly reused within an original manufacturing process.

(C.B. 33, 1992; C.B. 35, 2003, § 1)

Sec. 4.502. - Purchase of products made from recycled materials.

To encourage the maximum purchase of products containing recycled materials, the Chief Administrative Officer shall:

- (a) Develop and submit for approval to the County Council within eight months of the effective date of this subtitle [July 6, 1992], a plan to increase the County's purchase of products made from recycled materials; and
- (b) Review the purchasing specifications currently used by the County and, to the extent practicable, require the requisitioning agency to use supplies and materials containing recycled materials during development of the plan; and
- (c) Establish a purchasing system whereby product preference is given to products made from recycled materials; and
- (d) Direct that the initial plan submitted to the County Council within eight months of the effective date of this subtitle shall include a list of products made from recycled materials currently purchased by the County.

(C.B. 33, 1992)

Sec. 4.503. - Contents of the plan.

The plan to increase the County's purchase of products made from recycled materials shall:

- (a) Include a strategy for the periodic review of all appropriate purchasing specifications, manuals, procedures and forms to eliminate direct and indirect prohibitions and limitations against products made from recycled materials.
- (b) Recommend revisions of appropriate purchasing specifications and manuals, where practicable, to encourage the purchase of products made from recycled materials.
- (c) Include recommendations for administrative or legislative changes to increase the purchase of products made from recycled materials.
- (d) Include definitions and standards that meet and are consistent with those set by the Maryland Department of General Services and the U.S. Environmental Protection Agency.
- (e) Establish goals and timelines for periodic review of existing purchasing requirements and procedures and for increasing purchases of products made from recycled materials.
- (f) Provide for participation, whenever practicable, in cooperative purchasing agreements for all purchases.
- (g) Establish a program for encouraging the Howard County Department of Education, the Howard County Library and the Howard Community College to increase purchases of products made from recycled materials.
- (h) Provide that, where practicable, products should be packaged in recycled and recyclable materials.
- (i) Shall include provision for the purchase of remanufactured and reusable products, where practicable.
- (j) Establish a monitoring system to evaluate progress toward goals.
- (k) Reduce waste through purchasing practices.
- (l) Be incorporated into the Howard County Solid Waste Management Plan.

(C.B. 33, 1992)

Sec. 4.504. - Annual report.

Beginning January 1, 1994, and by January 1 of each year for a period of five years, the Chief Administrative Officer shall submit a report to the County Council and the County Executive evaluating the County's progress in implementing the recycled products plan for the prior year. The report shall include a description of efforts to encourage the maximum purchase of products made from recycled materials and any recommendations to increase the purchase of products made from recycled materials.

- (a) The report shall provide:
 - (1) A comparison of the objectives of the plan with the previous year and the current year, to include total products purchased;
 - (2) A summary of any policy and specification revisions or changes made during the year;
 - (3) A listing of any cooperative purchasing agreements/contracts for recycled products executed during the year with results for Howard County;
 - (4) A summary of the justification for determining that the purchase of a product made from recycled materials is not practicable when a product made from recycled materials is available;
 - (5) The cost to the County of implementing this plan during the year;
 - (6) Information from the Department of Economic Development summarizing the prior year's progress on the following:

- (i) Development and maintaining a system for on-going information exchange with research and development organizations and agencies which test new products made from recycled materials;
 - (ii) Establishing a program for encouraging the commercial sector to purchase products made from recycled materials where appropriate;
 - (iii) Encouraging the location of manufacturers and distributors of products made from recycled materials in Howard County;
- (7) Recommendations for administrative or legislative changes;
- (8) Goals for the next year.

(C.B. 33, 1992)

Sec. 4.505. - Percentage price preference for environmentally preferable products (EPPs).

- (a) Notwithstanding other provisions in this title, the County shall give a percentage price preference not exceeding five percent for the purchase of EPPs on the EPP list established in accordance with this subtitle.
- (b) A percentage price preference to EPPs will not apply if doing so will cause a denial of Federal or State funding or is inconsistent with Federal or State law.

(C.B. 35, 2003, § 2)

Sec. 4.506. - List of EPPs.

The County Purchasing Agent shall:

- (a) Prior to December 31, 2003, establish a list of EPPs that shall, at a minimum, include specifications for the following:
 - (1) Products and equipment that are mercury-free or contain the least amount of mercury necessary to qualify as a responsive bid; and
 - (2) Paper and paper products that are processed chlorine-free and contain at least 30 percent post-consumer recycled content.
- (b) As appropriate, provide EPP specifications for additional products and equipment.
- (c) At least once per year, update and publish the list of EPPs.

(C.B. 35, 2003, § 2)

Sec. 4.507. - Annual report.

Subject to section 22.1000 of the County Code, the County Purchasing Agent shall report to the County Council each year regarding the progress in purchasing EPPs and products containing recycled materials the report shall include:

- (a) The number, type, and cost of all products containing recycled materials purchased by the County;
- (b) The number, type, and cost of EPPs purchased by the County;
- (c) The additional cost and percentage increase, if any, attributed to EPP purchases;

- (d) The number, type and cost of products purchased that did not meet the requirements for an EPP price preference, when a product eligible for an EPP price preference qualified as a responsive bid; and
- (e) Recommendations to encourage the purchase of EPPs, which may include:
 - (1) Adding products eligible for an EPP price preference;
 - (2) Increasing percentage preference given for EPPs; and
 - (3) Revising existing purchasing policies which may impede the purchase of EPPs.

(C.B. 35, 2003, § 2; C.B. 43, 2018, § 1)

SUBTITLE 6. - EQUAL BUSINESS OPPORTUNITY COMMISSION

Sec. 4.600. - Commission established.

There is an Equal Business Opportunity Commission.

(C.B. 78, 1993)

Sec. 4.601. - Commission; membership; duties.

- (a) *General Provisions.* General provisions applicable to this Commission are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members.* The Equal Business Opportunity Commission shall have ten appointed members and one ex officio member.
- (c) *Qualifications of Members:*
 - (1) At least seven of the members shall be residents of Howard County;
 - (2) Nine of the members shall be business owners, among whom shall be at least five minority individuals, at least one woman and at least one individual with disabilities;
 - (3) One of the members shall be a member of the Board of Directors of the economic development authority;
 - (4) The ex officio member shall be the County Executive or the County Executive's designee.
- (d) *Executive Secretary.* The Equal Business Opportunity Officer shall serve as Executive Secretary to the Commission. The Executive Secretary shall attend all meetings.
- (e) *Meetings.* The Commission shall meet at least four times annually or more frequently at the call of the Chairperson of the Commission. The Chairperson shall notify the Commission members at least five days before any meeting.
- (f) *Quorums.* A quorum of the Commission consists of six members.
- (g) *Oaths and Subpoenas.* In the execution of its certification duties, the Commission has the power:
 - (1) To administer oaths; and
 - (2) Upon majority vote of the full Commission, to issue subpoenas to compel witnesses and the production of records and documents relevant to or necessary to the proceedings. In case of disobedience to a subpoena, the County, on behalf of the Commission, may apply to a court of appropriate jurisdiction for an order requiring compliance with the subpoena.

- (h) *Definitions.* Words and phrases used in this subtitle shall have their usual meanings or the meanings included in section 4.102, "Definitions," of this title.
- (i) *Conflicts of interest* means if a member of the Commission, his/her spouse, parent, child, or affiliated business interest has a financial interest in a certified business or a business which applies to be certified, the Commission may certify or decertify the business, provided that:
 - (1) Pursuant to the provisions of the Howard County Charter and the Howard County Ethics Code regarding conflicts of interest, the Commission member has been authorized to hold an interest in a business which is regulated by the County; and
 - (2) The Commission member, in his/her Commission capacity, does not participate in any discussions or votes regarding the certification/decertification of the business.
- (j) *Duties and Responsibilities.* The purpose of the Equal Business Opportunity Commission is to assist the efforts of the County in procuring goods and services from businesses owned by minorities, women and persons with disabilities pursuant to the County's Equal Business Opportunity Program and to monitor the activities of the economic development authority to determine its efforts to include equal business opportunity concerns in its activities and programs.
 - (1) *Studies and surveys of equal business opportunity.* The Commission shall conduct surveys and studies in the following areas as they relate to equal business opportunity. These surveys and studies may be initiated by the Commission or by resolution of the County Council or as directed by the County Executive.
 - (i) County policies and procedures in procurement and contracting;
 - (ii) The general conditions and problems encountered by business owners who are minority individuals, women, and individuals with disabilities;
 - (iii) Opportunities for businesses owned by minorities, women and persons with disabilities to contribute to the economic and employment development of the County; and
 - (iv) Evidence of discrimination with respect to businesses owned by minorities, women and persons with disabilities.
 - (2) *Recommendations for changes.* On the basis of evidence, surveys and studies made pursuant to this section, the Commission shall recommend to the County Executive, the County Purchasing Agent, the County Council and the economic development authority changes in existing laws, policies, programs and practices designed to ensure equal business opportunity for businesses owned by minorities, women and persons with disabilities.
 - (3) *Certification; decertification:*
 - (i) The Commission shall, on behalf of the County, certify as to the authenticity of businesses owned by minorities, women and persons with disabilities pursuant to section 4.602 of this subtitle.
 - (ii) The Commission may hear and decide appeals regarding the decertification of businesses owned by minorities, women and persons with disabilities pursuant to section 4.603 of this subtitle.
 - (4) *Annual reports.* Subject to section 22.1000 of the County Code, the Commission shall submit annual reports to the County Council, the County Executive and the economic development authority on its activities during the previous year. The report shall include a copy of the roster of certified businesses.
 - (5) *Other duties.* At the directive of the County Executive or by resolution of the County Council, the Equal Business Opportunity Commission shall review and make recommendations on any matter related to equal business opportunity.

(C.B. 78, 1993; C.B. 14, 2014, § 1; C.B. 43, 2018, § 1)

Sec. 4.602. - Certification.

The County's Equal Business Opportunity Program will require that, in order to take advantage of the program, a business be certified as authentic a business owned by minorities, women and persons with disabilities.

- (a) *Criteria and Procedures.* The Equal Business Opportunity Commission shall make recommendations to the County Purchasing Agent on:
 - (1) Criteria for certification;
 - (2) Procedures for certification.
- (b) *Notification.* The Equal Business Opportunity Commission shall publish the criteria and procedures for certification and make them available to the public.
- (c) *Reciprocal Certification.* The Equal Business Opportunity Commission may issue reciprocal certification to businesses which are certified in another jurisdiction that administers a substantially equivalent Equal Business Opportunity Program.
- (d) *Investigation by Equal Business Opportunity Officer.* The Equal Business Opportunity Officer shall investigate all applications for certification to determine whether the business meets the criteria established by the Equal Business Opportunity Program. The Equal Business Opportunity Officer shall also investigate written information brought to his/her attention regarding the Applicant's authenticity as a business owned by minorities, women or persons with disabilities.
- (e) *Decision Final.* A decision by the Equal Business Opportunity Commission whether or not to certify a business is final.

(C.B. 78, 1993; C.B. 14, 2014, § 1)

Sec. 4.603. - Decertification.

- (a) *Grounds for Decertifying a Business.* The Purchasing Agent may decertify a business upon findings of any of the following:
 - (1) The certified business is subject to disbarment or suspension in accordance with subtitle 1 of this title;
 - (2) The certified business has practiced fraud or deceit for the purpose of obtaining certification;
 - (3) The certified business has furnished to the County incomplete or substantially inaccurate ownership or financial information;
 - (4) The certified business has failed to report a change which affects its qualification for certification;
 - (5) The certified business fraudulently contracted to perform work or provide services and then subcontracted the work to a business which was not owned by a minority individual, a woman, or an individual with disabilities; or
 - (6) The certified business has willfully violated any provision of this title.
- (b) *Appeal of Decertification.* A business aggrieved by a decision of the Purchasing Agent to decertify the business may appeal the decision to the Equal Business Opportunity Commission. The appeal shall be in writing and shall be filed with the Executive Secretary of the Commission within 15 days of the decision of the Purchasing Agent. The decision of the Equal Business Opportunity Commission shall be final.
- (c) *Investigation of Complaints.* The Equal Business Opportunity Officer shall investigate sworn, written allegations that a certified business has:

- (1) Practiced fraud or deceit for the purpose of obtaining certification;
 - (2) Furnished incomplete or substantially inaccurate ownership or financial information to the County;
 - (3) Failed to report a change which affects its qualification for certification; or
 - (4) Fraudulently subcontracted work to a business which is not a business owned by minorities, women or persons with disabilities; or
 - (5) Willfully violated the purchasing code.
- (d) *Hearing on Complaints.* If the Equal Business Opportunity Officer's investigation indicates that there is reasonable cause to believe that the allegation is correct, the Equal Business Opportunity Officer shall submit the results to the Commission, which shall conduct a hearing on the allegation. The Commission may decertify the business or recommend the Purchasing Agent take other appropriate action consistent with law.

(C.B. 78, 1993; C.B. 14, 2014, § 1)

Sec. 4.604. - Severability.

If any part of this subtitle is held to be invalid, the invalidity shall not affect the validity of the remaining parts of this subtitle.

(C.B. 78, 1993)

TITLE 5 - COUNTY COUNCIL

SUBTITLE 1. - COMPENSATION REVIEW COMMISSION¹¹

Footnotes:

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Editor's note— Former sub. 1, §§ 5.100—5.104, related to the compensation review commission and was derived from C.B. 19, 1981. By the terms of the bill the Commission was terminated on April 30, 1982. The provisions of sub. 1 have, therefore, been deleted. Subsequently, C.B. 7, 1985, added a new sub. 1, §§ 5.100—5.104, relating to the same subject.

State Law reference— Authority to provide for County Council Compensation Review Commission, Ann. Code of Md. art. 25A, § 5(AA).

Sec. 5.100. - Establishment.

There is hereby established a Compensation Review Commission pursuant to the authority of article 25A, section 5(AA), of the Annotated Code of Maryland and the mandate of section 202(d) of the Howard County Charter.

(C.B. 7, 1985; C.B. 21, 1989; C.B. 26, 1993; C.B. 38, 1997)

Sec. 5.101. - Purpose.

The Commission shall submit recommendations to the County Council relative to the compensation and allowances to be paid to members of the County Council in accordance with the provisions of article 25A, section 5(AA) of the Annotated Code of Maryland. The Commission shall also review the County Executive's compensation and allowance and submit recommendations to the County Council pursuant to subsection 302(e) of the Howard County Charter.

(C.B. 7, 1985; C.B. 21, 1989; C.B. 26, 1993; C.B. 38, 1997)

Sec. 5.102. - Members; terms; compensation.

- (a) The Commission shall consist of seven residents of Howard County appointed by resolution of the County Council no later than September 30 in the third year of the term of each Council.
- (b) Members of the Commission shall serve from the date of their appointment until April 30 in the fourth year of the term of each Council.
- (c) Vacancies shall be filled by resolution of the County Council.
- (d) Members of the Commission shall receive no compensation for their services, but may receive such expenses as may be provided in the budget.
- (e) Members may be removed from the Commission by resolution of the County Council.

(C.B. 7, 1985; C.B. 21, 1989; C.B. 26, 1993; C.B. 38, 1997; C.B. 40, 2001, § 1)

Sec. 5.103. - Duties and responsibilities.

- (a) The Commission shall recommend the compensation and allowances for the County Council and County Executive within 15 days after the beginning of the fourth year of the term of each council.
- (b) The Commission may recommend an increase or decrease in the compensation paid to members of the County Council and the County Executive, but in no event may compensation or allowances be less than provided in the Charter.
- (c) With respect to the compensation of members of the County Council, the Commission shall submit its determination for compensation and allowances to the County Council, which may reduce or reject the Commission's recommendation, but shall not increase any item in the recommendation.
- (d) With respect to the compensation of the County Executive, the Commission shall submit its determination for compensation and allowances to the County Council, which may increase or reduce the compensation and allowances in accordance with the provisions of subsection 302(e) of the Charter.
- (e) The recommendations of the Commission shall become effective upon adoption by the Council of an ordinance encompassing the recommendations. The ordinance making change in the salary paid to members of the County Council and the County Executive shall be adopted prior to the election of members for the succeeding term and shall affect only members elected for that term.

(C.B. 40, 2001, § 1)

Editor's note— C.B. 40, 2001, which amended §§ 5.102—5.104, deleted former § 5.103 and replaced it with new provisions as set out herein. Formerly, § 5.103 pertained to officers and meetings. As § 5.104 now pertains to officers and meetings, history note information from former § 5.103 has been moved to § 5.104.

Sec. 5.104. - Officers and meetings.

- (a) The Commission shall elect from its members a Chairperson, Vice-Chairperson and such other officers as it deems appropriate.
- (b) The Commission shall hold a minimum of one public hearing on its recommendations for compensation and allowances to members of the County Council and to the County Executive. It shall hold such other public hearings as it deems appropriate. Notice of public hearings shall be advertised for two successive weeks in at least one newspaper of general circulation in Howard County.
- (c) Reasonable advance notice of all meetings, public hearings and work sessions of the Commission shall be posted on the County Council bulletin board.

(C.B. 40, 2001, § 1)

Editor's note— C.B. 40, 2001, which amended §§ 5.102—5.104, deleted former § 5.104 and replaced it with new provisions as set out herein. See editor's note below § 5.103. Formerly, § 5.104 pertained to termination and derived from C.B. 7, 1985; C.B. 21, 1989; C.B. 26, 1993; and C.B. 38, 1997.

SUBTITLE 2. - COMPENSATION

Sec. 5.200. - Annual salary.

- (a) Except as provided in subsections (b), (c) and (d) of this section, the annual salary of the Chairperson and the other members of the County Council for the four year term beginning on the date in December of 2018 on which Council Members take office shall be calculated as follows:
 - (1) Beginning on the date of installation in December 2018, the base salary shall be \$66,174.00 per year;
 - (2) The salary shall increase annually on the anniversary date beginning in December of 2019 and for each subsequent year of the term;
 - (3) The salary in December 2019 and for each subsequent year of the term shall be equal to the amount of the base salary in the previous year increased by the same percentage as the increase in the consumer price index for all urban consumers (CPI-U Washington-Baltimore DC-MD-VA-WV average), all items, unadjusted ("CPI-U Index") for the 12-month period ending on January 31 of the year for which the new salary base is calculated. This new salary shall become the base for the calculation of the salary for the subsequent year;
 - (4) In the event the Bureau of Labor Statistics abandons publication of the CPI-U Index, the base salary for members of the County Council shall be increased by two and one-half percent over the base of the preceding year.
- (b) In addition to the base salary calculated for Members of the County Council, the Council Chairperson shall receive an additional \$3,500.00 annually.
- (c) In addition to the salary authorized in subsection (a) of this section, each member of the County Council shall be eligible to receive the same employee benefits as are established each year for full-time County employees.
- (d) Each Council Member shall also receive a monthly stipend of \$150.00 to be used for a service plan for the work-related use of a personal communication device.

(C.B. 5, 2014, § 1; C.B. 3, 2018, § 1)

Editor's note— C.B. 5-2014, § 1, adopted March 5, 2014, repealed the former § 5.200, and enacted a new § 5.200 as set out herein. Former § 5.200 pertained to similar subject matter. See the Code Comparative Table—Council Bills for complete derivation.

SUBTITLE 3. - COUNCILMANIC DISTRICTS²

Footnotes:

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Editor's note— C.B. 48, 2003, § 1, replaced former Subtitle 3, §§ 5.300—5.302, which pertained to the establishment of councilmanic districts and derived from C.B. 4, 2002, with §§ 5.300, 5.301.

Editor's note— The County has advised that, by operation of section 202(f) of the Howard County Charter, former Subtitle 3, which established the boundaries for County Council districts after the 2000 U.S. Census, became void following the November 2014 election. In accordance with section 202(f), the 2011 Howard County Redistricting Commission recommended a new Council redistricting plan in October 2011. Because no ordinance was enacted by March 15, 2012 to establish a redistricting plan different from the Commission's plan, under section 202(f) the Commission's plan became law and took effect following the November 2014 election. The Commission's plan, including maps and lists of Census blocks delineating each Council district, is available on the County's website. To see the Commission's report, Council district maps, and Census blocks see <http://cc.howardcountymd.gov/>. For further information, contact the County Council at 410.313.2001.

Charter reference— Council to consist of five members elected from councilmanic districts, § 202; council to establish districts based on decimal census, § 202(f).

Sec. 5.300. - Established.

Pursuant to subsection 202(f) of the Howard County Charter which provides for establishing boundaries for Councilmanic Districts after each decennial census, there are hereby established the following Councilmanic Districts for Howard County, amending the boundaries previously established for the 2002 general election and effective until another redistricting plan is adopted by the Council:

- (a) *Councilmanic District 1.* Beginning at the point on the Patapsco River, where U.S. Route 40 and the Patapsco River intersect at the Howard County-Baltimore County line thence running:
- (1) Southeast along the Patapsco River following the Howard County/Baltimore County line to Deep Run,
 - (2) Southwest along Deep Run following the Howard County/Anne Arundel County line to the intersection of an unnamed tributary of Deep Run located approximately 100 feet southwest of Hanover Road,
 - (3) Northwest along the unnamed tributary of Deep Run to the intersection of Bellanca Drive,
 - (4) East along Bellanca Drive to the intersection with Montgomery Road,
 - (5) Northwest along Montgomery Road to the intersection with MD 104,
 - (6) Southwest along MD 104 to the intersection with MD 100,
 - (7) North along MD 100 to the intersection with U.S. Route 29,
 - (8) Continue due west across U.S. Route 29 approximately 300 feet to the intersection with Columbia Road opposite Temora Manor Lane,
 - (9) North along Columbia Road approximately 250 feet to an unnamed stream,

- (10) Southwest along the unnamed stream to the Plumtree Branch,
 - (11) North on Plumtree Branch to the intersection with Dunloggin Road,
 - (12) Northwest along Dunloggin Road to Boulder Court,
 - (13) Continue northwest along Boulder Court to the intersection with Gray Rock Drive,
 - (14) South along Gray Rock Drive approximately 1,200 feet to an unnamed stream behind Lark Spring Row,
 - (15) West along the unnamed stream to the Little Patuxent River,
 - (16) South along the Little Patuxent River to MD 108,
 - (17) West on MD 108 to Woodland Road,
 - (18) North on Woodland Road to an unnamed tributary of the Little Patuxent River,
 - (19) Northwest on the unnamed tributary of the Little Patuxent River around the north side of Centennial Lake to a fork in the stream and continuing due west approximately 730 feet to the end,
 - (20) Continue due west approximately 530 feet from the end of the unnamed tributary of the Little Patuxent River to the intersection with the former alignment of Manor Lane,
 - (21) North along the former alignment of Manor Lane approximately 840 feet to the intersection with the former alignment of Carroll Mill Road,
 - (22) Southwest on the former alignment of Carroll Mill Road to the Middle Patuxent River,
 - (23) Northwest along the Middle Patuxent River to another unnamed tributary of the Middle Patuxent River,
 - (24) Northeast and northwest along the unnamed tributary of the Middle Patuxent River to a utility right-of-way,
 - (25) Northeast along the utility right-of-way to the intersection with Frederick Road,
 - (26) East along Frederick Road to a point approximately 50 feet east of Folly Quarter Road,
 - (27) North cross country to the intersection of Turf Valley Road and U.S. Route 40,
 - (28) East on U.S. Route 40 to Greenway Drive,
 - (29) North on Greenway Drive to St. Johns Lane,
 - (30) North along St. Johns Lane to Interstate 70,
 - (31) East on Interstate 70 to the Intersection with U.S. Route 29,
 - (32) North along the center of U.S. Route 29 to an unnamed tributary of the Patapsco River,
 - (33) North along an unnamed tributary of the Patapsco River, through the Patapsco State Park to a point where it meets the Patapsco River at the Howard County/Baltimore County line,
 - (34) East and southeast along the Patapsco River to the point of beginning.
- (b) *Councilmanic District 2*. Beginning at the point on U.S. Route 29 at the intersection with MD 100, thence running:
- (1) Southwest along U.S. Route 29 to the intersection of the Little Patuxent River,
 - (2) Southeast along the Little Patuxent River to the intersection of Broken Land Parkway,
 - (3) Southeast along Broken Land Parkway to the intersection of Stevens Forest Road,
 - (4) Northeast along Stevens Forest Road to the intersection of a utility right-of-way between the rear property lines of 6252 Sandchain Road and 6216 Parallel Lane,

- (5) East along the utility right-of-way to the sight line of Fairmead Lane,
 - (6) East along the sight line of Fairmead Lane to the end of Fairmead Lane,
 - (7) East along Fairmead Lane to the intersection with Oakland Mills Road,
 - (8) South along Oakland Mills Road approximately 600 feet to an electric right-of-way,
 - (9) East along the electric right-of-way to the intersection with a BGE Gas utility right-of-way,
 - (10) Southwest along the BGE Gas utility right-of-way to the intersection with Oakland Mills Road,
 - (11) Southeast along Oakland Mills Road to the intersection with Snowden River Parkway,
 - (12) Northeast along Snowden River Parkway to the intersection with Robert Fulton Drive,
 - (13) East along Robert Fulton Drive to the intersection with Columbia Gateway Drive,
 - (14) Southeast along Columbia Gateway Drive to Samuel Morse Drive,
 - (15) Southwest along Samuel Morse Drive to the end and continuing approximately 500 feet to the intersection with a Baltimore and Ohio Railroad spur,
 - (16) Southeast on the Baltimore and Ohio Railroad tracks to an unnamed tributary of Dorsey Run,
 - (17) Southeast along the unnamed tributary of Dorsey Run to Dorsey Run,
 - (18) Southeast along Dorsey Run to the Baltimore and Ohio Railroad tracks at the Howard County/Anne Arundel County line,
 - (19) Northeast along the Baltimore and Ohio Railroad tracks following the Howard County/Anne Arundel County line to the intersection with deep run at the Howard County/Anne Arundel County line,
 - (20) Northeast along deep run following the Howard County/Anne Arundel County line to an unnamed tributary of Deep Run located approximately 100 feet southwest of Hanover Road,
 - (21) Northwest along the unnamed tributary of Deep Run to the intersection of Bellanca Drive,
 - (22) East along Bellanca Drive to the intersection with Montgomery Road,
 - (23) Northwest along Montgomery Road to the intersection with MD 104,
 - (24) Southwest along MD 104 to the intersection with MD 100,
 - (25) North along MD 100 to the point of beginning.
- (c) *Councilmanic District 3*. Beginning at the point on U.S. Route 29 at the intersection with the Little Patuxent River, thence running:
- (1) Southeast along the Little Patuxent River to the intersection of Broken Land Parkway,
 - (2) Southeast along Broken Land Parkway to the intersection of Stevens Forest Road,
 - (3) Northeast along Stevens Forest Road to the intersection of a utility right-of-way between the rear property lines of 6252 Sandchain Road and 6216 Parallel Lane,
 - (4) East along the utility right-of-way to the sight line of Fairmead Lane,
 - (5) East along the sight line of Fairmead Lane to the end of Fairmead Lane,
 - (6) East along Fairmead Lane to the intersection with Oakland Mills Road,
 - (7) South along Oakland Mills Road approximately 600 feet to an electric right-of-way,
 - (8) East along the electric right-of-way to the intersection with a BGE Gas utility right-of-way,
 - (9) Southwest along the BGE Gas utility right-of-way to the intersection with Oakland Mills Road,
 - (10) Southeast along Oakland Mills Road to the intersection with Snowden River Parkway,

- (11) Northeast along Snowden River Parkway to the intersection with Robert Fulton Drive,
 - (12) East along Robert Fulton Drive to the intersection with Columbia Gateway Drive,
 - (13) Southeast along Columbia Gateway Drive to Samuel Morse Drive,
 - (14) Southwest along Samuel Morse Drive to the end and continuing approximately 500 feet to the intersection with the Baltimore and Ohio Railroad spur,
 - (15) Southeast on the Baltimore and Ohio Railroad tracks to an unnamed tributary of Dorsey Run,
 - (16) Southeast along the unnamed tributary of Dorsey Run to Dorsey Run,
 - (17) Southeast along Dorsey Run to the Baltimore and Ohio Railroad tracks at the Howard County/Anne Arundel County line,
 - (18) South and southwest along the Baltimore and Ohio Railroad tracks following the Howard County/Anne Arundel County line to the intersection with the Patuxent River at the Howard County/Prince George's County line,
 - (19) Northwest along the Patuxent River following the Howard County/Prince George's County line to Interstate 95,
 - (20) North along Interstate 95 to the Intersection of MD 216,
 - (21) Northwest along MD 216 to the intersection with Leishear Road,
 - (22) North along Leishear Road to the intersection with Gorman Road,
 - (23) Southeast, northeast, and southeast along Gorman Road to Murray Hill Road,
 - (24) Northeast along Murray Hill Road to the Middle Patuxent River,
 - (25) West along the Middle Patuxent River to U.S. Route 29,
 - (26) North along U.S. Route 29 to the point of beginning.
- (d) *Councilmanic District 4.* Beginning at the point on U.S. Route 29 at the intersection with MD 108, thence running:
- (1) South along U.S. Route 29 to Scaggsville Road,
 - (2) Northwest along Scaggsville Road to the intersection with MD 108,
 - (3) Northeast along MD 108 to the Little Patuxent River,
 - (4) North along the Little Patuxent River to an unnamed stream of the Little Patuxent River behind Larkspring Row,
 - (5) East along the unnamed stream to Gray Rock Drive,
 - (6) North along Gray Rock Drive approximately 1,200 feet to Boulder Court,
 - (7) Southeast along Boulder Court to Dunloggin Road,
 - (8) Continue southeast along Dunloggin Road to the Plumtree Branch,
 - (9) South on Plumtree Branch approximately 3,500 feet to an unnamed stream,
 - (10) Northeast along the unnamed stream to Columbia Road,
 - (11) South along Columbia Road approximately 250 feet to the intersection with Temora Manor Lane,
 - (12) Continue due east approximately 300 feet to U.S. Route 29,
 - (13) South on U.S. Route 29 to the point of beginning.

- (e) *Council District 5.* Beginning at the point on the South Branch Patapsco River, where Marriottsville Road and the South Branch Patapsco River intersect at the Howard County/Baltimore County line, thence running:
- (1) Southeast along the South Branch Patapsco River following the Howard County/Baltimore County line to an unnamed tributary of the Patapsco River at Daniels Road,
 - (2) South along an unnamed tributary of the Patapsco River, through the Patapsco State Park cross country to U.S. Route 29,
 - (3) South along the center of U.S. Route 29 to the intersection with Interstate 70,
 - (4) West along Interstate 70 to St. Johns Lane,
 - (5) South along St. Johns Lane to Greenway Drive,
 - (6) South along Greenway drive to U.S. Route 40,
 - (7) West along U.S. Route 40 to the intersection with Turf Valley Road,
 - (8) South cross country at the intersection of Turf Valley Road to the intersection with Frederick Road, approximately 50 feet east of Folly Quarter Road,
 - (9) West along Frederick Road to a utility right-of-way approximately 1,000 feet southeast of Marriottsville Road,
 - (10) Southwest along the utility right-of-way approximately 5,500 feet to an unnamed tributary of the Middle Patuxent River,
 - (11) Southeast and southwest along the unnamed tributary of the Middle Patuxent River to the Middle Patuxent River,
 - (12) Reserved.
 - (13) Southeast along the Middle Patuxent River to the former alignment of Carroll Mill Road,
 - (14) Northeast along the former alignment of Carroll Mill Road to the intersection with the former alignment of Manor Lane,
 - (15) South along the former alignment of Manor Lane approximately 840 feet,
 - (16) Continue due east approximately 530 feet to the end of an unnamed tributary of the Little Patuxent River,
 - (17) East along the unnamed tributary of the Little Patuxent River approximately 730 feet to a fork in the stream. And continue southeast around the north side of Centennial Lake to Woodland Road,
 - (18) South on Woodland Road to MD 108,
 - (19) Southwest on MD 108 to Scaggsville Road,
 - (20) Southeast along Scaggsville Road to U.S. Route 29,
 - (21) North along U.S. Route 29 to the Middle Patuxent River,
 - (22) East along the Middle Patuxent River to Murray Hill Road,
 - (23) Southwest along Murray Hill Road to the intersection with Gorman Road,
 - (24) Northwest, Southwest, and Northwest along Gorman Road to Leishear Road,
 - (25) South along Leishear Road to MD 216,
 - (26) Southeast along MD 216 to Interstate 95,
 - (27) South along Interstate 95 to the Patuxent River at the Howard County/Prince George's County line and continuing along the Patuxent River following the Howard County/Montgomery County line to the origin of the Patuxent River,

- (28) Northwest, cross-country following the Howard County/Montgomery County line to the Howard County/Carroll County line at Parrs Spring, and
- (29) East along the South Branch Patapsco River following the Howard County/Carroll County line to the point of beginning.

(C.B. 48, 2003, § 1)

Sec. 5.301. - New districts.

The Councilmanic Districts defined in section 5.300 shall be applicable for all purposes relating to the primary and general elections to be held in 2006 and thereafter, until councilmanic districts are established after the 2010 decennial census.

(C.B. 48, 2003, § 1)

TITLE 6 - COUNTY EXECUTIVE AND THE EXECUTIVE BRANCH^[1]

Footnotes:

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Editor's note— Section 1 of C.B. 62, 1988 changed the name of tit. 6 from "County Executive" to "County Executive and the Executive Branch," effective July 1, 1989.

SUBTITLE 1. - THE COUNTY EXECUTIVE^[2]

Footnotes:

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Editor's note— Section 1 of C.B. 10, 2006, adopted on March 6, 2006, renamed subtitle 1 from "Compensation of the County Executive," to "The County Executive.

Sec. 6.100. - Annual salary.

- (a) Except as provided in subsections (b), (c) and (d) of this section, the annual salary of the County Executive for the four year term beginning on the date in December of 2018 on which County Executive takes office shall be calculated as follows:
 - (1) Beginning on the date of installation in December 2018, the base salary shall be \$195,800.00 per year;
 - (2) The base compensation in December 2019 and for each subsequent year of the term shall be equal to the amount of the base compensation in the previous year increased by the same percentage as the increase in the consumer price index for all urban consumers (CPI-U Washington-Baltimore DC-MD-VA-WV Average), all items, unadjusted ("CPI-U Index") for the 12-month period ending on January 31 of the year for which the new base compensation is calculated. This new base compensation shall become the base for the calculation of the salary for the subsequent year;
 - (3) In the event the Bureau of Labor Statistics abandons publication of the CPI-U Index, the base compensation for the County Executive shall be increased by two and one-half percent over the base of the preceding year.

- (b) In addition to the base compensation authorized in subsection (a) of this section, the County Executive shall be eligible to receive the same employee benefits as are established each year for full-time County employees.
- (c) The County Executive shall also receive a monthly stipend of \$150.00 to be used for a service plan for the work-related use of a personal communication device.

(C.B. 6, 2014, § 1; C.B. 4, 2018, § 1)

Editor's note— C.B. 6-2014, § 1, adopted March 5, 2014, repealed the former § 6.100, and enacted a new § 6.100 as set out herein. Former § 6.100 pertained to similar subject matter. See the Code Comparative Table—Council Bills for complete derivation.

Sec. 6.101. - Definitions.

Terms used in this subtitle have the meanings indicated.

- (a) *Emergency* means the threat or occurrence of a disaster in or affecting Howard County that requires State or Federal assistance or the implementation of the local emergency management plan in order to save lives and protect the public health and safety including, without limitation:
 - (1) A hurricane, tornado, flood, wind-driven water, storm surge, tidal wave, earthquake, mudslide, snowstorm, drought, fire, or explosion;
 - (2) An enemy attack or act of terrorism; or
 - (3) A public health catastrophe.
- (b) *Shelter in place* means responding to an emergency by:
 - (1) Remaining or moving to a safe indoor location including, without limitation, a location in a residence, school, business, or public building; and
 - (2) If necessary, turning off air conditioners and ventilation systems and closing windows and doors.

(C.B. 10, 2006, § 2)

Sec. 6.102. - General.

- (a) *Executive Power*. As provided in article III of the Howard County Charter, the executive power of Howard County is vested in the County Executive.
- (b) *Responsibilities*. The County Executive is the Chief Executive Officer of the County and the head of County Government and is responsible for:
 - (1) The proper and efficient administration of the County's affairs; and
 - (2) Other duties and powers as set forth in the Charter, required by law, or necessarily implied.
- (c) *State-Designated Emergency Roles*. For purposes of the powers and duties set forth in the emergency management title of the public safety article of the Annotated Code of Maryland, the County Executive is the "Principal Executive Officer", "Chief Executive Officer", and the "Senior Elected Official".
- (d) *Use of County Resources*. The County Executive or the Chief Administrative Officer may authorize the use of any County resources, including employees, for any purpose if:
 - (1) Required in a local state of emergency;
 - (2) An emergency is declared by the Governor or the President; or

- (3) In order to provide assistance under the Maryland Emergency Management Assistance Compact or any other applicable agreements.

(C.B. 10, 2006, § 2)

Sec. 6.103. - Declaring a local state of emergency.

- (a) *Authority to Declare.* If there is a threat or occurrence of an emergency, the County Executive may declare a state of emergency within Howard County by executive order.
- (b) *Executive Order.* An executive order declaring a local state of emergency shall be:
 - (1) Promptly publicized;
 - (2) Filed with the Administrator to the County Council; and
 - (3) Except as provided in subsection (c) of this section, effective for up to seven days.
- (c) *Emergency Lasting Longer Than Seven Days.* If the threat or occurrence of an emergency appears likely to last more than seven days, the County Council Shall be called into emergency session prior to the end of the seventh day to consider a resolution that consents to the continuation of the state of emergency for such time as may be appropriate.

(C.B. 10, 2006, § 2)

Sec. 6.104. - Executive authority during a local state of emergency.

- (a) *Authority .* During a local state of emergency declared pursuant to section 6.103 of this subtitle, the County Executive may issue executive orders that the Executive considers necessary to implement the emergency operations plan and to protect the health, safety, and welfare of persons within Howard County, including but not limited to orders to:
 - (1) Control traffic, including public and private transportation;
 - (2) Designate zones in the area of the emergency in which the occupancy and use of buildings and vehicles may be controlled;
 - (3) Control the movement of individuals or vehicles in, into, or from the area of the emergency;
 - (4) Control places of amusement and places of assembly;
 - (5) Control individuals on public streets;
 - (6) Establish curfews;
 - (7) Establish requirements to shelter in place;
 - (8) Control the storage, use, and transportation of explosives, flammable materials, or liquids considered to be dangerous to public safety; and
 - (9) Extend the deadline for removing snow from sidewalks under subsection 18.402(h) of the County Code.
- (b) *Delegation.* The County Executive may act in accordance with this section by and through the Director of Emergency Management or other County Officials.
- (c) *Acting County Executive.* If an emergency occurs while the power and office of the County Executive is exercised by an Acting County Executive, the acting County Executive shall have all the powers and authorities of the County Executive under this subtitle.
- (d) *Penalties.*
 - (1) Except as provided in paragraph (2) of this subsection:

- (i) A person who violates an order issued under this section is guilty of a misdemeanor and on conviction may be subject to imprisonment not exceeding 6 months or a fine not exceeding \$1,000.00 or both.
 - (ii) Alternatively, and in addition to and concurrent with all other remedies, the Department may enforce the provisions of an order issued under this section with civil penalties in accordance with title 24 of this Code as follows:
 - a. A violation of any provision of an order issued under this section is a Class A offense; and
 - b. Each day that a violation continues is a separate offense.
- (2) A person who violates an order extending the deadline for removing snow from sidewalks pursuant to subsection 18.402(h)(2) of this Code is subject to the penalties set forth in subsection 18.402(h) of this Code.

(C.B. 10, 2006, § 2; C.B. 13, 2016, § 1; C.B. 77, 2017, § 1)

SUBTITLE 2. - ADMINISTRATIVE DEPARTMENTS AND OFFICES^[3]

Footnotes:

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Editor's note— Subtitle 2, §§ 6.200—6.210, was added by C.B. 62, 1988, effective July 1, 1989.

Sec. 6.200. - Department and office heads; powers, duties and responsibilities generally.

The Executive Branch of County Government has several Departments. Some Departments have offices which function under the general supervision of Directors of Departments.

(a) *Appointment:*

- (1) *Departments.* Each Department shall be headed by a Director appointed by the County Executive and serving at the pleasure of the County Executive. Departments may have Deputy Directors.
- (2) *Offices.* Except for offices which are designated by law to be headed by an Administrator who is a classified employee, each office shall be headed by an Administrator appointed by the Director of the Department supervising that office and with the concurrence of the County Executive. Except for an Administrator who is a classified employee, Administrators shall serve at the pleasure of the supervising Director and the County Executive.

(b) *Qualifications.* Directors and Administrators shall be selected on the basis of professional and administrative knowledge and experience and shall have additional qualifications as provided by law.

(c) *Salary; Staff.* Directors and Administrators shall receive a salary within the range provided by law and shall have the assistants, employees, and professional consultants provided in the budget for their assigned functions.

(d) *Duties and Responsibilities:*

- (1) Subject to the general supervision of the County Executive and, in the areas of personnel, budget, and purchasing, the Chief Administrative Officer, Directors shall:
 - (i) Carry out duties and responsibilities as specified by law.
 - (ii) Carry out the policies of the County Executive regarding their Departments.

- (iii) Administer their Departments in an efficient and orderly fashion.
 - (iv) Comprehensively plan the programs and services within the jurisdiction of their Departments.
 - (v) Initiate, review and recommend the plans, organizations, and budgets of their Department.
 - (vi) Make recommendations to the County Executive regarding the duties and responsibilities and powers of County Boards relating to their Departments and provide necessary staff support for the Boards.
 - (vii) Be the appointing authority for personnel of their Departments.
- (2) Subject to final approval by their supervising Department Directors, except as expressly provided otherwise by law, Administrators shall:
- (i) Carry out duties and responsibilities as specified by law;
 - (ii) Carry out the policies of the County Executive and their supervising Department Directors regarding their offices;
 - (iii) Administer their offices in an efficient and orderly fashion;
 - (iv) Comprehensively plan the programs and services within the jurisdiction of their offices;
 - (v) Initiate, review and recommend the plans, organization, and budget of their offices;
 - (vi) Make recommendations to the County Executive regarding the duties and responsibilities and powers of County Boards relating to their offices; and
 - (vii) Interview candidates for employment within their offices and submit to their Director's recommendations of persons for appointment.
- (e) *Rules and Regulations.* Directors shall have full authority and responsibility for the promulgation of all rules and regulations of their Department, except as otherwise provided by law. Rules and regulations in force on July 1, 1989, shall continue until they are altered or abolished under provisions of this subtitle.
- (f) *Grants.* Directors and Administrators may prepare applications for grants, contributions or loans of funds, property or other aid in any form from the State or Federal Government or other public or private source. Upon approval of the County Executive, Directors and Administrators are authorized to do all things necessary to qualify for any grant, contribution or loan under any program. Applications for grants, contributions or loans shall require the signature of the County Executive before they can be submitted. Subject to applicable provisions of law, Director's and Administrators may accept and use any grant, contribution or loan of funds, property or other aid in any form from the State or Federal Government or other public or private source.

(C.B. 62, 1988; C.B. 117, 1989; C.B. 11, 1994)

Sec. 6.201. - Department of County Administration.

- (a) *Department of County Administration.* There is a Department of County Administration. The qualifications of its Director and the nature of its duties and responsibilities are set forth in subtitle 4, "Department of County Administration," of [this] title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Office of Budget.* There is an Office of Budget. The qualifications of its Administrator and the nature of its duties and responsibilities are set forth in section 22.400A, "Office of Budget," of subtitle 4, "Budget Procedures," of title 22, "General Provisions, Penalties, etc.," of the Howard County Code.
- (c) *Office of Human Rights.* There is an Office of Human Rights. The qualifications of its Administrator and the nature of its duties and responsibilities are set forth in subtitle 2, "Human Rights," of title 12, "Health and Human Services," of the Howard County Code.

- (d) *Office of Central Services.* There is an Office of Central Services. The qualifications of its Administrator and the nature of its duties and responsibilities are set forth in subtitle 4, "Department of County Administration" of [this] title 6, "County Executive and the Executive Branch" of the Howard County Code.
- (e) *Office of Human Resources.* There is an Office of Human Resources. The qualifications of its Administrator and the nature of its duties and responsibilities are set forth in subtitle 1, "Human Resources Administration" of title 1 "Human Resources," of the Howard County Code.
- (f) *Office of Public Information.* There is an Office of Public Information. The qualifications of its Administrator and the nature of its duties and responsibilities are set forth in subtitle 4, "Department of County Administration," of [this] title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (g) *Office of Purchasing.* There is an Office of Purchasing. The qualifications of its Administrator and the nature of its duties and responsibilities are set forth in subtitle 4, "Department of County Administration," of [this] title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (h) *Office of Community Sustainability.* There is an Office of Community Sustainability. The qualifications of its Administrator and the nature of its duties and responsibilities are set forth in subtitle 4, "Department of County Administration" of this title of the Howard County Code.
- (i) *Office of Transportation.* There is an Office of Transportation. The qualifications of its Administrator and the nature of its duties and responsibilities are set forth in subtitle 4, "Department of County Administration" of this title of the Howard County Code.
- (j) *Office of Workforce Development.* There is an Office of Workforce Development. The qualifications of its Administrator and the nature of its duties and responsibilities are set forth in subtitle 4, "Department of County Administration" of this title of the Howard County Code.

(C.B. 62, 1988; C.B. 117, 1989; C.B. 151, 1991; C.B. 6, 1992; C.B. 9, 1993; C.B. 11, 1994; C.B. 16, 1996; C.B. 28, 1996; C.B. 52, 1997; C.B. 59, 2001, § 1; C.B. 12, 2008, § 2; C.B. 5, 2011, § 1; C.B. 3, 2015, § 1)

Sec. 6.202. - Department of community resources and services.

- (a) *Department of Community Resources and Services .* There is a Department of Community Resources and Services. The qualifications of its Director and the nature of its duties and responsibilities are set forth in subtitle 9, "Department of Community Resources and Services," of title 12, "Health and Social Services," of this Code.
- (b) *Office on Aging and Independence.* There is an Office on Aging and Independence. The qualifications of its Administrator and the nature of its duties and responsibilities are set forth in subtitle 5, "Older Howard Countians Act," of title 12, "Health and Social Services," of this Code.
- (c) *Office of Consumer Protection.* There is an Office of Consumer Protection. The qualifications of its Administrator and the nature of its duties and responsibilities are set forth in subtitle 4, "Consumer Protection," of title 17, "Public Protection Services," of this Code.
- (d) There is an Office of Children and Families and the nature of its duties and responsibilities are set forth in title 12, subtitle 15 of this Code.
- (e) There is an Office of Community Partnerships and the nature of its duties and responsibilities are set forth in title 12, subtitle 19 of this Code.

(C.B. 62, 1988; C.B. 151, 1991; C.B. 6, 1992; C.B. 12, 2016, § 1)

Sec. 6.203. - Department of Corrections.

There is a Department of Corrections. The qualifications of its Director and the nature of its duties and responsibilities are set forth in subtitle 5, "Department of Corrections," of title 7, "Courts," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.204. - Department of Finance.

There is a Department of Finance. The qualifications of its Director and the nature of its duties and responsibilities are set forth in subtitle 1, "Department of Finance," of title 11, "Finance," of this Code.

(C.B. 62, 1988; C.B. 61, 2006, § 1)

Sec. 6.205. - Department of Fire and Rescue Services.

There is a Department of Fire and Rescue Services. The qualifications of its Director and the nature of its duties and responsibilities are set forth in subtitle 1, "Fire Protection," of title 17, "Public Protection Services," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.206. - Department of Inspections, Licenses and Permits.

There is a Department of Inspections, Licenses and Permits. The qualifications of its Director and the nature of its duties and responsibilities are set forth in subtitle 6, "Department of Inspections, Licenses and Permits," of title 3, "Buildings," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.207. - Department of Planning and Zoning.

There is a Department of Planning and Zoning. The qualifications of its Director and the nature of its duties and responsibilities are set forth in subtitle 8, "Department of Planning and Zoning," of title 16, "Planning, Zoning, Subdivision, etc.," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.208. - Department of Police.

(a) *Department of Police.* There is a Department of Police. The qualifications of its Director and the nature of its duties and responsibilities are set forth in subtitle 2, "Police," of title 17, "Public Protection Services," of the Howard County Code.

(b) *Office of Animal Control.* There is an Office of Animal Control. The qualifications of its Administrator and the nature of its duties and responsibilities are set forth in subtitle 3, "Animal Control," of title 17, "Public Protection Services," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.209. - Department of Public Works.

- (a) *Department of Public Works.* There is a Department of Public Works. The qualifications of its Director and the nature of its duties and responsibilities are set forth in subtitle 10, "Department of Public Works," of title 18, "Public Works," of the Howard County Code.
- (b) *Office of Animal Control.* [Transferred to § 6.208(b).]

(C.B. 62, 1988; C.B. 8, 1993)

Sec. 6.210. - Department of Recreation and Parks.

There is a Department of Recreation and Parks. The qualifications of its Director and the nature of its duties and responsibilities are set forth in subtitle 6, "Department of Recreation and Parks," of title 19, "Recreation and Parks," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.211. - Department of Housing and Community Development.

There is a Department of Housing and Community Development. The qualifications of its Director and the nature of its duties and responsibilities are set forth in subtitle 1 "Department of Housing and Community Development" of title 13 "Housing and Community Development" of the Howard County Code.

(C.B. 59, 2001, § 2)

Sec. 6.212. - Department of Technology and Communication Services.

There is a Department of Technology and Communication Services. The qualifications of its Director and the nature of its duties and responsibilities are set forth in subtitle 1, "Department of Technology and Communication Services" of title 27, "Technology and Communications" of the Howard County Code.

(C.B. 16, 1996)

SUBTITLE 3. - BOARDS AND COMMISSIONS⁴¹

Footnotes:

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Editor's note— Section 3 of C.B. 62, 1988 purported to add Subtitle 4 to Title 2 of this Code; however, it was given section numbers beginning with § 6.300. The County has advised that the intent was to include the provisions as Subtitle 3 of Title 6 as implied by the section numbers. The bill is effective July 1, 1989.

Sec. 6.300. - Boards and Commissions in general.

- (a) Under section 404 of the Howard County Charter, members of Boards and Commissions shall be appointed by the County Executive and confirmed by the County Council.
- (b) A Board or Commission shall consist of at least five residents of Howard County who shall serve:
 - (1) Overlapping terms of five years; or

- (2) Until a successor is confirmed.
- (c) A member is not eligible for immediate reappointment to a Board or Commission if:
 - (1) The member has served eight or more consecutive years on a Board; and
 - (2) The member's term expires.
- (d) A vacancy shall be filled in the same manner as the original appointment and for the unexpired term.
- (e) If County law requires a Board or Commission member to have certain qualifications, the County Executive may appoint a member of the general public after certifying that:
 - (1) A reasonable search was made to find a person who met the specific qualifications; and
 - (2) A person could not be found.
- (f) Board members shall receive no compensation for their services except reasonable and necessary expenses as may be provided in the budget.

(C.B. 62, 1988; C.B. 7, 1989; C.B. 40, 2005, §§ 1, 2)

Sec. 6.301. - Legal assistance.

Pursuant to the provisions of section 405 of the Howard County Charter, the County Solicitor shall be the legal advisor of all County Boards and Commissions. No County Board or Commission which receives County funds shall have any authority or power to employ or retain any legal counsel other than the County Solicitor.

(C.B. 62, 1988)

Sec. 6.302. - Removal of members of Boards or Commissions.

Pursuant to the provisions of section 903 of the Howard County Charter, the County Executive, with the approval of a majority of the Council, may remove a member of a Board or Commission from office for cause. The member shall first be presented with a written statement of the reasons for the removal, and shall have the opportunity for a public hearing before the County Council if requested within ten days of receiving the statement of reasons for removal.

(C.B. 62, 1988)

Sec. 6.303. - Absence from meetings.

Pursuant to the provisions of section 903 of the Howard County Charter, a member of a Board or Commission is deemed to have resigned if absent from three consecutive regular meetings of the Board or Commission and not excused by resolution of the Board or Commission. The Chairman of the Board or Commission (or the Vice-Chairman if the absent member is the Chairman) shall notify the County Executive in writing when this occurs.

(C.B. 62, 1988)

Sec. 6.304. - Resignation.

A member of a Board or Commission who wishes to resign shall submit a written notice of resignation to the County Executive and the County Council.

(C.B. 62, 1988)

Sec. 6.305. - Meetings to be public.

- (a) *Open Meetings.* All meetings of Howard County Boards and Commissions shall be public meetings and open to the public at all times, except under circumstances in which a closed meeting is permitted by law. Agendas shall be made available at least three days prior to the meeting in an electronic medium readily available to the public. Minutes of open meetings shall be made available as soon as practicable in at least one electronic medium readily available to the public.
- (b) *Prohibition for Meeting on Certain Days.* All Howard County Boards and Commissions shall be prohibited from holding meetings which include an opportunity for public testimony on any day on which Rosh Hashanah, Yom Kippur, Eid Ul Fitr or Eid Ul Adha is observed.

(C.B. 62, 1988; C.B. 72, 2004; C.B. 81, 2004; C.B. 13, 2014, § 1)

Sec. 6.306. - Application.

The provisions of this subtitle relating to membership, appointment, terms, vacancies, compensation, officers, legal assistance, removal, absences, resignations, suspensions, meetings, rules of procedure, and general duties and responsibilities of Boards and Commissions shall apply to all Boards and Commissions listed in this subtitle, unless specific provisions are otherwise listed.

(C.B. 62, 1988)

Sec. 6.307. - General duties and responsibilities.

Boards and Commissions may conduct studies and reviews, advise and recommend, and assume other functions as provided by law. Boards and Commissions listed in this subtitle are established to perform the duties provided by law.

(C.B. 62, 1988)

Sec. 6.308. - Rules of procedure.

Boards and Commissions shall adopt rules of procedure. The rules of procedure shall be subject to section 2.102 of title 2 "Administrative Procedure," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.309. - Officers.

The Board or Commission shall annually select officers from among its members.

(C.B. 62, 1988)

Sec. 6.310. - Gifts, contributions.

The County may accept gifts, contributions and bequests of property to further the purposes of a Board or Commission.

(C.B. 62, 1988)

Sec. 6.311. - Staff.

The County Executive shall provide each Board or Commission with additional services, facilities and staff as are necessary or appropriate for the proper performance of its duties and responsibilities and as provided in the Howard County budget.

(C.B. 62, 1988)

Sec. 6.312. - Temporary Boards and Commissions.

This section applies only to temporary Boards or Commissions appointed by the County Executive.

Pursuant to section 902, "Citizens Advisory Boards," of the Howard County Charter, the County Executive may appoint temporary Boards or Commissions.

- (a) *Qualifications.* Members of temporary Boards or Commissions shall be citizens of Howard County.
- (b) *Term of Membership.* The terms of membership of the temporary Boards or Commissions shall be set forth in the executive order which establishes the existence of the temporary Board or Commission. The executive order shall also state the date upon which the temporary Board or Commission shall cease to exist. The term of any such temporary Board or Commission shall not exceed 18 months from the date of its appointment, except if extended by the County Council to a time certain.
- (c) *Duties and Responsibilities.* A temporary Board or Commission shall assist in the consideration of County administrative policies and programs. It shall study conditions in its respective field, with particular reference to the policies and programs in Howard County. The temporary Board or Commission shall report its findings to the County Executive.
- (d) *Compensation.* Members of temporary Boards and Commissions shall not be compensated for their services except for necessary expenses as may be provided in the budget.
- (e) *Prohibition for Meeting on Certain Days.* All Howard County temporary Boards and Commissions shall be prohibited from holding meetings which include an opportunity for public testimony on any day on which Rosh Hashanah, Yom Kippur, Eid Ul Fitr or Eid Ul Adha is observed.

(C.B. 62, 1988; C.B. 72, 2004; 81, 2004)

Sec. 6.313. - Commission on Aging.

There is a Commission on Aging. Its membership and duties and responsibilities are set forth in subtitle 5, "Older Howard Countians Act," of title 12, "Health and Social Services," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.314. - Agricultural Preservation Board.

There is an Agricultural Preservation Board. Its membership and duties and responsibilities are set forth in subtitle 5, "Agricultural Preservation," of title 15, "Natural Resources," of the Howard County Code.

(C.B. 62, 1988; C.B. 63, 2018, § 1)

Sec. 6.315. - Animal Matters Hearing Board.

There is an Animal Matters Hearing Board. Its membership and duties and responsibilities are set forth in subtitle 3, "Animals," of title 17, "Public Protection Services," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.316. - Cable Advisory Committee.

There is a Cable Advisory Committee. Its membership and duties and responsibilities are set forth in subtitle 4, "Howard County Cable Television Systems Franchise Act," of title 14, "Licenses, Permits and Inspections," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.317. - Advisory Board on Consumer Protection.

There is an Advisory Board on Consumer Protection. Its membership and duties and responsibilities are set forth in subtitle 4, "Consumer Protection," of title 17, "Public Protection Services," of the Howard County Code.

(C.B. 62, 1988; C.B. 12, 2016, § 1)

Sec. 6.318. - Commission on Disabilities.

There is a Commission on Disabilities. Its membership and duties and responsibilities are set forth in subtitle 4, "Disability Issues," of title 12, "Health and Social Services," of the Howard County Code.

(C.B. 62, 1988; C.B. 49, 2018, § 1)

Sec. 6.319. - Reserved.

Editor's note— Section 6.319 was repealed by C.B. 7, 1993. The section was formerly derived from C.B. 62, 1988 and dealt with the Economic Development Advisory Council. The provisions bear an effective date of March 31, 1994, or whenever the Economic Development Authority authorized by Maryland House Bill 1111 is deemed practically able to perform its duties, whichever is sooner. The Economic Development Authority shall be deemed practically able to perform its duties upon:

(a) The appointment of all the initial Board Members of the Economic Development Authority;

(b) The adoption of bylaws by the Economic Development Authority;

(c) The appointment of an Executive Director of the Authority;

- (d) The acquisition of premises and office equipment for the Authority; and
- (e) The hiring of staff for the Authority.

Sec. 6.320. - Board of Electrical Examiners.

There is a Board of Electrical Examiners. Its membership and specific duties and responsibilities are set forth in subtitle 2, "Electrical Regulations," of title 3, "Buildings, of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.321. - Public Ethics Commission.

There is a Public Ethics Commission. Its membership and duties and responsibilities are set forth in subtitle 2, "Public Ethics," of title 22, "General Provisions, Penalties, etc.," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.322. - Reserved.

Editor's note— C.B. 12, 2019, § 1, adopted May 13, 2019, repealed § 6.322, which pertained to Fire and Rescue Services Board and derived from C.B. 62, 1988.

Sec. 6.323. - Board of Health.

There is a Board of Health. Its membership and duties and responsibilities are set forth, in subtitle 1, "Health Code," of title 12, "Health and Social Services," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.324. - Historic Preservation Commission.

There is a Historic Preservation Commission. Its membership and duties and responsibilities are set forth in subtitle 6, "Historic Preservation Commission," of title 16, "Planning, Zoning, Subdivision, etc.," of the Howard County Code.

(C.B. 62, 1988; C.B. 11, 2014, § 1)

Sec. 6.325. - Housing and Community Development Board.

There is a Housing and Community Development Board. Its membership and duties and responsibilities are set forth in subtitle 2, "Housing and Community Development Board," of title 13, "Housing and Community Development," of the Howard County Code.

(C.B. 62, 1988; C.B. 59, 2001, § 3)

Sec. 6.326. - Human Rights Commission.

There is a Human Rights Commission. Its membership and duties and responsibilities are set forth in subtitle 2, "Human Rights," of title 12, "Health and Social Services," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.327. - Reserved.

Editor's note— Section 6.327 was repealed by C.B. 7, 1993. The section was formerly derived from C.B. 62, 1988 and dealt with the Industrial Development Revenue Bond Review Subcommittee.

Sec. 6.328. - Planning Board.

There is a Planning Board. Its membership and duties and responsibilities are set forth in subtitle 9, "Planning Board," of title 16, "Planning, Zoning, Subdivision, etc.," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.329. - Plumbing Advisory Board.

There is a Plumbing Advisory Board. Its membership and duties and responsibilities are set forth in subtitle 3, "Plumbing," of title 3, "Buildings," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.330. - Public Works Board.

There is a Public Works Board. Its membership and duties and responsibilities are set forth in subtitle 11, "Public Works Board," of title 18, "Public Works," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.331. - Recreation and Parks Board.

There is a Recreation and Parks Board. Its membership and duties and responsibilities are set forth in subtitle 7, "Recreation and Parks Board," of title 19, "Recreation and Parks," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.332. - Multimodal Transportation Board.

There is a Multimodal Transportation Board. Its membership and duties and responsibilities are set forth in subtitle 5, "Public Transportation," of title 21, "Traffic Control and Transportation," of the Howard County Code.

(C.B. 62, 1988; C.B. 20, 2017, § 1)

Sec. 6.333. - Commission for Women.

There is a Commission for Women. Its membership and duties and responsibilities are set forth in subtitle 7, "Women's Issues," of title 12, "Health and Social Services," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.334. - Historic Sites and Landmarks Board.

There is a Historic Sites and Landmarks Board. Its membership and duties and responsibilities are set forth in subtitle 5, "Historic Sites and Landmarks," of [this] title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 66, 1989)

Sec. 6.335. - Local Behavioral Health Advisory Board.

There is a Local Behavioral Health Advisory Board. Its membership and duties and responsibilities are set forth in subtitle 10, "Behavioral Health," of title 12, "Health and Social Services," of the Howard County Code.

(C.B. 67, 1989; C.B. 13, 2018, § 1)

Sec. 6.336. - Cemetery Preservation Advisory Board.

There is a Cemetery Preservation Advisory Board. Its membership and duties and responsibilities are set forth in subtitle 13, "Cemetery Preservation," of title 16, "Planning, Zoning and Subdivision and Land Development Regulations."

(C.B. 13, 1993)

Sec. 6.337. - Equal Business Opportunity Commission.

There is an Equal Business Opportunity Commission. Its membership and duties and responsibilities are set forth in subtitle 6, "Equal Business Opportunity Commission," of title 4, "Contracts, Property and Purchasing," of the Howard County Code.

(C.B. 78, 1993)

Sec. 6.338. - Pension Oversight Commission.

There is a Pension Oversight Commission. Its membership and duties and responsibilities are set forth in subtitle 4, "Retirement Plans," of title 1, "Personnel Administration" of the Howard County Code.

(C.B. 21, 1995)

Cross reference— Pension oversight Commission established, § 1.482 et seq.

Sec. 6.339. - Environmental Sustainability Board.

There is an Environmental Sustainability Board. Its membership, duties, and responsibilities are set forth in subtitle 6, "Environmental Sustainability," of this title.

(C.B. 78, 2007, § 1)

Sec. 6.340. - Design Advisory Panel.

There is a Design Advisory Panel. Its membership, duties, and responsibilities are set forth in subtitle 15, "Design Advisory Panel," of title 16, "Planning, Zoning and Subdivisions and Land Development Regulations" of the Howard County Code.

(C.B. 24, 2008, § 2)

Sec. 6.341. - Board to Promote Self-Sufficiency.

There is a Board to Promote Self-Sufficiency. Its membership, duties, and responsibilities are set forth in subtitle 17, "Board to Promote Self-sufficiency," of title 12, "Health and Social Services," of this Code.

(C.B. 23, 2008, § 1)

Sec. 6.342. - Commission for Veterans and Military Families.

There is a Commission for Veterans and Military Families. Its membership, duties, and responsibilities are set forth in subtitle 7, "Veterans," of this title.

(C.B. 3, 2011, § 1)

Sec. 6.343. - Commission for Transitioning Students with Disabilities.

There is a Commission for Transitioning Students with Disabilities. Its membership, duties, and responsibilities are set forth in subtitle 20, "Commission for Transitioning Students with Disabilities," of title 12, "Health and Social Services," of this Code.

(C.B. 36, 2016, § 1)

Sec. 6.344. - Martin Luther King, Jr. Holiday Commission.

There is a Martin Luther King, Jr. Holiday Commission. Its membership, duties, and responsibilities are set forth in subtitle 2, "Human Rights," of title 12, "Health and Social Services," of the Howard County Code.

(C.B. 35, 2016, § 1)

SUBTITLE 4. - DEPARTMENT OF COUNTY ADMINISTRATION⁵

Footnotes:

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Editor's note— Section 4 of C.B. 62, 1988 added sub. 4 to tit. 6, §§ 4.100, 4.101, 6.402—6.404. The editor has renumbered §§ 4.100, 4.101 as §§ 6.400, 6.401 to conform those sections to the correct style. The bill is effective July 1, 1989.

Sec. 6.400. - General provisions.

General provisions applicable to this Department are set forth in subtitle 2, "Administrative Departments and Offices," of [this] title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 62, 1988)

Sec. 6.401. - Department of County Administration.

- (a) *Head; Title.* The Chief Administrative Officer is the head of the Department of County Administration. The Chief Administrative Officer is the "County Administrator" referred to in Howard County Charter.
- (b) *Qualifications of Chief Administrative Officer.* The Chief Administrative Officer shall be appointed on the basis of managerial and administrative skills and experience. At the time of appointment, the Chief Administrative Officer shall have had at least ten years' experience as a manager, either in public service or private business or both. The Chief Administrative Officer shall also be thoroughly familiar with modern accounting methods, budget procedures, personnel administration, data processing, and purchasing.
- (c) *Residency Requirement for Chief Administrative Officer.* At the time of appointment the Chief Administrative Officer may, but need not be, a resident of Howard County or of the State of Maryland; but during tenure of office, the Chief Administrative Officer shall reside within the County.
- (d) *Duties and Responsibilities:*
 - (1) *Acting Executive.* Pursuant to section 302 of the Howard County Charter, and upon designation by the County Executive, the Chief Administrative Officer shall perform the duties and responsibilities of the Executive during the latter's temporary inability to perform by reason of absence from the County or disability.
 - (2) *General administrative duties and responsibilities.* The Chief Administrative Officer shall perform administrative duties and responsibilities and exercise general supervision over the offices and Departments of County Government as the Executive may direct. The Chief Administrative Officer shall perform duties and responsibilities prescribed by law, including any duties or responsibilities to be performed by the County Administrator.
 - (3) *Budget duties and responsibilities.* The Chief Administrative Officer or the officer's designee shall be responsible for budgetary functions for the County and as such shall prepare and submit to the Executive for approval and submission to the Council all County budgets, prepared in the manner and form provided by law.
 - (4) *Personnel duties and responsibilities.* The Chief Administrative Officer or the officer's designee shall be responsible for personnel functions for the County. The Chief Administrative Officer or the officer's designee shall have the duties and responsibilities and perform the functions of the Personnel Officer provided in article VII of the Charter and other duties and responsibilities and functions specified by the Howard County Charter or by law. The Chief Administrative Officer may assign any administrative and/or supervisory duties and responsibilities to the Deputy Chief Administrative Officer.
 - (5) *Purchasing duties and responsibilities.* The Chief Administrative Officer or the officer's designee shall be responsible for purchasing functions for the County. As such, the Chief Administrative Officer or the officer's designee shall be the County Purchasing Agent and shall

be responsible for the administration of the central purchasing policies of the County provided in the Howard County Charter or by law.

(6) *Report on County vehicle fleet.*

- (i) In this paragraph the following words have the meanings indicated:
 - a. *Class 1 vehicle* means a passenger car or a truck with a manufacturer's rated capacity of one ton or less;
 - b. *Class 2 vehicle* means a vehicle with a manufacturer's rated capacity of more than one ton.
 - c. *Class 3 vehicle* means a vehicle used primarily for construction or a similar purpose and not categorized as a Class 1, 2 or 4 vehicle; and
 - d. *Class 4 vehicle* means a vehicle that is used by the Department of Fire and Rescue Services and is not a Class 1 vehicle.
- (ii) On or before February 1 of each year, the Chief Administrative Officer shall submit a report to the County Executive and, subject to section 22.1000 of the County Code, the County Council on the County's vehicle fleet. The report shall include:
 - a. A list of Class 1, 2, 3 and 4 County vehicles scheduled to be replaced in the current fiscal year; and
 - b. A list of Class 1 vehicles that are past or within two years of the end of their estimated useful life.
- (iii) In addition to the information required by subparagraph (6)(ii) of this subsection, every two years the report shall include:
 - a. For each Class 2, 3 and 4 County vehicle that is past or within five years of the end of its estimated useful life:
 - 1. The date of purchase;
 - 2. The purchase price;
 - 3. The estimated useful life;
 - 4. The estimated replacement cost;
 - 5. The estimated year of replacement;
 - 6. The current total mileage or hours of use;
 - 7. Except for Class 4 vehicles, the amount of the annual capitalization charge; and
 - 8. Except for Class 4 vehicles, the current balance of the capitalization charge; and
 - b. The lifetime total for maintenance and repair for each Class 2, 3 and 4 County vehicle that is past or within three years of the end of its estimated useful life.

(7) *Risk management.* The Chief Administrative Officer or the officer's designee shall administer the County's risk management, loss prevention, and insurance management programs, and shall:

- (i) Develop insurance recommendations and coordinate insurance procurement packages;
- (ii) Coordinate, develop, and manage in-house cost containment/loss control procedures;
- (iii) Determine the allocation cost of self insurance and purchased insurance to the various agencies;
- (iv) Review the County's contracts to determine liability impact;
- (v) Supervise the County's safety program;

- (vi) Supervise the claims management function involving the receipt, adjustment and disposal of claims filed against the County;
 - (vii) Authorize the denial and payment of liability claims;
 - (viii) Submit an annual report to the County Executive on the activities of the risk management function and the status of the risk management fund; and
 - (ix) Perform any other task necessary to administer the County's risk management program.
- (8) The Chief Administrative Officer shall have overall supervision of the functions of the offices listed in section 6.201 of this title.
- (9) *The Department of County Administration* shall perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 62, 1988; C.B. 117, 1989; C.B. 151, 1991; C.B. 6, 1992; C.B. 7, 1993; C.B. 9, 1993; C.B. 16, 1996; C.B. 17, 1996; C.B. 19, 2000; C.B. 33, 2007; C.B. 12, 2008, § 3; C.B. 5, 2011, § 1; C.B. 43, 2018, § 1)

Sec. 6.402. - Reserved.

Editor's note— Section 2 of C.B. 16, 1996, repealed § 6.402 in its entirety. Formerly, § 6.402 pertained to the office of information systems services and derived from C.B. 62, 1988.

Sec. 6.403. - Office of Central Services.

- (a) *General Provisions.* General provisions regarding this Office are set forth in subtitle 2, "Administrative Departments and Offices" of [this] title 6, "County Executive and the Executive Branch" of the Howard County Code.
- (b) *Head.* The Central Services Administrator shall head the Office of Central Services. The Chief Administrative Officer shall exercise general supervision over the Office of Central Services.
- (c) *Qualifications of Central Services Administrator.* The Central Services Administrator shall be a classified employee whose qualifications are set forth in the classification system.
- (d) *Duties and Responsibilities.* The Office of Central Services shall be responsible for providing central service functions and fleet management services for County offices, Departments, Boards, and institutions as provided in this subsection.
 - (1) The Office shall provide central services, including:
 - (i) Copying and duplicating;
 - (ii) Printing services and associated services such as collating and binding;
 - (iii) Mail services including in-house mail handling, mailing and delivery of items sent through U.S. mail or other delivery services;
 - (iv) Messenger service;
 - (v) Motor pool;
 - (vi) Maintaining a supply store for County agencies to purchase office and other work supplies;
 - (vii) Operating warehouses for the storage of County equipment; and
 - (viii) Other central services as may be specified from time to time by directive of the Chief Administrative Officer or the County Executive.

- (2) Except for specific vehicles and small engines excluded by directive of the County Executive, the Office shall provide fleet management and vehicle and small engine operation services for all County-owned vehicles and small engines, including:
 - (i) Subject to County purchasing law, the acquisition and disposal of all County-owned vehicles and small engines;
 - (ii) The assignment of County-owned vehicles and small engines to County Departments and agencies; and
 - (iii) The maintenance and repair of County-owned vehicles and small engines.
- (3) The Office shall perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 28, 1996; C.B. 60, 2001, § 1)

Sec. 6.404. - Office of Public Information.

- (a) *General Provisions.* General provisions applicable to this Office are set forth in subtitle 2, "Administrative Departments and Offices," of [this] title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Head.* The Public Information Administrator shall head the Office of Public Information. The Chief Administrative Officer shall exercise general supervision over the office of public information.
- (c) *Qualifications of Public Information Administrator.* The Public Information Administrator shall have considerable knowledge of the principles and practices of public information, public relations, journalism, and media. The Administrator shall have had at least five years of experience in journalism or public information work, including at least two years in a supervisory position.
- (d) *Duties and Responsibilities.* The Office of Public Information shall:
 - (1) Serve as a focal point for communications with citizens and community organizations.
 - (2) Provide design support and coordination for Departmental and County-wide publications.
 - (3) Establish and maintain an information and referral program.
 - (4) Provide primary contact with news media reporters and representatives.
 - (5) Plan and coordinate news conferences and facilitate reporters' access to public officials and documents.
 - (6) Supervise the programming of the government access cable television channel.
 - (7) Perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 62, 1988)

Sec. 6.405. - Office of Purchasing.

- (a) *General Provisions.* General provisions regarding this Office are set forth in subtitle 2, "Administrative Departments and Offices," of [this] title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Head.* The Purchasing Administrator shall head the Office of Purchasing. The Chief Administrative Officer shall exercise general supervision over the Office of Purchasing.
- (c) *Qualifications of Purchasing Administrator.* The Purchasing Administrator shall be a classified employee whose qualifications are set forth in the classification system.

- (d) *Duties and Responsibilities.* The Purchasing Administrator shall carry out the duties set forth in subtitle 1, "Purchasing," of title 4, "Contracts and Purchasing," of the Howard County Code and other purchasing functions as may be specified from time to time by directive of the Chief Administrative Officer, the County Executive or by legislative act of the County Council.

(C.B. 117, 1989)

Sec. 6.406. - Office of Workforce Development.

- (a) *General Provisions.* General provisions applicable to this Office are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Head.* The Administrator of Workforce Development shall head the Office of Workforce Development under the general supervision of the Chief Administrative Officer.
- (c) *Qualifications of Administrator of Workforce Development.* The Administrator of Workforce Development shall have considerable knowledge of Federal and State legislation, guidelines and procedures relating to job training and placement. At the time of appointment, the Administrator shall have had at least five years of increasingly responsible experience in employment and training and at least two years in a supervisory position.
- (d) *Duties.* The Office of Workforce Development shall promote and enhance the training and employment of displaced workers, welfare recipients, disadvantaged adults and youth, persons with disabilities, at-risk youth, and other persons with barriers to employment. The Office of Workforce Development shall:
- (1) Administer the workforce development programs for the citizens of Howard County pursuant to State and Federal law.
 - (2) Work with business, the community, and local educational institutions to provide a qualified work force.
 - (3) Provide referrals and linkages for citizens who need human services in addition to employment and training.
 - (4) The Office of Workforce Development shall perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 7, 1993; C.B. 33, 2007, § 2)

Sec. 6.407. - Office of Community Sustainability.

- (a) *General Provisions.* General provisions applicable to this Office are set forth in subtitle 2, "Administrative Departments and Offices," of this title of the Howard County Code.
- (b) *Head.* The Administrator of the Office of Community Sustainability shall head the Office of Community Sustainability under the general supervision of the Chief Administrative Officer.
- (c) *Qualifications of the Administrator of the Office of Community Sustainability.* The Administrator of the Office of Community Sustainability shall have considerable knowledge of the principles and best practices of various aspects of sustainability including economic, environmental, infrastructure, and agricultural sustainability. At the time of appointment, the Administrator shall have had at least five years of increasingly responsible experience in the administration of a sustainability program, including at least two years in a supervisory role.
- (d) *Duties and Responsibilities.* The Office of Community Sustainability shall promote and enhance sustainability within County Government by performing the following functions:

- (1) Assessing the economic, agricultural, infrastructure, and environmental impacts of all initiatives and programs across the County;
- (2) Developing and advocating for programs, policies, and actions by government, citizens, businesses, farmers, and institutions to improve the long term environmental, agricultural, social, and economic viability of the County;
- (3) Serving as a single point of contact and resource for residents, businesses, farmers, and institutions that are looking to become economically and environmentally sustainable or that are looking to further their economic and environmental sustainability;
- (4) Providing leadership in conservation and energy initiatives including exploring the potential for and implementation of the use of alternative fuels;
- (5) In order to resolve complaints and concerns raised by citizens, assisting in the coordination of inspectors already existing in other agencies, including State and Federal entities, as applicable;
- (6) Working closely with the Howard County Environmental Sustainability Board to recommend policies and funding proposals to the County Executive and County Council concerning the sustainability of the County's natural resources;
- (7) Working closely with all Boards and Commissions that may play a role in the sustainability of the County's economic, environmental, infrastructure, and agricultural resources;
- (8) Working closely with the Economic Development Authority, Howard Soil Conservation District, University of Maryland Extension and Maryland Department of Agriculture to ensure agricultural innovation and economic and environmental sustainability;
- (9) Coordinating, exploring, and obtaining grant funding related to all areas of sustainability;
- (10) Providing an Executive Secretary of the Agricultural Preservation Board;
- (11) Administering activities under the Agricultural Sustainability and Land Preservation Act that support farming and agricultural endeavors on the County's Agricultural Land Preservation easements and generally, within the County; and
- (12) Performing other functions as maybe prescribed by directive of the County Executive or by law.

(C.B. 12, 2008, § 2; C.B. 3, 2015, § 1; C.B. 63, 2018, § 1)

Editor's note— C.B. 3, 2015, § 1, adopted Mar. 4, 2015, changed the title of § 6.407 from "office of environmental sustainability" to the present title.

Sec. 6.408. - Office of Transportation.

- (a) *General Provisions* . General provisions applicable to this office are set forth in subtitle 2, "Administrative Departments and Offices," of this title of the Howard County Code.
- (b) *Head* . The Administrator of the Office of Transportation shall head the Office of Transportation under the general supervision of the Chief Administrative Officer.
- (c) *Qualifications of the Administrator of the Office of Transportation* . The Administrator of the Office of Transportation shall:
 - (1) Have a strong knowledge of all of the following transportation elements as they relate to comprehensive transportation planning:
 - (i) Public transit, including fixed-route and paratransit;
 - (ii) Bicycle transportation;

- (iii) Pedestrian transportation;
 - (iv) Road networks that promote all modes of transportation; and
 - (v) Transportation demand management.
 - (2) Have experience in, or understanding of, fiscal responsibility, as it pertains to developing and managing transportation budgets; and
 - (3) Have had, at the time of appointment, at least five years of increasing managerial and leadership experience in the transportation field, including participation in projects relating to the transportation elements described in this subsection.
- (d) *Duties and Responsibilities* . The Office of Transportation shall promote and enhance the County's transportation needs by performing the following functions:
- (1) Overseeing the provision, management, funding, and use of other resources necessary for the operation of the County's transit and paratransit services;
 - (2) Coordinating and planning road networks that promote all modes of transportation;
 - (3) Developing and managing transportation alternatives and strategies to reduce single occupancy vehicle use;
 - (4) Ensuring coordination of motor vehicle, transit, pedestrian, and bicycle modes of transportation;
 - (5) Developing and instituting policies and procedures for transportation in the County and region;
 - (6) Providing technical and administrative support for the Public Transportation Board, facilitating the work of the Board, and seeking the Board's input and recommendations regarding transportation;
 - (7) Working in conjunction with the Department of Planning and Zoning, the Department of Public Works, the Department of Community Resources and Services, the Department of Recreation and Parks, and other agencies associated with the transportation modes described in this subsection to ensure the integration of land use decisions with transportation planning that take into account all of the transportation elements described in this section;
 - (8) Establishing and maintaining official and informal associations with various federal, state, and local officials and professionals to facilitate and promote the County's transportation goals and objectives; and
 - (9) Representing and providing advice to the County Executive on transit and transportation issues.
- (e) *Advisory Groups to the Office of Transportation*. The Office shall establish a Bicycle Advisory Group and a Transit and Pedestrian Advisory Group to advise the Office on issues related to the modes of transportation. Both advisory groups shall be staffed by the Office of Transportation.
- (1) *Bicycle Advisory Group*. The group shall be comprised of:
 - (a) A member of the Multimodal Transportation Board;
 - (b) A Howard County Student, selected by Voices for Change;
 - (c) A Howard County Student, selected by the Howard County Association of Student Councils;
 - (d) At least one representative from each of the following organizations:
 - (i) The Bicycling Advocates of Howard County;
 - (ii) The Columbia Association;
 - (iii) The Howard County Department of Public Works;
 - (iv) The Howard County Department of Recreation and Parks;

- (v) The Howard County Police Department;
 - (vi) The Howard County Public School System; and
 - (vii) The Howard County Council; and
- (e) Other members at the discretion of the Administrator of the Office.
- (2) *Transit and Pedestrian Advisory Group.* The group shall be comprised of:
- (a) A member of the Multimodal Transportation Board;
 - (b) A Howard County Student, selected by Voices for Change;
 - (c) A Howard County Student, selected by the Howard County Association of Student Councils;
 - (d) A Howard County resident who is a Regional Transportation Agency paratransit passenger;
 - (e) A Howard County resident who is a fixed-route Regional Transportation Agency passenger;
 - (f) Two people selected by the Howard County Public School System, at least one of whom shall be a high school principal;
 - (g) At least one representative from each of the following organizations:
 - (i) The Howard County Association of Community Services;
 - (ii) The Commission on Aging;
 - (iii) The Commission on Disabilities;
 - (iv) The Howard County Department of Recreation and Parks;
 - (v) The Howard County Police Department; and
 - (vi) The Howard County Council; and
 - (h) Other members at the discretion of the Administrator of the Office.
- (3) *Advisory Group Meetings.*
- (a) Each advisory group shall meet at least four times per year. At least two meetings shall be joint meetings with the Bicycle Advisory Group and the Transit and Pedestrian Advisory Group, and at least two meetings shall be held separately.
 - (b) Each meeting shall include an open forum component in which members of the public are invited to comment about transportation.
 - (c) Advisory groups shall follow the State of Maryland Open Meetings Law.
 - (d) The Office of Transportation shall notify directly the groups and organizations listed in section 6.408(e)(1)(d) and section 6.408(e)(2)(g) of each advisory group meeting, but an advisory group's work shall not be invalidated for lack of representation from one or more of the listed groups or organizations.
- (4) *Advisory Group Responsibilities.* Advisory groups shall:
- (a) Advise and inform the Office on transportation matters;
 - (b) Provide additional subject matter expertise to the Office; and
 - (c) Provide feedback and technical assistance on the implementation of master plans and other initiatives and policy issues.

SUBTITLE 5. - HISTORIC SITES AND LANDMARKS

Sec. 6.500. - Historic Sites and Landmarks Board.

- (a) *General Provisions.* General provisions applicable to this Commission are set forth in subtitle 3, "Boards and Commissions," of [this] title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members.* The Historic Sites and Landmarks Board shall have seven appointed members and two ex officio members. All nine members shall be voting members.
- (c) *Qualifications of Members:*
 - (1) All appointed members shall be residents of Howard County.
 - (2) The appointed members shall have demonstrated a special knowledge, interest, or expertise in:
 - (i) The restoration or maintenance of historic site's and landmarks; or
 - (ii) Administration or fundraising for historical, cultural or civic institutions; or
 - (iii) Working with volunteers.
 - (3) One of the ex officio members shall be the Director of Planning and Zoning or the Director's designee.
 - (4) One of the ex officio members shall be the Director of Recreation and Parks or the Director's designee.
- (d) *Executive Secretary.* The Chief Administrative Officer, or the officer's designee, shall serve as Executive Secretary of the Board and shall attend all meetings of the Board.
- (e) *Duties of the Historic Sites and Landmarks Board.* The Historic Sites and Landmarks Board shall:
 - (1) Recommend policies and funding proposals to the County Executive concerning the use and maintenance of historic sites and landmarks which are owned by Howard County.
 - (2) Make recommendations including funding proposals to the County Executive and to the County Council regarding the acquisition or disposition by the County of historic sites and landmarks.
 - (3) Make administrative and budgetary recommendations to the Chief Administrative Officer concerning the operations of historic sites and landmarks owned by Howard County which are available for use by the public.
 - (4) Encourage the donation of historic sites and landmarks to Howard County and encourage the raising of funds for acquisition of other historic sites and landmarks.
 - (5) Encourage the raising of funds for the renovation, care and maintenance of historic sites and landmarks owned by Howard County.
 - (6) *Other matters.* At the directive of the County Executive or by resolution of the County Council, review and make recommendations on any matter related to historic sites and landmarks in Howard County.

(C.B. 66, 1989)

SUBTITLE 6. - ENVIRONMENTAL SUSTAINABILITY.

Sec. 6.600. - Environmental Sustainability Board.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of this title.
- (b) *Number of Members.* The Board shall have 13 voting members.
- (c) *Method of Appointment.* Each member shall be appointed by the County Executive and confirmed by the County Council.
- (d) *Qualifications of Members.* All members shall be residents of Howard County and:
 - (1) One member shall have a special interest or training in the field of air and water quality;
 - (2) One member shall have a special interest or training in the field of open space and land preservation;
 - (3) One member shall have a special interest or training in the field of energy use;
 - (4) One member shall have a special interest or training in the field of green building;
 - (5) One member shall have a special interest or training in the field of environmental education;
 - (6) One member shall have a special interest or training in the field of environmental governance;
 - (7) One member shall have a special interest or training in the field of transit;
 - (8) One member shall be a student under the age of 19; and
 - (9) The remainder of the members shall represent the general public and have a general interest in the environment.
- (e) *Representation from Council Districts.* There shall be at least one member, as qualified by subsection (d), from each Council District.
- (f) *Terms.* A member may not serve more than two consecutive terms and the student member's term shall be for one year, beginning June 1 and ending May 31.
- (g) *Executive Secretary.* The Chief Administrative Officer, or the officer's designee, shall serve as Executive Secretary of the Board and shall attend all meetings of the Board.
- (h) *Meetings.* The Board shall meet at least six times per year. Special meetings may be held at any time, at the call of the chair or upon written request of at least seven members.
- (i) *Duties.* The Board shall:
 - (1) Recommend policies and funding proposals to the County Executive and the County Council concerning the sustainability of Howard County's natural resources;
 - (2) Review and evaluate existing environmental policies, practices, and procedures;
 - (3) Listen to the concerns and ideas of individuals, institutions, and organizations on environmental issues affecting the County;
 - (4) Develop activities which will increase public awareness of environmental sustainability;
 - (5) Act as a County advocate for environmental and sustainability programs;
 - (6) Monitor and evaluate progress of County operations in achieving environmental sustainability goals;
 - (7) On or before April 22 of each year, submit an annual report to the County Executive and, subject to section 22.1000 of the County Code, the County Council on the progress being made in the areas of environmental protection and preservation; and
 - (8) At the directive of the County Executive, or by resolution of the County Council, review and make recommendations on any matter related to environmental protection, preservation, or sustainability in Howard County.

(C.B. 78, 2007, § 2; C.B. 43, 2018, § 1)

SUBTITLE 7. - VETERANS

Sec. 6.700. - Commission for Veterans and Military Families.

- (a) *General provisions.* General provisions applicable to the Commission for Veterans and Military Families are set forth in subtitle 3, "Boards and Commissions," of this title.
- (b) *Definitions.* For purposes of this subtitle:
 - (1) *Military family* shall include a person who is:
 - (i) A veteran, active duty member, or member of a reserve component of the United States Armed Forces; or
 - (ii) A relative of a veteran, active duty personnel, or member of a reserve component of the United States Armed Forces.
 - (2) *United States Armed Forces* shall mean the Army, Navy, Air Force, Marines, and Coast Guard.
 - (3) *Veteran* shall mean:
 - (i) A person who served on full time active duty in the United States Armed Forces, other than active duty for training, and was discharged or released under conditions other than dishonorable; or
 - (ii) A person who was disabled from a disease or injury incurred or aggravated in the line of duty while performing active duty for training or inactive duty training; or
 - (iii) A person who served full time as a commissioned corps member of the Public Health Service or the National Oceanic and Atmospheric Administration.
- (c) *Number of members; method of appointment.* The Commission shall consist of 13 members who shall be appointed by the County Executive and confirmed by resolution of the County Council.
- (d) *Composition of membership.* Of the 13 members:
 - (1) Nine shall be veterans, one or more of whom shall have a service-connected disability and at least three of whom shall be members of at least one veterans' organization including, without limitation:
 - (i) Veterans of Foreign Wars;
 - (ii) American Legion;
 - (iii) AMVETS;
 - (iv) Disabled American Veterans;
 - (v) Military Order of the Purple Heart;
 - (vi) Jewish War Veterans;
 - (vii) Vietnam Veterans of America;
 - (viii) Korean War Veterans Association;
 - (ix) United Female Veterans of America or Another Women's Veterans Organization;
 - (x) Catholic War Veterans;
 - (xi) Women's Army Air Corps Association;
 - (xii) Military Officers Association of America;
 - (xiii) A local chapter of the American Ex-Prisoners of War;

- (xiv) Polish Legion of American Veterans;
 - (xv) Marine Corps League;
 - (xvi) Retired Enlisted Association;
 - (xvii) The National Association for Black Veterans;
 - (xviii) An Organization of Veteran Commissioned Corps Member of the Public Health Service;
or
 - (xix) An Organization of Veteran Commissioned Corps Member of the National Oceanic and Atmospheric Administration.
- (2) Two shall be immediate family members of either:
- (i) A veteran; or
 - (ii) A person engaged in active-duty service or a member of a reserve component of the United States Armed Forces at the time of appointment; and
- (3) Two members shall work or volunteer for an organization that serves veterans or military families.
- (e) *Executive Secretary.* The County Executive shall designate a county employee to serve as Executive Secretary to the Commission and attend all meetings.
- (f) *Meetings.* The Commission shall meet at least quarterly.

(C.B. 3, 2011, § 1)

Sec. 6.701. - General powers and duties of the Commission for Veterans and Military Families.

In general. Commission for Veterans and Military Families may:

- (1) Establish a forum exclusively relating to the issues of Howard County residents who served or are serving in the Armed Forces of the United States and military families;
- (2) Maintain communication between government agencies, businesses, educational institutions, veterans, and military families in the County, with the intent that veterans' issues will be addressed in the most effective and efficient manner;
- (3) Provide assistance, guidance, and information to government agencies, businesses, and educational institutions to ensure adequate consideration of veterans and their history of service in education, employment, training, and public programs;
- (4) Research, assemble, analyze, and disseminate information and educational materials relating to activities and programs that will assist in meeting the needs of veterans and their families;
- (5) Identify and maintain a list of veterans' organizations as a resource to the Commission;
- (6) Institute and conduct educational and other programs, meetings, and conferences to promote the rights of and opportunities for veterans and military families;
- (7) Advise the Executive and the Council on the status of programs and services in the State and County related to the needs of veterans and military families;
- (8) Assist in planning appropriate public acknowledgement of the contributions made by veterans and military families and assist in planning commemoration activities recognizing contributions made by veterans and military families;
- (9) Advise the Office of Purchasing on ways to further promote efforts of the County in procuring goods and services from veteran-owned business enterprises pursuant to the County's Veteran-Owned Business Enterprise Program; and

- (10) Review and provide advice to the Office of Purchasing on policies, programs and practices designed to promote business opportunity for veteran-owned business enterprises.

(C.B. 3, 2011, § 1; C.B. 8, 2018, § 2)

Sec. 6.702. - Annual report.

Subject to section 22.1000 of the County Code, on or before January 31 of each year, the Commission shall submit an annual report to the County Council and the County Executive on its activities during the previous year. The report shall include recommendations, if any, for changes or improvements to the Commission.

(C.B. 3, 2011, § 1; C.B. 43, 2018, § 1)

TITLE 7 - COURTS

SUBTITLE 2. - ORPHANS' COURT²¹

Footnotes:

--- (2) ---

State Law reference— Review of decisions of orphans' courts, Ann. Code of Md., Courts and Judicial Proceedings article, § 12-501 et seq.

Sec. 7.200. - Meetings; adjournment.

The Orphans' Court of Howard County shall be held on the first and third Tuesday of every month; and oftener if need be, according to its own adjournment; and any judge of said court, in the absence of the others, shall have power to hold the said court at a stated time of adjournment, only for the purpose of adjourning.

(P.L.L., 1860, Art. 13, § 33; 1888, Art. 14, § 99; 1930, § 227)

Sec. 7.201. - Action by two judges.

Any two of said judges shall have full power to do any act which the said court is or shall be authorized to perform; and any two of them shall have power to hold court on any day not named in an adjournment, on the application of any person having pressing business in the said court; provided, notice be given to all of said judges; and in such case the register shall record that such notice hath been given.

(P.L.L., 1860, Art. 13, § 34; 1888, Art. 14, § 100; 1930, § 229)

SUBTITLE 3. - CIRCUIT COURT³¹

Footnotes:

--- (3) ---

State Law reference— Trial courts of general jurisdiction, Ann. Code of Md., Courts and Judicial Proceedings article, § 1-501 et seq.

Sec. 7.300. - Law clerk; appointment; compensation; duties.

The Circuit Court for Howard County may appoint law clerks to hold office at the court's pleasure who shall receive a salary to be established by the County Executive in the annual budget and appropriation ordinance of Howard County which shall be paid by the County. Law clerks shall perform such duties as may be prescribed by said court, including those duties performed by a bailiff of said court, and shall work under the supervision and direction of the judges of said court.

(Ch. 734, 1967; C.B. 33, 1973)

Sec. 7.301. - Court stenographer; appointment; compensation.

The Circuit Court for Howard County shall appoint as many competent court stenographers, hereinafter to be designated court reporters, to serve either on a full- or part-time basis, as said court shall deem necessary for the conduct of the business of said court. Said court reporter or reporters, who shall be sworn officers of said court, shall hold office at said court's pleasure, and shall be entitled to such salary as said court may, from time to time, prescribe, to be levied annually by Howard County, and paid in such installments, and at such times, as the other County employees are paid. Said court may, also, from time to time, whenever, in its opinion, the same is expedient, appoint special court reporters and prescribe their duties and compensation; and the compensation, so prescribed, shall be paid by said Howard County.

(P.L.L., 1930, Art. 14, § 51; 1910, Ch. 4, § 1 (p. 905); 1924, Ch. 323, § 1; 1945, Ch. 652, § 51; 1949, Ch. 388; 1965, Ch. 237, § 1; 1970, Ch. 87, § 1)

Sec. 7.302. - Duties of court reporters; transcripts.

The court reporters shall:

- (a) Record all proceedings and testimony in court. The recording may be made by any device approved by the court or may consist of full stenographic or stenotypic notes.
- (b) Prepare and file a typewritten transcript of the recording or notes upon the request of the court.
- (c) Furnish a typewritten transcript of the recording or notes to any party to a proceeding in the court. No party requesting a transcript may receive it before paying the court reporter(s) for the preparation. The fee for preparation of the transcript shall be set at a rate prescribed by the court. The court reporter(s) shall receive the fee for preparation of the transcript in addition to the salary provided for in section 7.301 of this subtitle.
- (d) Perform any stenographic, stenotypic or secretarial work requested by the court, its judges or which may be prescribed by law.

(P.L.L., 1930, Art. 14, § 52; 1910, Ch. 4, § 2 (p. 905); 1924, Ch. 323, § 2; 1945, Ch. 652, § 52; 1965, Ch. 237, § 1; 1970, Ch. 87, § 1; C.B. 12, 1983)

Secs. 7.303—7.306. - Reserved.

Editor's note— Sections 7.303—7.306, which pertained to grand jury; notes and transcripts, oath of secrecy, disclosure of proceedings and violation of secrecy, were repealed in 2006 by the Maryland General Assembly, by Section 9 of Chapter 372, and therefore have been repealed from this Code. See the Code Comparative Table-Council Bills for complete derivation.

Sec. 7.307. - Masters in chancery; appointment; duties; compensation; provision for assistants; additional rules and regulations.

- (a) The Circuit Court for Howard County may appoint no more than two members of the Bar of the State of Maryland as masters in chancery of the Circuit Court for Howard County. Each master shall hear any case that the circuit court may assign to him, including, but not limited to, cases involving adoption, divorce, annulment, custody, alimony and support, and shall perform any additional duties as from time to time may be prescribed by the court. These additional duties may include any duties authorized by any law or rule of court relating to masters in chancery.
- (b) Each master shall receive an annual salary provided by the County Executive and County Council of Howard County, in the amount the Executive and Council from time to time may prescribe after consultation with the court.
- (c) The Circuit Court for Howard County may appoint qualified persons to perform stenographic and secretarial duties for the masters. The appointees shall be paid salaries provided by the Executive and County Council of Howard County, in such amounts as the Executive and council from time to time may prescribe after consultation with the court.
- (d) The Circuit Court for Howard County may prescribe any additional rules pertaining to actions heard by masters in chancery that it deems necessary. The circuit court may prescribe all costs pertaining to any actions heard by the masters, and all costs so prescribed must be paid in advance to the Clerk of the Circuit Court for Howard County. The Clerk shall pay those costs to the Director of Finance of Howard County.

(1974, Ch. 847, § 1; 1975, Ch. 706, § 1; 1978, Ch. 719, § 1)

SUBTITLE 4. - HOWARD COUNTY BAR LIBRARY

Sec. 7.400. - Contribution to bar library.

The County Council of Howard County is hereby authorized and directed to appropriate annually, for the maintenance and support of the Howard County Bar Library, the sum of \$2,000.00, payable quarterly to the Clerk of the Circuit Court for Howard County.

(1961, Ch. 770, § 2)

SUBTITLE 5. - DEPARTMENT OF CORRECTIONS^[4]

Footnotes:

--- (4) ---

Editor's note— Section 46 of C.B. 62, 1988, renamed sub. 5 from "Department of Correction" to "Department of Corrections"; amended §§ 7.500, 7.502; and renumbered §§ 7.501, 7.503. More detailed explanation of the changes will be included in notes to each section. The bill is effective July 1, 1989.

Sec. 7.500. - General provisions.

General provisions applicable to the department are set forth in subtitle 2, "Administrative Departments and Offices" of [this] title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 6, 1975; C.B. 62, 1988)

Editor's note— Section 7.500 formerly prescribed the duties of the Department. These are now found in § 7.501(c).

Sec. 7.501. - Department of Corrections.

- (a) *Head.* The Director of Corrections shall head the Department of Corrections.
- (b) *Qualifications of Director of Corrections.* The Director of Corrections shall be thoroughly trained and experienced in the principles and practices of correctional institutional management. The Director shall have had at least ten years of increasingly responsible experience maintaining security and discipline in a public or military correctional institution or system, including a minimum of five years in a managerial position.
- (c) *Duties and Responsibilities.* The Department of Corrections shall be responsible for:
 - (1) The detention of persons awaiting trial.
 - (2) The safekeeping, care and custody of all inmates in the County Detention Center from the time of their lawful commitment until their lawful discharge.
 - (3) Other duties and responsibilities. The Department of Corrections shall perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 6, 1975; C.B. 62, 1988)

Editor's note— This section incorporates provisions formerly found in §§ 7.500, 7.502. Former § 7.501 is now § 7.502.

Sec. 7.502. - County Detention Center.

The Howard County jail is an institution within the Department of Corrections, and it shall hereafter be named the Howard County Detention Center.

(C.B. 6, 1975; C.B. 62, 1988)

Note— See the editor's note to § 7.501.

Sec. 7.503. - Custody of inmates in facilities other than County Detention Center.

Should the facilities of the County Detention Center be inadequate to provide for all inmates lawfully committed therein, the Director may, with the approval of the County Executive or his designated agent, make arrangements for the temporary custody of inmates at other correctional facilities within the State.

(C.B. 6, 1975)

Note— This section was unchanged in the revision of this subtitle by C.B. 62, 1988.

TITLE 8 - CRIMES AND MISDEMEANORS

SUBTITLE 3. - DRUG PARAPHERNALIA³¹

Footnotes:

--- (3) ---

Editor's note— Subtitle 3 of the 1972 Code consisted of § 8.300, relating to Sunday movies. Said section was repealed by C.B. 5, 1972. Subsequently, C.B. 1, 1980, added a new subtitle, §§ 8.300—8.307.

State Law reference— Drug paraphernalia, Ann. Code of Md., Criminal Law article, § 5-619.

Sec. 8.300. - Definitions.

For the purposes of this subtitle, the following words and phrases have the following meanings unless the context otherwise requires:

- (a) *Controlled dangerous substance* means any drug, substance or immediate precursor listed in article 27, section 279, Annotated Code of Maryland, including any future amendments thereto. The term shall not include distilled spirits, wine, malt beverages or tobacco as those terms are set in article 2B, Annotated Code of Maryland.
- (b) *Drug paraphernalia* means all equipment, products and materials of any kind which are intended for use, or designed for use, in planting, propagating, cultivation, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of section 276 et seq. of article 27, Annotated Code of Maryland. It includes but is not limited to:
 - (1) Kits designed or specially adapted for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived;
 - (2) Kits designed or specially adapted for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances;
 - (3) Isomerization devices designed or specially adapted for use in increasing the potency of any species of plant which is a controlled dangerous substance;
 - (4) Testing equipment designed or specially adapted for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances;
 - (5) Scales and balances designed or specially adapted for use in weighing or measuring controlled dangerous substances;
 - (6) Dilutents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, designed or specially adapted for use in cutting controlled dangerous substances;
 - (7) Separation gins and sifters designed or specially adapted for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;
 - (8) Blenders, bowls, containers, spoons and mixing devices designed or specially adapted for use in packaging small quantities of controlled dangerous substances;

- (9) Capsules, balloons, envelopes and other containers designed or specially adapted for use in packaging small quantities of controlled dangerous substances;
 - (10) Containers and other objects designed or specially adapted for use in storing or concealing controlled dangerous substances;
 - (11) Hypodermic syringes, needles and other objects designed or specially adapted for use in parenterally injecting controlled dangerous substances into the human body;
 - (12) Objects designed or specially adapted for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body such as:
 - (i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
 - (ii) Water pipes;
 - (iii) Carburetion tubes and devices;
 - (iv) Smoking and carburetion masks;
 - (v) Roach clips; meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
 - (vi) Miniature cocaine spoons, and cocaine vials;
 - (vii) Chamber pipes;
 - (viii) Carburetor pipes;
 - (ix) Electric pipes;
 - (x) Air-driven pipes;
 - (xi) Chilams;
 - (xii) Bongs;
 - (xiii) Ice pipes or chillers.
- (c) In determining whether an object is drug paraphernalia, a court or other authority may consider, if otherwise admissible, in addition to all other logically relevant factors, the following:
- (1) Statements by an owner or by anyone in control of the object concerning its use;
 - (2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any State or Federal law relating to any controlled dangerous substance;
 - (3) The proximity of the object, in time and space, to a direct violation of section 276 et seq. of article 27, Annotated Code of Maryland;
 - (4) The proximity of the object to controlled dangerous substances;
 - (5) The existence of any residue of controlled dangerous substances on the object;
 - (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of section 276 et seq. of article 27, Annotated Code of Maryland; the innocence of an owner, or of anyone in control of the object, as to a direct violation of section 276 et seq. of article 27, Annotated Code of Maryland, shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
 - (7) Instructions, oral or written, provided with the object concerning its use;
 - (8) Descriptive materials accompanying the object which explain or depict its use;
 - (9) National and local advertising concerning its use;
 - (10) The manner in which the object is displayed for sale;

- (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
 - (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
 - (13) The existence and scope of legitimate uses for the object in the community;
 - (14) Expert testimony concerning its use.
- (d) The definitions contained in article 27, section 277, Annotated Code of Maryland, including any future amendments thereto, are adopted and incorporated by reference and have the same force and effect as if set out in full in this subtitle.

(C.B. 1, 1980)

Sec. 8.301. - General.

- (a) The Council finds and declares it is necessary for the public health and welfare to prohibit the possession, display, offer for sale, sale, delivery, use or advertisement of drug paraphernalia for any purpose other than that specifically authorized by State or Federal law.
- (b) This subtitle is not applicable to a person who is registered or who is in full compliance with section 281 of article 27, Annotated Code of Maryland.
- (c) It is the legislative intent of the Council that every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word of this subtitle are to be liberally construed; that the provisions of this subtitle are declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this subtitle is to be declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this subtitle, since the same would have been enacted without the incorporation in this subtitle of any such invalid or unconstitutional word, phrase, clause, sentence, subparagraph, paragraph, subsection, or section.

(C.B. 1, 1980)

Sec. 8.302. - Use or possession of drug paraphernalia.

It is unlawful for any person, firm, corporation, business association, or other entity to use or to possess drug paraphernalia for any purpose other than that specifically authorized by State or Federal law.

(C.B. 1, 1980)

Sec. 8.303. - Sale or delivery of drug paraphernalia.

It is unlawful for any person, firm, corporation, business association, or other entity to possess with intent to deliver, manufacture with intent to deliver, display, offer, offer for sale, sell, or deliver any equipment, product or material knowing, or under circumstances where one reasonably should know, that it is drug paraphernalia or is designed or specially adapted for use as drug paraphernalia.

(C.B. 1, 1980)

Sec. 8.304. - Advertisement of drug paraphernalia.

It is unlawful for any person, firm, corporation, business association, or other entity to advertise in any newspaper, magazine, handbill, poster, sign, mailing, or other writing or publication or by radio, television, or sound truck, knowing, or where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale or delivery of drug paraphernalia.

(C.B. 1, 1980)

Sec. 8.305. - Injunction.

Howard County may seek an injunction in the Circuit Court for Howard County or other court of appropriate jurisdiction to enjoin the possession, display, offer for sale, sale, delivery, use or advertisement of drug paraphernalia within Howard County.

(C.B. 1, 1980)

Sec. 8.306. - Contraband.

Drug paraphernalia is hereby declared to be contraband if possessed for any purpose other than that specifically authorized by State or Federal law.

(C.B. 1, 1980)

Sec. 8.307. - Penalties.

Any person who violates any provision of this subtitle shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50.00 nor more than \$1,000.00, or imprisoned not less than 30 days nor more than six months, or both fined and imprisoned.

(C.B. 1, 1980)

SUBTITLE 4. - WEAPONS CONTROLS^[4]

Footnotes:

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Editor's note— C.B. 8, 2015, § 1, adopted May 12, 2015, changed the title of title 8, subtitle 4 from "Firearms Control" to the present title.

Editor's note— C.B. 33, 1976 repealed §§ 8.400, 8.401 and enacted in lieu thereof new §§ 8.400—8.500. Former subtitle 4 contained provisions regulating firearms, derived from ch. 109, 1966 and C.B. 41, 1973.

State Law reference— Weapons crimes, Ann. Code of Md., Criminal Law article, § 4-101 et seq.; restrictions on local regulations of firearms and ammunition, Ann. Code of Md., Criminal Law article, § 4-209.

Sec. 8.400. - Definitions.

Terms in this subtitle have the meanings indicated.

- (a) *Blank ammunition*: Any ammunition composed of a casing and a primer contained as one unit, but not containing a projectile or projectiles. Blank ammunition also includes black powder, nonprimed antique.
- (b) *Department of Police*: The Department of Police for Howard County.
- (c)(1) *Facility* means a building, structure, or camp designed for occupancy or use by human beings.
- (2) *Facility* includes a dwelling, house, and residence.
- (d) *Fixed ammunition*: Any ammunition composed of a projectile or projectiles, a casing and a primer, all of which shall be contained as one unit.
- (e) *Gun*: Any firearm, rifle, shotgun, revolver, pistol, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a barrel by the action of any explosive, gas, compressed air, spring, or elastic.
- (f) *Metropolitan District*: The Howard County Metropolitan District as created and modified by the County Council pursuant to Howard County Code title 18, "Public Works," subtitle 1, "Public Utilities," and identified on official plats available for public inspection during reasonable office hours in the Department of Public Works.
- (g) *Safety zone*: means the area within a distance designated by section 8.403 of this subtitle from any facility where the discharge of firearms is prohibited by section 8.403 of this subtitle.

(C.B. 33, 1976; C.B. 38, 1985; C.B. 7, 2007, § 1; C. B. 1, 2009, § 1; C.B. 17, 2017, § 1)

Sec. 8.401. - Discharge of guns—Prohibited.

- (a) A person shall not discharge any gun within the Metropolitan District, whether the gun is loaded with fixed or blank ammunition or projectiles of any kind.
- (b) A person shall not discharge any gun outside the Metropolitan District, whether the gun is loaded with fixed or blank ammunition or projectiles of any kind, except at varmints on the ground.
- (c) A person shall not discharge a gun from, onto, across, or within 100 yards of a public road.
- (d) A person shall not, without the prior written consent of the property owner, discharge a gun on, from, onto, or across any public or private land.
- (e) This section shall not apply to:
 - (1) The discharge of guns at any target, trap or skeet range or shooting area which has been inspected and received the written approval of the department of inspections, licenses and permits pursuant to section 8.406, "Authority to Inspect and Approve Ranges or Shooting Areas," of this subtitle; or to
 - (2) The discharge of guns by any person in a private basement or cellar target range; or to
 - (3) The discharge of guns where necessary to protect life or property, including crops or livestock, or to kill any dangerous threatening animal; or to
 - (4) Any duly authorized law enforcement officer acting in the proper performance of his/her official duties; or to
 - (5) The discharge of blank ammunition in theatrical performances, historical reenactments or sporting events; or to
 - (6) The firing of salutes by firing squads at military funerals; or to
 - (7) The discharge of guns by any person engaged in bona fide wildlife research activities.

(C.B. 33, 1976; C.B. 10, 1985; C.B. 17, 1995; C. B. 1, 2009, § 1)

Sec. 8.402. - Carrying or discharging of guns by person under 16 years of age; penalty.

- (a) It shall be unlawful for any person under the age of 16 years not legally engaged in hunting game in that area not within the Metropolitan District to carry or discharge a gun whatsoever at any time within the County unless under the immediate supervision of a person 18 years of age or over at the time of shooting.
- (b) This section shall not apply to persons under 16 years of age carrying or discharging guns in areas not within the Metropolitan District which expel projectiles by gas, compressed air, spring or elastic power, where the persons have completed a course approved by the Department of Police in the safe operation of guns. The course completion shall be evidenced by a certificate to be issued by the Department of Police and shall be displayed upon reasonable demand by a Law Enforcement Officer.
- (c) A Law Enforcement Officer may impound the gun of any person who shall violate the provisions of this section.

(C.B. 33, 1976)

Sec. 8.403. - Special provisions for hunting.

- (a) Notwithstanding section 8.401 of this subtitle, a licensed hunter may discharge a gun if the hunter:
 - (1) Is lawfully hunting outside the Metropolitan District:
 - (i) On property the hunter owns; or
 - (ii) On other property with the prior written permission of the owner; and
 - (2) Complies with subsections (c) and (d) of this section and all applicable state laws or regulations.
- (b) Notwithstanding section 8.401 of this subtitle, a licensed hunter may discharge a shotgun if the hunter:
 - (1) Is lawfully hunting on not less than ten acres inside the Metropolitan District:
 - (i) On property the hunter owns; or
 - (ii) On other property with the prior written permission of the owner; and
 - (2) Complies with subsections (c) and (d) of this section and all applicable state laws or regulations.
- (c) (1)(i) The safety zone is the area consisting of 150 yards around a facility.
 - (ii) Without written permission of the property owner, a person shall not discharge a gun within, from, onto, or across a safety zone.
- (2) Whenever a person discharges a gun, the person shall:
 - (i) Ensure that the projectile has a downward trajectory;
 - (ii) Be sure that the discharge is towards a safe, visible backstop; or
 - (iii) Use a shotgun that contains only shot.
- (d) In addition to any other penalty provided by law, a person has committed a class a offense under title 24, subtitle 1 of the Howard County Code if the person discharges a gun and a projectile from the gun damages a facility or personal property, including pets and livestock, regardless of whether the person has complied with all other provisions of this section.

(C.B. 33, 1976; C. B. 1, 2009, § 1)

Sec. 8.404. - Reserved.

Editor's note— C.B. 17, 2017, § 1, adopted Feb. 22, 2017, repealed § 8.404, which pertained to sale or possession of electronic weapons prohibited and derived from C.B. 38, 1985; C.B. 7, 2007, § 1.

Sec. 8.405. - Penalty for violations of subtitle.

Any person who shall violate any of the provisions of this subtitle shall, upon conviction thereof, be punished by a fine not to exceed \$1,000.00 or imprisonment not to exceed six months in jail, or both. Any Law Enforcement Officer witnessing a violation of this subtitle may, as an alternative to making an arrest, issue unto such violator a "notice of violation," which notice, in addition to such factors as may otherwise be required, shall specify the violation with which such violator is charged and shall set forth the hour, date and location that such violator is summoned to appear before the district court for the County to answer the charge.

(C.B. 33, 1976; C.B. 38, 1985)

Sec. 8.406. - Authority to inspect and approve ranges or shooting areas.

The Department of Inspections, Licenses and Permits shall inspect annually any target, trap or skeet range or shooting area in the County. The Department of Inspections, Licenses and Permits shall issue written approval of any range or shooting area which meets the standards set forth in the manual "Range Specifications for Howard County," and which is situated upon a parcel where shooting ranges or areas are permitted under the zoning laws and regulations of Howard County. The Department may waive standards set forth in the "Range Specifications for Howard County" if the waiver will not affect the public health, safety or welfare and will not violate the intent of the "range specifications."

(C.B. 33, 1976; C.B. 10, 1985; C.B. 38, 1985; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 8.407. - Carrying weapons on public property.

- (a) *In general.* Subject to subsections (b) and (c) of this section, a person may not carry a gun as defined in section 8.400 of this subtitle or a dangerous weapon prohibited by Section 4-101 of the Criminal Law Article of the Maryland Code while in a public building that is on county property.
- (b) *Excluded buildings.* This section shall not apply to the Howard County Circuit Court building.
- (c) *Exempt personnel.* This section shall not apply to:
 - (1) A Marshal, Sheriff, Correctional Officer, or Deputy;
 - (2) A Police Officer or other law enforcement officer employed by a unit of the United States government, a state government or a local subdivision of a state;
 - (3) A member of the Armed Forces of the United States or of the National Guard or organized reserves when on duty;
 - (4) A special Police Officer as that term is used in Section 3-301 of the Public Safety Article of the Maryland Code;

- (5) A guard in the employ of a bank, savings and loan association, building and loan association, or express or armored car agency, while providing a service to or for the county;
- (6) An employee of a unit of county government who is required to carry a gun as a condition of employment or to transport or otherwise handle a gun or dangerous weapon within the scope of the employee's employment responsibilities;
- (7) A qualified retired law enforcement officer as provided in the Law Enforcement Officers Safety Act if the retired officer complies with 18 U.S. Code Section 926C;
- (8) A person acting in accordance with a permit issued under section 19.205 of the County Code; and
- (9) An individual who handles an unloaded gun or dangerous weapon:
 - (i) While acting as a curator, conservator, docent, or historical reenactor, or in a similar role; and
 - (ii) While under the direction or control of, or with permission from, the department of recreation and parks or another department that:
 - 1. Operates a museum; or
 - 2. Conducts a program that is historical or educational.

(C.B. 8, 2015, § 1)

SUBTITLE 5. - LOITERING

Sec. 8.500. - Definitions.

As used in this subtitle, the following words shall have the meanings set forth below:

- (a) *Loiter* means to idle, stand, remain, gather or be a member of a group or crowd of people who are gathered together on any commercial premises without conducting any lawful business with the owner or operator thereof or, having patronized such business establishments, to remain on such premises an unreasonable length of time after having been directed to leave by such owner, operator or an authorized agent.
- (b) *Commercial premises* means any business premises operated for profit or to which the general public is invited or permitted, including parking lots adjacent to or connected with such premises and sidewalks used by the general public in gaining access to such premises.

(C.B. 25, 1971)

Sec. 8.501. - Unlawful conduct.

- (a) It shall be unlawful for any person to loiter on or about any commercial premises, during ordinary business hours, after having been requested to leave by the owner, operator or an authorized agent of the owner.
- (b) It shall be unlawful for a person or group of persons to assemble on a public sidewalk in Howard County and so conduct themselves in such a manner as to unnecessarily interfere with the use of the sidewalk as a thoroughfare by the general public. Nothing herein shall be construed so as to prevent any orderly picketing or other lawful assembly.

(C.B. 25, 1971)

Sec. 8.502. - Penalties.

Any person violating any of the provisions of this subtitle shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than \$100.00, or imprisoned for a term not to exceed ten days, or both fine and imprisonment, in the discretion of the court. Alternatively or in addition to and concurrent with all other remedies, the Police Department may enforce the provisions of this subtitle pursuant to the provisions of title 24, subtitle 1, "Civil Penalties," of the Howard County Code. A violation of this subtitle shall be a Class D offense.

(C.B. 25, 1971; C.B. 32, 1985)

Sec. 8.503. - Severability.

If any clause, sentence, part or parts of this title, or of any section thereof shall be held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining parts of this title or of any section thereof. The County Council hereby declares that it would have passed the remaining parts of this title or any section thereof if it had known such clause, sentence, part or parts of any section thereof should be declared invalid or unconstitutional.

(C.B. 25, 1971)

SUBTITLE 6. - TRESPASS

Sec. 8.600. - Hunting on private property without permission.

- I. *Written Permission Required.* It shall be unlawful for any person to enter upon or trespass upon the property of another for the purpose of hunting any wild game birds or wild game animals thereon with a gun, rifle, bow and arrow, or any other means, unless the person shall have first secured from the owner or person in possession of the property, written permission to hunt thereon. Any hunting done shall be within the scope of the written permission.
- II. *Written Permission to be Shown upon Request.* Any person hunting upon the property of another shall exhibit the written permission, upon request, to any Police Officer of this County or the owner or person in possession of the property.
- III. *Arrest.* The Police Officer shall, upon the request of the owner or person in possession of any property, arrest any person hunting without the written permission of the owner or person in possession.
- IV. *Liability.* Any person hunting on private property shall be liable for any damage he/she causes to the private property while hunting on it. The landowner shall not be liable for accidental injury or damage to such person whether or not the landowner or his/her agent gave permission to hunt.
- V. *Definition. Hunting* shall include a willful trespass while carrying or in possession of any gun, pistol, rifle, shotgun or any other form of firearm, or a bow and arrows.
- VI. *Penalties.* Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be liable for a fine of not less than \$25.00 and not more than \$500.00 or be confined in jail for a period of not more than 30 days. Alternatively or in addition to and concurrent with all other remedies, the Police Department may enforce the provisions of this subtitle pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle shall be a Class C offense.

(C.B. 46, 1973; C.B. 32, 1985)

SUBTITLE 7. - ALCOHOLIC BEVERAGES

Sec. 8.700. - Consumption and possession of alcoholic beverages in opened containers.

- (a) It shall be unlawful for any person to consume any alcoholic beverages or have in his possession any alcoholic beverages in an open container on the posted premises of a commercial shopping center, or on posted parking lots open to the public.
- (b) This section shall not be construed to apply to the enclosed premises of a licensee of a validly issued license by the Howard County Board of License Commissioners, nor to the area covered by a temporary license issued by the Board of License Commissioners.
- (c) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed \$100.00 or imprisonment for not more than 30 days, or both, in the discretion of the court. Alternatively or in addition to and concurrent with all other remedies, the Police Department may enforce the provisions of this subtitle pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle shall be a Class D offense.
- (d) For the purpose of this section, the term *posted* is defined as the display of a sign, not less than 18 inches by 24 inches in size, on the affected premises, informing the public that consumption or possession in an opened container of alcoholic beverages thereon is prohibited.

(C.B. 35, 1975; C.B. 32, 1985)

SUBTITLE 8. - DEFACING PUBLIC AND PRIVATE PROPERTY⁽⁵⁾

Footnotes:

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State Law reference— Malicious destruction of property, Code of Md., Criminal Law article, § 6-301 et seq.

Sec. 8.800. - Defacing of public and private property prohibited.

- (a) *Definitions.*
 - (1) In this subtitle, the following words have the meanings indicated:
 - (2) *Property* includes land, structures, vegetation, and trees.
 - (3) *Public property* means property that Howard County owns or in which it holds a leasehold or easement interest and which is under the control of a County Agency.
- (b) *Prohibitions:*
 - (1) An individual may not willfully destroy, injure, deface, or molest, or attempt to destroy, injure, deface, or molest any public or private property.
 - (2) An individual who violates paragraph (1) of this subsection may not remain on or willfully fail to leave public property after a Police Officer orders the individual to leave the property.

(C.B. 70, 1983; C.B. 94, 1995)

Sec. 8.801. - Penalties.

(a) *Criminal Penalties:*

- (1) A person who violates the provisions of subsection 8.800(b)(1) of this subtitle is guilty of a misdemeanor and upon conviction is subject to imprisonment for not more than six months, a fine of not more than \$1,000.00, or both.
- (2) A person who violates the provisions of subsection 8.800(b)(2) of this subtitle is guilty of a misdemeanor, and upon conviction is subject to imprisonment for not more than three months, a fine of not more than \$500.00, or both.

(b) *Civil Penalties:*

- (1) In addition to and concurrent with all other remedies, a violation subsection 8.800(b)(1) of this subtitle that occurs on public property is a Class B offense under title 24, "Civil Penalties," of the Howard County Code.
- (2) Civil citations under this subsection may be issued by:
 - (i) The Howard County Police Department; and
 - (ii) For violations that occur on public property, a County employee designated by the Director of the Department of Recreation and Parks or the Director of the Department of Public Works to serve as enforcement personnel empowered to issue civil citations under this subsection for violations that occur on property under the control of the respective Departments.

(C.B. 70, 1983; C.B. 32, 1985; C.B. 94, 1995)

Sec. 8.802. - Restitution.

In addition to the penalties under section 8.801 of this subtitle:

- (1) An individual convicted of a violation of this subtitle is liable for payment of costs to repair the damage to the property; and
- (2) If a minor is convicted of a violation of this subtitle, the parents, or legal guardian of the minor are liable for payment of costs to repair the damage to the property.

(C.B. 94, 1995)

Editor's note— Section 1 of C.B. 94, 1995, deleted §§ 8.802 and 8.803 in their entirety. Formerly, §§ 8.802 and 8.803 pertained to parental liability and restitution and derived from C.B. 70, 1983. Section 1 of C.B. 94, 1995, added § 8.802 as herein set out and renumbered § 8.804 as § 8.803.

Sec. 8.803. - Severability.

If any section, paragraph or provision of this subtitle shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this subtitle.

(C.B. 70, 1983; C.B. 94, 1995)

Note— See the editor's note following § 8.802.

SUBTITLE 9. - NOISE

Sec. 8.900. - Noise affecting residential areas.

(a) *Definitions.*

- (1) *dBA* has the meaning indicated in COMAR 26.02.03.01.
- (2) *Daytime hours* means 7:00 a.m. to 10:00 p.m., local time.
- (3) *Nighttime hours* means 10:00 p.m. to 7:00 a.m., local time.

(b) *Noise Standards for Residential Areas as Receiving Property.*

- (1) Except as provided in paragraph (2) of this subsection and in subsection (d) of this section, a person may not cause or permit noise levels emanating from any property, such that the levels received on residential property exceed the levels contained in table 2 of COMAR 26.02.03.03A.(1).
- (2) A person may not cause or permit noise levels emanating from construction or demolition-site activities that exceed:
 - (i) During daytime hours, 90 dBA; or
 - (ii) During nighttime hours, the levels specified in table 2 of COMAR 26.02.03.03A.(1).

(c) *Measurement of Noise Levels.*

- (1) The measurement of noise levels under this subsection shall be conducted at points on or within the property line of the receiving property or the boundary of a zoning district, and may be conducted at any point for the determination of identity in multiple source situations.
- (2) Sound level meters used to determine compliance with this section shall meet or exceed the specifications of the National Standards Institute or its successor bodies ANSI S1.4-1971, for Type II sound level meters.

(d) *Exemptions.* The provisions of this section do not apply to:

- (1) Devices used solely for the purpose of warning, protecting, or alerting the public, or some segment thereof, of the existence of an emergency situation;
- (2) Household tools and portable appliances in normal usage;
- (3) Lawn care and snow removal equipment during daytime hours, when used and maintained in accordance with the manufacturer's specifications;
- (4) Agricultural field machinery when used and maintained in accordance with manufacturer's specifications;
- (5) Blasting operations for demolition, construction, and mining or quarrying, between the hours of 8:00 a.m. and 5:00 p.m.;
- (6) Motor vehicles on public roads;
- (7) Aircraft and related airport operations at airports licensed by the State Aviation Administration;
- (8) Boats on State waters or motor vehicles on State lands under the jurisdiction of the Department of Natural Resources;
- (9) Emergency operations;
- (10) Pile driving equipment, between the hours of 8:00 a.m. and 5:00 p.m.;
- (11) Sound not electronically amplified created by sporting, amusement, and entertainment events and other public gatherings operating according to terms and conditions imposed by the County, between the hours of 7:00 a.m. and 12:00 midnight;
- (12) Rapid rail transit vehicles and railroads;
- (13) Construction and repair work on public property; and

- (14) Air conditioning or heat pump equipment used to cool or heat housing on residential property. For this equipment, a person may not cause or permit noise levels which exceed 70 dBA for air-conditioning equipment at receiving residential property, and 75 dBA for heat pump equipment at receiving residential property.

(e) *Penalties:*

- (1) A person who violates this section is guilty of a misdemeanor and upon conviction is subject to a fine of up to \$100.00, imprisonment for up to 30 days, or both.
- (2) The Police Department may enforce the provisions of this section with civil penalties under title 24 of the Howard County Code.
- (3) The health department may enforce the provisions of this section with civil penalties under title 24 of the Howard County Code if the noise complained of originates from commercial or industrial property.
- (4) A first violation of this section is a Class E civil offense. A subsequent violation is a Class D civil offense.

(C.B. 49, 1997)

Editor's note— C.B. 49, 1997, repealed § 8.900 in its entirety. Formerly, § 8.900 pertained to noise in residential areas and derived from C.B. 52, 1985. C.B. 49, 1997 enacted new provisions under § 8.900 as herein set out.

TITLE 9 - EDUCATION AND LIBRARIES^[1]

Footnotes:

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State Law reference— Public schools, Ann. Code of Md., Education article, § 7-101 et seq.

SUBTITLE 1. - EDUCATION^[2]

Footnotes:

--- (2) ---

State Law reference— Public schools, Ann. Code of Md., Education article, § 7-101 et seq.

Sec. 9.100. - School buses; parochial schools.

All children who attend parochial schools in Howard County, which schools do not receive State aid, and who reside on or along or near to the public highways of Howard County, on which there is now or hereafter operated a public school bus or conveyance provided by the Board of Education of Howard County for transporting children to and from the public schools of Howard County, shall be entitled to transportation on the said buses or conveyances, subject to the conditions hereinafter set forth, from a point on the said public highways nearest or most accessible to their respective homes to a point on said public highways nearest or most accessible to their respective schools, without changing the routes of said buses or conveyances now or hereafter established by said Board of Education of Howard County for transporting children to and from the public schools. Such transportation may be provided by the Board of Education, as aforesaid, for all the children attending schools described herein, upon the same

terms and conditions as now or as may be hereafter established by the Board of Education of Howard County for children attending public schools.

(1943, Ch. 648, § 291A)

State Law reference— Transportation of students, Ann. Code of Md. Education article, § 7-801 et seq.

Sec. 9.101. - Same conditions.

The County Council of Howard County is hereby authorized to appropriate annually to the Board of Education of Howard County, from any funds received by said Howard County for any general County purpose and not derived from any tax levied on real property, such sum as the said Board of Education may request to enable it to defray any costs incurred by it in carrying into effect the provisions of section 9.100 and to establish new bus routes, in the discretion of the Board of Education of Howard County, for the transportation to and from school of children attending schools not receiving State aid. The transportation of children to and from schools not receiving State aid shall be upon such reasonable terms and conditions as the Board of Education may from time to time determine, but in no event shall the amount charged children attending such schools for using buses or conveyances be greater or less than the amount charged children attending the public schools for the same kind of transportation.

(1943, Ch. 648, § 291B)

State Law reference— Transportation of students, Ann. Code of Md. Education article, § 7-801 et seq.

Sec. 9.102. - School construction and site funds.

The County Council shall direct the Director of Finance of Howard County to pay to the Board of Education of Howard County such funds as the Board may from time request, to be used for the purchase of school sites and the construction of school buildings, or for either purpose. Funds so paid shall be paid out of the school site acquisition and construction fund. The fund shall consist of one-fourth of the proceeds of the transfer tax, as provided by section 20.404 of this Code.

(1965, Ch. 515, § 1)

Sec. 9.103. - Capital improvement master plan (C.I.M.P.) for education.

(a) *Definitions:*

Capital improvement master plan; C.I.M.P. for education means the capital improvement master plan (C.I.M.P.) for education is a plan prepared by the Board of Education and adopted by the County Council pursuant to the provisions of section 22.405 of the Howard County Code. The plan indicates the capital improvements to the County's education system to be constructed during the next ten years in order to implement the housing and employment growth projections of the County's general plan. The C.I.M.P. for Education includes the education projects included in the Howard County Capital Budget and Capital Program and the Maryland Capital Budget and Capital Program and Extended Capital Program.

(b) *Requirement to Prepare C.I.M.P. and Review It Annually:* The Board of Education prepares the C.I.M.P. for Education pursuant to the provisions of section 22.405 of this Code. The Board reviews the plan annually and submits updates as appropriate for adoption by the County Council.

(C.B. 10, 1992)

Secs. 9.104—9.106. - Reserved.

Editor's note— C.B. 5, 1998, repealed §§ 9.104—9.106 in their entirety. Formerly, §§ 9.104—9.106 pertained to the voluntary participation in education costs program and derived from C.B. 69, 1996.

Sec. 9.107. - Effective date.

Sections 9.104, 9.105, 9.106 and 9.107 of this subtitle shall remain effective until five years from the effective date of this act and, with no further action required by the County Council, this act shall be abrogated and of no further force and effect.

(C.B. 69, 1996)

TITLE 10 - ELECTIONS AND ELECTION DISTRICTS^[1]

Footnotes:

--- (1) ---

State Law reference— Elections generally, Ann. Code of Md., Election Law article, § 1-101 et seq.

SUBTITLE 1. - ELECTIONS^[2]

Footnotes:

--- (2) ---

State Law reference— Elections generally, Ann. Code of Md., Election Law article, § 1-101 et seq.

Sec. 10.100. - Oath of office.

Notwithstanding the provisions of any law to the contrary, all elected County officers, except the members of the County Council and the County Executive, shall take their oath of office and assume their official duties on the first Monday in January following their election, at the County seat, at the hour of 2:00 p.m..

(1963, Ch. 810)

Editor's note— Subsections 202(c) and 302(c) of the Charter provide that the County Executive and members of the County Council shall qualify for office on the first Monday in December following their election, or as soon thereafter as practicable.

Sec. 10.101. - County Council vacancies.

- (a) Subject to subsection (b) of this section, a vacancy occurring in the office of a Councilmember before the expiration of the term shall be filled by appointment in accordance with subsection 202(e) of the Howard County Charter.
- (b) If the vacancy occurs more than 30 days before the filing deadline for a certificate of candidacy for the next regularly scheduled primary election, the individual appointed under subsection (a) of this section shall serve until a successor is qualified pursuant to a special general election in accordance with the procedures set forth in subsection (c) of this section and subsection 202(c) of the Charter.
- (c)
 - (1) A special primary and general election to fill the Council seat in which the vacancy occurred shall be held in accordance with the requirements title 5 of the elections law article of the Maryland Annotated Code pertaining to elections for the County Council offices.
 - (2) The special primary election shall be held concurrently with the regularly scheduled primary election.
 - (3) The special general election shall be held concurrently with the regularly scheduled general election.
 - (4) Only individuals who, at the time of the special elections authorized in this subsection, are qualified to vote within the Councilmanic District in which the vacancy occurred may participate in the special elections.
 - (5) The individual elected to fill the vacancy must meet all qualifications for the office provided by law.

(C.B. 79, 2006, § 1)

State Law reference— Authority to provide for filling of vacancies on county council, Ann. Code of Md. art. 35A, § 5(Q).

SUBTITLE 2. - ELECTION DISTRICTS^[3]

Footnotes:

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State Law reference— Authority to alter election districts, Ann. Code of Md. art. 35A, § 5(H).

Sec. 10.200. - Election districts.

Pursuant to article 25A, subsection 5(h) of the Annotated Code of Maryland, Howard County is divided into six election districts. The boundaries of the election districts are as follows:

- (a) *Election District 1:*
 - (1) Beginning at a point on the Patapsco River at Ilchester Road, the said point also being at the Howard County-Baltimore County line, thence running:
 - (2) Southeast along the Patapsco River following the Howard County-Baltimore County line to Deep Run;
 - (3) Southwest along Deep Run following the Howard County-Anne Arundel County Line to the Baltimore and Ohio railroad tracks;
 - (4) Southwest along the Baltimore and Ohio railroad tracks following the Howard County-Anne Arundel County line to Md. Route 175;

- (5) Northwest along Md. Route 175 to Md. Route 957 (Old Waterloo Road);
- (6) North along Md. Route 957 (Old Waterloo Road) to Md. Route 108;
- (7) Northwest along Md. Route 108 to Md. Route 104 and continuing west along Md. Route 108 to Old Waterloo Road;
- (8) Northeast along Old Waterloo Road to Oak Run Way;
- (9) Southeast along Oak Run Way to Md. Route 104;
- (10) Northeast along Md. Route 104 to Md. Route 103;
- (11) Southeast along Md. Route 103 to Bonnie Branch Road;
- (12) Northeast along Bonnie Branch Road to Ilchester Road; and
- (13) North along Ilchester Road to the point of beginning.

(b) *Election District 2:*

- (1) Beginning at a point on the Patapsco River approximately 3,800 feet east of Woodstock Road, Md. Route 125, the said point also being at the Howard County-Baltimore County line, thence running:
- (2) Southeast along the Patapsco River following the Howard County-Baltimore County line to Ilchester Road;
- (3) South along Ilchester Road to Bonnie Branch Road;
- (4) Southwest along Bonnie Branch Road to Md. Route 103;
- (5) Northwest along Md. Route 103 to Md. Route 104;
- (6) Southwest along Md. Route 104 to Oak Run Way;
- (7) Northwest along Oak Run Way to Old Waterloo Road;
- (8) Southwest along Old Waterloo Road to Md. Route 108;
- (9) Northwest along Md. Route 108 to Manor Lane;
- (10) North along Manor Lane to Md. Route 144;
- (11) West along Md. Route 144 for approximately 1,400 feet;
- (12) Northeast, cross-country to Turf Valley Road;
- (13) North along Turf Valley Road and continuing north, cross-country to the intersection of Md. Route 99 and Affeldt Road; and
- (14) North along Affeldt Road and continuing north cross-country to the point of beginning.

(c) *Election District 3:*

- (1) Beginning at a point on the South Branch Patapsco River at Gaither Road, the said point also being at the Howard County-Carroll County line, thence running:
- (2) East along the South Branch Patapsco River following the Howard County-Carroll County line to the North Branch Patapsco River at the Howard County-Baltimore County line;
- (3) Southeast along the Patapsco River following the Howard County-Baltimore County line to a point approximately 3,800 feet east of Woodstock Road, Md. Route 125;
- (4) South, cross-country to Affeldt Road and continuing south along Affeldt Road to Md. Route 99;
- (5) South, cross-country to Turf Valley Road and continuing south along Turf Valley Road to U.S. Route 40;
- (6) South, cross-country to Md. Route 144 at a point approximately 1,400 feet west of Manor Lane;

- (7) East along Md. Route 144 to Manor Lane;
- (8) South along Manor Lane to Md. Route 108;
- (9) West along Md. Route 108 to relocated Homewood Road (opposite Harpers Farm Road);
- (10) Northwest along Homewood Road to Folly Quarter Road;
- (11) West along Folly Quarter Road to Triadelphia Road;
- (12) West along Triadelphia Road to Linthicum Road;
- (13) North, cross-country to Old Rover Road at the intersection of Sharp Road;
- (14) North along Old Rover Road to Rover Mill Road;
- (15) North along Rover Mill Road for approximately 2,500 feet and continuing north, cross-country to McKendree Road and continuing north along McKendree Road to I-70;
- (16) North, cross-country to Underwood Road at a point approximately 1,900 feet west to Day Road;
- (17) North along Underwood Road to Forsythe Road;
- (18) North along Forsythe Road to Gaither Road; and
- (19) Northwest along Gaither Road to the point of beginning.

(d) *Election District 4:*

- (1) Beginning at a point on the Howard County-Carroll County Line at Parris Spring, thence running;
- (2) East along the South Branch Patapsco River following the Howard County-Carroll County line to Gaither Road;
- (3) Southwest along Gaither Road to Forsythe Road;
- (4) South along Forsythe Road to Underwood Road;
- (5) South along Underwood Road to a point 1,900 feet west of Day Road;
- (6) South, cross-country to McKendree Road at I-70;
- (7) South along McKendree to a point approximately 500 feet south of Md. Route 144 and continuing south, cross-country to Rover Mill Road;
- (8) South along Rover Mill Road to Old Rover Road;
- (9) South along Old Rover Road to Sharp Road;
- (10) South, cross-country to Triadelphia Road at the intersection of Linthicum Road;
- (11) Southwest along Triadelphia Road and the former alignment of Triadelphia Road to the Patuxent River;
- (12) Northwest along the Patuxent River following the Howard County-Montgomery County line to the origin of the Patuxent River; and
- (13) Northeast, cross-country following the Howard County-Montgomery County line to the point of beginning.

(e) *Election District 5:*

- (1) Beginning at a point on the Patuxent River at the former alignment of Triadelphia Road, the said point also being at the Howard County-Montgomery County line, thence running;
- (2) Northeast along the former alignment of Triadelphia Road to Triadelphia Road continuing northeast along Triadelphia Road to Folly Quarter Road;

- (3) East along Folly Quarter Road to Homewood Road;
 - (4) Southeast along Homewood Road following relocated Homewood Road to Md. Route 108 (opposite Harpers Farm Road);
 - (5) East along Md. Route 108 to U.S. Route 29;
 - (6) South along U.S. Route 29 to approximately 1,700 feet south of the intersection with Md. Route 216 at Old Columbia Pike;
 - (7) South along Old Columbia Pike crossing U.S. Route 29 and continuing to Harding Road;
 - (8) Southwest along Harding Road to the Patuxent River; and
 - (9) Northwest along the Patuxent River following the Howard County-Montgomery County line to the point of beginning.
- (f) *Election District 6:*
- (1) Beginning at a point on U.S. Route 29 at the intersection of Md. Route 108, thence running;
 - (2) Southeast along Md. Route 108 to Md. 957 (Old Waterloo Road);
 - (3) South along Md. Route 957 (Old Waterloo Road) to Md. Route 175;
 - (4) Southeast along Md. Route 175 to the Baltimore and Ohio railroad tracks;
 - (5) Southwest along the Baltimore and Ohio railroad tracks following the Howard County-Anne Arundel County line to the Patuxent River;
 - (6) Northwest along the Patuxent River following the Howard County-Prince George's County line and continuing along the Howard County-Montgomery County line to Harding Road;
 - (7) Northeast along Harding Road to Old Columbia Pike;
 - (8) North along Old Columbia Pike crossing U.S. Route 29 and continuing to U.S. Route 29; and
 - (9) North along U.S. Route 29 to the point of beginning.

(P.L.L., 1860, Art. 13, § 22; 1888, Art. 14, § 47; 1930, § 116, 1968, Ch. 388; C.B. 5, 1992)

SUBTITLE 3. - CITIZENS' ELECTION FUND

Sec. 10.300. - Definitions.

- (a) In this subtitle, the following words have the meanings indicated.
- (b) *Applicant candidate* means a candidate who is seeking to be a certified candidate in a primary or general election.
- (c) *Campaign finance entity* has the meaning stated in Title 1, subtitle 1 of the Election Law article of the Maryland Code.
- (d) *Certified candidate* means a candidate who is certified as eligible for public campaign financing from the fund.
- (e) *Citizen Funded Campaign account* means a campaign finance account into which eligible contributions will be received and from which money may be spent in accordance with this subtitle.
- (f) *Commission* means the Citizens' Election Fund Commission.
- (g) *CPI* means the Consumer Price Index for all urban consumers: All items in Washington-Baltimore, DC-MD-VA-WV (CMSA) as published by the United States Department of Labor, Bureau of Labor Statistics.

- (h) *Contested election* means any election, including a special election, in which there are more candidates for office than the number who can be elected to that office.
- (i) *Contribution* has the meaning stated in Title 1, subtitle 1 of the Election Law article of the Maryland Code.
- (j) *County Board* means the Howard County Board of Elections.
- (k) *County resident* means a natural person who resides in Howard County.
- (l) *Director* means the Director of the Department of Finance or the Director's designee.
- (m) *Election cycle* has the meaning stated in Title 1, subtitle 1 of the Election Law article of the Maryland Code.
- (n) *Eligible contribution* means an aggregate donation in a four-year election cycle from an individual, including an individual who does not reside in the County, that does not exceed the contribution limit set in this subtitle.
- (o) *Fund* means the Citizens' Election Fund.
- (p) *Participating candidate* means a certified candidate who has received a public contribution from the Fund during the current election cycle.
- (q) *Public contribution* means money disbursed from the fund to a certified candidate.
- (r) *Qualifying contribution* means an eligible contribution in support of an applicant candidate that is:
 - (1) Made by a County resident;
 - (2) Made after the beginning of the qualifying period, but no later than the next general election; and
 - (3) Acknowledged by a receipt.
- (s) *Qualifying period* means:
 - (1) The time beginning on January 1 following the last election for the office the candidate seeks and ending 45 days before the date of the primary election; or
 - (2) For a special election, the time that the County Council sets by Resolution.
- (t) *State* has the meaning stated in Title 1, subtitle 1 of the Election Law article of the Maryland Code.
- (u) *State Board* means the Maryland State Board of Elections.

(C.B. 30, 2017, § 1)

Sec. 10.301. - Scope.

- (a) *Covered Offices*. This subtitle applies to elections for County Executive and County Council.
- (b) *In General*. A candidate who wishes to receive public contributions may apply for certification in accordance with this subtitle.

(C.B. 30, 2017, § 1)

Sec. 10.302. - Collecting qualifying contributions.

- (a) *Preliminary Steps*. Before raising a contribution governed by this subtitle, an applicant candidate shall:
 - (1) File notice of intent with the State Board in the manner that the State Board requires; and

(2) Establish a Citizen Funded Campaign account.

(b) *Contribution Limits.*

(1) Except as otherwise provided in paragraph (2) of this subsection, an applicant candidate shall not accept:

- (i) Eligible contributions of more than \$250.00 in the aggregate during an election cycle; or
- (ii) A loan.

(2) An applicant candidate may accept up to \$12,000.00 in contributions or loans consisting of a combined total of not more than \$6,000.00 from each of the following family members:

- (i) The applicant candidate;
- (ii) A child who is at least 18 years old;
- (iii) A spouse;
- (iv) A parent; or
- (v) A sibling.

(c) *CPI Adjustment.*

(1) The contribution limit specified in subsection (b)(1) of this section shall be adjusted for the next election cycle on July 1, 2022, and July 1 of each subsequent fourth year by the increase in the CPI for the previous four calendar years, rounded up to the next \$10.00.

(2) The Director shall publish this amount not later than the January 1 after an adjustment is made.

(C.B. 30, 2017, § 1)

Sec. 10.303. - Requirements for certification.

(a) *Application for Certification.*

(1) An applicant candidate shall apply to the State Board for certification.

(2) The State Board may only accept an application during the qualifying period.

(3) An application shall be submitted on the form that the State Board requires.

(4) Subject to paragraph (6) of this subsection, an applicant candidate may submit only one application for certification for any election.

(5) An applicant candidate shall include with the application all documentation required by the State or, in the absence of State requirements, the following:

- (i) A declaration from the applicant candidate agreeing to follow the requirements governing the use of a public contribution;
- (ii) A campaign finance report that contains the information that the State Board requires for a campaign finance report and that includes, but is not limited to:
 - a. A list of each qualifying contribution received;
 - b. A list of each expenditure made by the candidate during the qualifying period;
 - c. A copy of the receipt associated with each contribution that identifies the contributor's name and residential address; and
 - d. A copy of the receipt associated with each expenditure; and
- (iii) A certificate of candidacy for County Executive or County Council.

- (6) If an application is denied, the applicant may revise the application once if done before the deadline.
- (b) *Qualifications.* To qualify as a certified candidate:
 - (1) A candidate for County Executive must have collected from County residents at least:
 - (i) Five hundred qualifying contributions; and
 - (ii) An aggregate total of \$40,000.00; and
 - (2) A candidate for County Council must have collected from County residents at least:
 - (i) One hundred twenty-five qualifying contributions; and
 - (ii) An aggregate total of \$10,000.00.
- (c) *Contributions.*
 - (1) An applicant candidate shall deposit all contributions received into the candidate's Citizen Funded Campaign account.
 - (2) An applicant candidate shall deliver to the State Board a copy of the receipt for each qualifying contribution that identifies the contributor's name and residential address and that is signed by the contributor directly or by a digital signature using a method approved by the State Board.

(C.B. 30, 2017, § 1)

Sec. 10.304. - State Board determination.

- (a) *In General.* Within ten days after the State Board receives a complete application for certification, the State Board shall certify an applicant candidate who qualifies for certification.
- (b) *Decision.* The decision by the State Board whether to certify a candidate is final.
- (c) *Authorization to Disburse Money.* If the State Board certifies a candidate, the State Board shall so notify the Director. After notification, the Director shall disburse a public contribution to the candidate's Citizen Funded Campaign account.

(C.B. 30, 2017, § 1)

Sec. 10.305. - Citizens' Election Fund established.

- (a) *In General.* The Director shall establish a Citizen's Election Fund as a special non-lapsing fund in accordance with section 611 of the Howard County Charter.
- (b) *Components of the Fund.* The fund consists of:
 - (1) Money appropriated to the fund;
 - (2) Any unspent money remaining in a certified candidate's Citizen Funded Campaign account after the candidate is no longer a candidate;
 - (3) Any public contribution returned to the fund;
 - (4) Any donations made to the fund;
 - (5) Any fines collected under section 10.311 of this subtitle; and
 - (6) Any earnings on money in the fund.
- (c) *Budget Allocation.* Each year, the County Executive shall include in the current expense budget the amount required under section 907 of the Howard County Charter.

(C.B. 30, 2017, § 1)

Sec. 10.306. - Distribution of public contribution.

(a) *In General.*

- (1) The Director shall distribute a public contribution for an election only during:
 - (i) The time beginning 365 days before the primary election for the office the candidate seeks and ending 15 days after the general election; or
 - (ii) The time that the County Council sets by Resolution for a special election.
- (2) A certified candidate may continue to collect qualifying contributions and receive a matching public contribution up to a primary or general election.
- (3)
 - (i) For purposes of this paragraph, whether an election is contested shall be determined on the first Tuesday in August preceding the election.
 - (ii) The Director shall not disburse a public contribution to a certified candidate in an election in which the candidate is the sole individual who has filed a certificate of candidacy for that office; however, a certified candidate may collect contributions during an uncontested election.

(b) *Receipts; Deposits .*

- (1) To receive a public contribution, a participating candidate shall submit a receipt to the State Board for each qualifying contribution.
- (2) The receipt shall identify the contributor's name and residential address.
- (3) The Director shall deposit the appropriate public contribution into a participating candidate's Citizen Funded Campaign account within three business days after the State Board authorizes the public contribution.

(c) *Contributions of Less Than \$5.00.* An individual contribution of less than \$5.00 may be considered under section 10.303 of this subtitle but shall not be considered when calculating the public contribution under this section.

(d) *Amount of Distribution.*

- (1) For a certified candidate for County Executive, the public contribution shall equal:
 - (i) Seven dollars for each dollar of a qualifying contribution received for the first \$50.00 of each qualifying contribution;
 - (ii) Four dollars for each dollar of a qualifying contribution received for the second \$50.00 of each qualifying contribution; and
 - (iii) One dollar for each dollar of a qualifying contribution received for the third \$50.00 of each qualifying contribution; and
 - (iv) Zero dollars for each dollar of a qualifying contribution received beyond the third \$50.00 of each qualifying contribution.
- (2) For a certified candidate for County Council, the public contribution shall equal:
 - (i) Five dollars for each dollar of a qualifying contribution received for the first \$50.00 of each qualifying contribution;
 - (ii) Three dollars for each dollar of a qualifying contribution received for the second \$50.00 of each qualifying contribution;
 - (iii) One dollar for each dollar of a qualifying contribution received for the third \$50.00 of each qualifying contribution; and

- (iv) Zero dollars for each dollar of a qualifying contribution received beyond the third \$50.00 of each qualifying contribution.
- (3) The total public contribution payable to a certified candidate for the election cycle, including the primary or a general election, shall not exceed:
 - (i) Seven hundred thousand dollars for a candidate for County executive; and
 - (ii) Eighty-five thousand dollars for a candidate for County Council.
- (e) *Limitation.* The Director shall not distribute a public contribution based on:
 - (1) A contribution from the candidate or the candidate's spouse; or
 - (2) An in-kind contribution of property, goods, or services.
- (f) *Fund Insufficiency.* If the Director determines that the total amount available for distribution in the fund is insufficient to meet the allocations required by this section, the Director shall reduce each public contribution by the same percentage.
- (g) *Disbursements After Primary Election.* Within three business days after the County Board certifies the results of the primary election, the State Board shall authorize the Director to continue to disburse the appropriate public contribution for the general election to each participating candidate who is certified to be on the ballot for the general election.
- (h) *Return of Unspent Funds.*
 - (1) Within 30 days after the County Board certifies the results of the primary election, a participating candidate who is not certified to be on the ballot for the general election shall return to the fund any unspent money in the candidate's Citizen Funded Campaign account.
 - (2) On or before December 31 after the general election, a participating candidate shall return to the fund any unspent money in the candidate's Citizen Funded Campaign account.
- (i) *Candidates Nominated by Petition or by Non-Principal Political Parties.*
 - (1) "Principal political parties" has the meaning stated in section 1-101 of the Election Law article of the Maryland Code.
 - (2) A certified candidate nominated by petition or by a party that is not a principal political party may receive a public contribution for the general election if the candidate's nomination is certified by the County Board.
 - (3) A certified candidate under this subsection must qualify 45 days before the date of the general election.
- (j) *CPI Adjustment .*
 - (1) The total public contribution limits established in this section shall be adjusted for the next election cycle on July 1, 2022, and July 1 of each subsequent fourth year by the increase in the CPI for the previous four calendar years, rounded up to the next \$10.00.
 - (2) The Director shall publish these amounts not later than the January 1 after an adjustment is made.

(C.B. 30, 2017, § 1)

Sec. 10.307. - Use of public contribution.

- (a) *In General.*
 - (1) A participating candidate may only make expenditures from the Citizen Funded Campaign account registered with the State Board for expenses incurred for the election.

- (2) A participating candidate shall not pay in advance for property, goods, or services to be used after certification with non-qualifying contributions received before applying for certification.
- (3)
 - (i) Except as provided in paragraph (3)(ii) of this subsection, the Director shall reduce the public contribution to a participating candidate's Citizen Funded Campaign account by the total amount of all expenditures made after the end of the previous election cycle from the candidate's non-participating campaign account.
 - (ii) Expenditures made with contributions received prior to the end of the previous election cycle towards debts accrued before the end of the previous election cycle shall not reduce the public contribution to a participating candidate's Citizen Funded Campaign account.
- (b) *Allegation of Impermissible Act.* A complaint alleging an impermissible receipt or use of funds by a participating candidate shall be filed with the Commission.
- (c) *Access to Records.* On request of the Commission, a participating candidate shall provide the Commission with reasonable access to the financial records of the candidate's Citizen Funded Campaign account.

(C.B. 30, 2017, § 1)

Sec. 10.308. - Withdrawal.

- (a) *In General* . A participating candidate may withdraw from participation if the candidate files a statement of withdrawal with the State Board and the Commission in the form that the State Board requires and:
 - (1) Terminates candidacy to withdraw from the election completely; or
 - (2) Withdraws prior to receiving any public contribution.
- (b) *Termination of Candidacy.* A participating candidate who withdraws under subsection (a)(1) of this section shall repay to the fund the full amount of any public contribution received, plus interest accruing from the date of withdrawal at the same rate as the current bank prime loan rate as reported by the Board of Governors of the Federal Reserve System.
- (c) *Personal Loans.* A candidate who withdraws under this section shall repay the fund under subsection (b) of this section before repaying any personal loans to the candidate's campaign.
- (d) *Personal Liability.* If the funds remaining in the candidate's Citizen Funded Campaign account at the time of withdrawal are insufficient to repay the Fund under subsection (b) of this section, the candidate shall be personally liable for repayment.
- (e) *Reduced Repayment.* The Commission may reduce any repayment under subsection (b) of this section for a participating candidate who must withdraw for health reasons or other cause not within the candidate's control and may consider personal financial hardship.

(C.B. 30, 2017, § 1)

Sec. 10.309. - Applicant and participating candidate restrictions.

An applicant candidate or participating candidate shall not:

- (1) Accept a private contribution from any group or organization, including a political action committee, a corporation, a labor organization, or a State or local central committee of a political party;
- (2) Accept private contributions from an individual in an aggregate amount greater than \$250.00 during an election cycle, or the maximum amount of an eligible contribution, as adjusted by section 10.302(c) of this subtitle;

- (3) After filing a notice of intent with the State Board to seek public financing, pay for any campaign expense with any campaign finance account other than the candidate's Citizen Funded Campaign account;
- (4) Be a member of a slate in any election in which the candidate receives a public contribution;
- (5) Accept a loan from anyone other than the candidate or the candidate's spouse, parent, or sibling;
- (6) Transfer money:
 - (i) To the candidate's Citizen Funded Campaign account from any other campaign finance entity established for the candidate; or
 - (ii) From the candidate's Citizen Funded Campaign account to any other campaign finance entity; or
- (7) Coordinate expenses except with another participating candidate if the expenses are shared equally among the coordinating candidates.

(C.B. 30, 2017, § 1)

Sec. 10.310. - Citizens' Election Fund Commission.

- (a) *In General* . In accordance with section 907 of the Howard County Charter, there is a Citizens' Election Fund Commission.
- (b) *Membership* .
 - (1) The Commission consists of seven members.
 - (2) Each member of the County Council shall nominate one member of the Commission.
 - (3) The County Executive shall nominate two members of the Commission.
 - (4) Each nominee shall be confirmed by a separate Resolution of the County Council.
- (c) *Qualifications* .
 - (1) Each member of the Commission shall be a resident of the County.
 - (2) A member of the Commission shall not be a candidate for public office during the previous, current, or next election cycle.
 - (3) A member shall not be a lobbyist registered with the County.
 - (4) A member shall not be the chair or treasurer for an open campaign account.
 - (5) A member shall be a registered voter.
- (d) *Term, Vacancies*.
 - (1) The term of a member of the Commission is four years and begins on May 1. The term of a member of the Commission nominated by the County Executive begins during the first year of a County Council term. The term of a member of the Commission nominated by a member of the County Council begins during the third year of a County Council term.
 - (2) A vacancy shall be filled in the same manner as the original appointment and for the unexpired term.
 - (3) Notwithstanding paragraph (1) of this subsection, to create staggered terms, the terms of the initial members of the Commission who are nominated by a member of the County Council shall be six years and shall begin on the May 1, 2019.
- (e) *Officers*. The Commission shall elect a chairperson and vice-chairperson from among its members.

- (f) *Compensation; Expenses* . A member of the Commission shall not receive compensation for service on the Commission except reasonable and necessary expenses as may be provided in the budget.
- (g) *Duties* .
 - (1) The Commission shall calculate the amounts as required by section 907 of the County Charter.
 - (2) Except as otherwise specified, the Commission shall administer this subtitle.
 - (3) The Commission shall meet:
 - (i) At least once every 90 days during the 12 months preceding a primary election; and
 - (ii) At least twice a year otherwise.
- (h) *Staff*. The Department of Finance shall provide staff support for the Commission to:
 - (1) Work with the State Board of Elections to administer the system; and
 - (2) Provide information about the system to candidates and the public.

(C.B. 30, 2017, § 1)

Sec. 10.311. - Violations.

- (a) *In General*. A violation of this subtitle is a Class A civil violation under Title 24 of the County Code.
- (b) *Payment*. A fine may be paid by the campaign but only if all public contributions have been repaid to the fund. Otherwise, the candidate or officer found to be responsible for the violation is personally liable for the fine.

(C.B. 30, 2017, § 1)

SUBTITLE 4. - REFERENDUM PROCEDURES

Sec. 10.400. - Definitions.

As used in this subtitle, the following terms shall have the meaning indicated unless a contrary meaning is clearly intended from the context in which the term appears:

- (1) *Board* means the Board of Elections of Howard County.
- (2) *Contributions* means the gift, transfer or promise of a gift or transfer of money or other thing of value to any person, persons, or association which files the petition.
- (3) *Expenditure* means any gift, transferred disbursement or promise of money or valuable thing by any person, persons or associations which files the petition.
- (4) *Petition* means any paper or papers containing the signatures of any number of registered voters requesting any local law or part of any local law to be put on the ballot.
- (5) *Fair summary* means a condensation of the law or part of the law petitioned that satisfies the requirements of section 6-201(C)(2) of the Election Law Article of the Maryland Code.
- (6) *Person procuring* means individual who personally collected the signature(s).

(C.B. 19, 1976; C.B. 34, 2010, § 1)

Sec. 10.401. - Petition.

- (a) A person signing a petition shall fulfill the requirements of section 6-203 of the Election Law Article of the Maryland Code.
- (b) A signature is valid and shall be counted if the requirements of section 6-203 of the Election Law Article of the Maryland Code are met.

(C.B. 19, 1976; C.B. 34, 2010, § 1)

Sec. 10.402. - Form of petition.

- (a) The form and content of a petition shall be consistent with the requirements of section 6-103 of the Election Law of the Maryland Code. A petition may consist of several papers but each paper shall contain a fair summary of the act or the part of the act petitioned upon; and there shall be on each such paper an affidavit of the person procuring the signatures thereon that each signature thereon was affixed in the presence of the affiant and that to the best of his knowledge, information and belief, signers are registered voters of the State of Maryland in Howard County as set forth with their names.
- (b) On request, the Board shall provide a template in electronic form of the State Petition Form that incorporates any County provisions required by local law.

(C.B. 19, 1976; C.B., § 1; C.B. 77, 2007, § 1; C.B. 34, 2010, § 1)

Sec. 10.403. - Verification by Board of Elections for Howard County.

The Board shall verify signatures by comparing them with the voter registration cards, and count the validated signatures in accordance with section 6-207 of the Election Law Article of the Maryland Code. A statement of contributions and expenditures shall be filed in accordance with section 7-104 of the Election Law Article of the Maryland Code. The Board shall forward to the County Council and the County Attorney the results of its verification process and advise them if the question is to be certified.

(C.B. 19, 1976; C.B. 34, 2010, § 1)

Editor's note— C.B. 34, 2010, § 1, adopted July 8, 2010, amended § 10.403 title to read as herein set out. Former § 10.403 title pertained to verification by Board of Supervisors of Elections for Howard County.

Sec. 10.404. - Certification by County Council.

Upon receipt of the report from the Board as to the matters hereinabove set forth, the County Attorney shall certify the question and specify the wording in accordance with section 7-103 of the Election Law Article of the Maryland Code. The wording shall be placed on the ballot at the next general election in accordance with State law.

(C.B. 19, 1976; C.B. 34, 2010, § 1)

Sec. 10.405. - Place and time of filing.

Any and all referendum petitions shall be filed with the Board during its normal office hours and within 60 days after the law is enacted. If more than one-half but less than the full number of signatures required by Charter to complete any referendum petition against such law is filed within 60 days from the date it is enacted, the time for the law to take effect and the time for filing the remainder of signatures to complete the petition shall be extended for another 30 days.

(C.B. 19, 1976; C.B. 34, 2010, § 1)

Sec. 10.406. - Effect of question concerning or invalidity of signature on petition.

On any petition (including an associated or related set of petitions) submitted to the Board, any question concerning, or the validity of, the signature of any person on the petition affects that signature only and does not affect or impair any other portion of the petition or petitions.

(C.B. 19, 1976; C.B. 34, 1976; C.B. 34, 2010, § 1)

Sec. 10.407. - Other unlawful acts.

As to any petition (including an associated or related set of petitions) under this subtitle, it is unlawful for any person:

- (1) To knowingly or willfully circulate, publish or exhibit any false statement or representation concerning the contents, purport or effect, thereof, for the purpose of obtaining any signature to the petition or of persuading any person to sign it.
- (2) To refer to the Board a petition to which is attached, appended or subscribed any signature which the person knows to be false or fraudulent or not the genuine signature of the person purporting to sign the petition or the person whose name is attached, appended or subscribed in the petition.
- (3) To make any false affidavit.
- (4) To give, pay or receive any money or other valuable consideration or inducement for signing or not signing the petition.
- (5) To circulate or cause to circulate a petition, knowing it contains false, forged or fictitious names.
- (6) Knowingly as a petitioner, to sign more than once.
- (7) To sign a petition, knowing at the time the person is not qualified to sign it.

(C.B. 19, 1976; C.B., § 1; C.B. 77, 2007, § 2; C.B. 34, 2010, § 1)

Sec. 10.408. - statement of contributions and expenditures.

- (a) At the time of filing with the Board a petition (including an associated or related set of petitions), the person, persons or association that file the petition shall file with it a statement showing the contributions and expenditures for the petition. This shall be certified by the person, persons or association that file the petition giving (1) the name and post office address of every contributor to the expense of the petition, and the amount paid by each; and (2) the name and post office address of every person to whom and for what service, any money was paid or promised on account of the petition or which is owed to be paid.
- (b) If such a certified statement is not filed with the petition, the Board shall treat the petition as invalid.
- (c) In any proceeding to test the validity of any petition filed as specified in subsection (a) of this section, the person, persons or association, certifying the statement required in this section shall be a party to such proceeding. Such proceeding shall be filed in the County where the person, persons or association resides or maintains its principal place of business as the case may be.

(C.B. 19, 1976)

Sec. 10.409. - Penalties.

Any violation of the subtitle and the invalidity or impropriety of each individual signature shall be deemed a separate offense and shall be a misdemeanor punishable by imprisonment in jail for not less than 30 days, no more than six months or by a fine not less than ten dollars or no more than \$250.00 or by both fine and imprisonment in the discretion of the court; and also, any violation of this subtitle shall be punishable (if the offense warrants) under the laws concerning perjury.

(C.B. 19, 1976)

Sec. 10.410. - Severability.

The provisions of this act are severable and if any provision, sentence, clause, section or part thereof is held illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of the ordinance or their application to other persons and circumstances. It is hereby declared to be the legislative intent that this act would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included therein, and if person or circumstances to which the act or any part thereof is inapplicable had been specifically exempted therefrom.

(C.B. 19, 1976)

TITLE 11 - FINANCE^[1]

Footnotes:

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Editor's note— C.B. 38, 1998 repealed former § 11.100, subtit. 1 of tit. 11, relative to short-term notes and § 11.300, subtit. 3 of tit. 11, relative to appropriation and control of County funds, and reenacted new provisions to read as herein set out. The provisions of former § 11.100 derived from Ch. 378 of the 1967 Public Local Laws; C.B. 6, 1989; C.B. 77, 1993; and C.B. 28, 1998.

SUBTITLE 1. - DEPARTMENT OF FINANCE

Sec. 11.100. - General provisions.

General provisions regarding the Department of Finance are set forth in title 6, "County Executive and the Executive Branch," subtitle 2, "Administrative Departments and Offices," of the Howard County Code.

(C.B. 38, 1998)

Sec. 11.101. - Department of Finance.

- (a) *Head; Title; Collector of Taxes.* The head of the Department of Finance shall be the Director of Finance. As provided under section 4-101 of the Tax-Property Article of the Annotated Code of Maryland, the Director of Finance is appointed the collector, as defined in section 1-101 of the Tax-Property Article of the Annotated Code of Maryland, and the appointment shall continue from year to year.
- (b) *Qualifications of Director of Finance.* The Director of Finance shall be an accountant with at least ten years of increasingly responsible experience in finance administration, including a minimum of five years of public finance administration. The Director shall have a comprehensive knowledge of

the principles and practices of public revenue administration and finance, including investment of funds.

- (c) *Duties and Responsibilities.* The Department of Finance shall have charge of the administration of the financial affairs of the County, including:
 - (1) The collection of State and County taxes, special assessments, the metropolitan district charges, fees and other revenues and funds of every kind due to the County;
 - (2) The enforcement of the collection of taxes in the manner provided by law;
 - (3) The custody, safekeeping and investing, as permitted by law, of all funds and securities belonging to or by law deposited with, distributed to or handled by the County;
 - (4) The disbursement of County funds;
 - (5) The keeping and supervision of all accounts;
 - (6) The control of all expenditures on the basis of budgetary appropriations and allotments; and
 - (7) The preparation for bond sales and advising on debt management.
- (d) *Recordation Tax.* Pursuant to section 12-109 of the Tax-Property Article of the Annotated Code of Maryland, the Director of Finance is designated to collect recordation tax in Howard County.
- (e) *Other Duties and Responsibilities.* The Director of Finance may assign any administrative or supervisory duties and responsibilities to the Deputy Director of Finance. The Department of Finance shall perform upon request such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 38, 1998; C.B. 5, 2001; C.B. 13, 2008, § 1)

SUBTITLE 2. - ADMINISTRATION

Sec. 11.200. - Payment of governmental charges by credit or debit card.

- (a) *Governmental charge defined.* In this section, *governmental charge* means:
 - (1) Property taxes, any other tax, or any fee or charge collected by Howard County; or
 - (2) Any additional charge collected by the County.
- (b) *Payment by Credit or Debit Card.* The Director of Finance may allow any governmental charge to be paid by credit card or debit card issued by a company with which the County has negotiated any required agreement.
- (c) *Service Charge:*
 - (1) If a person uses a credit or debit card to pay a governmental charge, the Director of Finance may add a service charge to the amount of the governmental charge to be paid.
 - (2) A service charge assessed under this subsection:
 - (i) May not exceed the amount of any fee that may be charged to the Director in connection with the use of the card; and
 - (ii) Shall be determined at the time the governmental charge is paid.
- (d) *Notice.* A property tax bill or other invoice for which payment of a governmental charge by credit card or debit card is accepted shall specify:
 - (1) That a credit or debit card may be used to pay the charge;
 - (2) The types of credit and debit cards that may be used; and

- (3) Whether a service charge will be added to the governmental charge if a credit or debit card is used to pay the tax, and the service charge amount.

(C.B. 38, 1998)

Sec. 11.201. - Lien certificates.

Upon request, the Director of Finance shall issue a lien certificate that lists County taxes, assessments, and charges due on a property. The Director of Finance shall charge a fee, to be set by resolution of the County Council, for issuance of the lien certificate.

(C.B. 38, 1998)

Sec. 11.202. - Dishonored checks.

(a) *Collection of Damages.*

- (1) The Director of Finance may impose a collection charge on and collect damages from a person who gives a check or other instrument to the Department for any purpose, and the check or instrument has been dishonored by nonacceptance or nonpayment.
- (2) The collection charge under this section shall be the maximum permitted, and damages shall be collected under title 15, subtitle 8 of the Commercial Law Article of the Annotated Code of Maryland.

(b) *Notice.* In applying this section, the Director of Finance shall comply with the notice provisions of title 15, subtitle 8 of the Commercial Law Article of the Annotated Code of Maryland.

(C.B. 16, 1999)

Note— Section 4 of C.B. 16, 1999, declared the bill effective July 3, 1999.

State Law reference— Fee for dishonored check authorized, Ann. Code of Md., Commercial Law article, § 15-802.

Sec. 11.203. - Certification of availability of funds.

Except as provided in section 4.117 of the County Code, an employee or agent of the County may not expend County funds and may not obligate the County to pay County funds unless the Director of Finance has certified that funds are available for the designated purpose.

(C.B. 38, 1998)

SUBTITLE 3. - SPECIAL FUNDS

Sec. 11.300. - Reserve fund for permanent public improvements.

- (a) *"Fund" Defined.* In this section, "Fund" means the Reserve Fund for Permanent Public Improvements.
- (b) *Established.* In accordance with section 615(g) of the Howard County Charter, there is a Reserve Fund for Permanent Public Improvements.

- (c) *Purposes.* The purpose of the Fund is to construct permanent public improvements in Howard County that consist of educational and cultural facilities to serve Downtown Columbia.
- (d) *Status.*
 - (1) The Fund is a special, non-lapsing Fund.
 - (2) The Department of Finance shall hold the Fund separately.
 - (3) Any interest earnings of the Fund shall be credited to the Fund.
- (e) *Components .* The Fund consists of:
 - (1) Revenue appropriated in the County budget to the Fund; and
 - (2) Taxes or other sources of revenue dedicated to the Fund.
- (f) *Limitation.* The annual amount paid into the Fund shall not exceed three percent of the annual expense budget.
- (g) *Use of the Fund .*
 - (1) The Fund may be used only to construct on a pay-as-you-go basis or to finance borrowing.
 - (2) Expenditures from the Fund may only be used in accordance with the County budget.

(C.B. 70, 2016, § 1)

TITLE 12 - HEALTH AND SOCIAL SERVICES¹¹

Footnotes:

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State Law reference— Authority to legislate for public health purposes, Ann. Code of Md. art. 25A, § 5(J), (T), (Y).

SUBTITLE 1. - HEALTH CODE¹²

Footnotes:

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Editor's note— Section 1 of C.B. 6, 1985, repealed former sub. 1, relating to the Board of Health, §§ 12.100—12.119; and § 2 enacted a new sub. 1, §§ 12.100—12.112. Formerly, sub. 1 was derived from the following Council bills: 33, 1969; 5, 1970; 21, 1970; 47, 1972; 8, 1973; 17, 1981; 46, 1983.

State Law reference— Authority to legislate for public health purposes, Ann. Code of Md. art. 25A, § 5(J), (T), (Y).

Sec. 12.100. - Purpose.

The purpose of this Health Code is to establish policy and procedure to protect the health of the citizens of Howard County.

(C.B. 6, 1985)

Sec. 12.101. - Board of Health.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Members.* There is a Board of Health of Howard County consisting of 11 members.
- (c) *Qualifications:*
 - (1) All members shall be residents of Howard County.
 - (2) One member shall have experience in the area of environmental health.
 - (3) Three members shall be health professionals, and one of the health professionals may be a veterinarian.
 - (4) Seven members shall represent the general public and shall meet one of the following qualifications, provided that not more than three shall meet the same qualification:
 - (i) At least two members shall not have professional or administrative training in the health occupations.
 - (ii) At least two members may have had professional or administrative training in the health occupations but shall not currently work as health professionals or have worked as health professionals in the five years prior to their appointment.
 - (iii) At least one member shall have professional experience in mental health and at least one member shall have professional experience in substance use disorders.
- (d) *Executive Secretary.* The Health Officer or the Health Officer's designee shall serve as Executive Secretary to the Board and shall attend all meetings.
- (e) *Meetings.* The Board shall meet once a month except for the months of July, August, and December, in which meetings are optional, and at any other time the Board considers necessary.
- (f) *Powers and Duties.* The Board of Health shall:
 - (1) Have the powers and duties of a local Board of Health as provided in title 3 of the Health-General Article of the Annotated Code of Maryland.
 - (2) Assist and cooperate with the Secretary of the Maryland Department of Health of the State of Maryland in health-related matters, including behavioral health.
 - (3) Have general responsibility for the health and sanitary interests of the people of the County.
 - (4) Investigate and study the causes of disease, epidemics and nuisances affecting public health, behavioral health, the prevention of contagious diseases, and the preservation of health.
 - (5) Advise the County Executive and County Council on health matters including behavioral health.
 - (6) Have the power to administer oaths, issue subpoenas and apply for injunctive relief.
 - (7) Act as the appeals board for decisions of the Health Officer regarding enforcement of this Code, except as otherwise provided in this subtitle. In making its determination, the Board of Health shall consider only:
 - (i) Whether an actual or potential health hazard exists; or
 - (ii) Whether a condition exists which interferes with the proper use or enjoyment of property; or
 - (iii) Whether the Health Officer has acted in accordance with law and regulation.
 - (8) At the directive of the County Executive or by resolution of the County Council, the Board of Health shall review and make recommendations on any matter related to public health.

(C.B. 6, 1985; C.B. 79, 1987; C.B. 62, 1988; C.B. 10, 2004, § 1; C.B. 13, 2018, § 1)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

State Law reference— Local boards of health authorized, Ann. Code of Md. art. 25A, § 5(Y); local boards of health, Ann. Code of Md., Health-General article, § 3-201 et seq.

Sec. 12.102. - Health Officer.

- (a) *Qualifications.* The Health Officer shall meet the qualifications for the position as set forth in title 3, subtitle 3 of the Health-General Article of the Annotated Code of Maryland.
- (b) *Nomination.* The County Executive shall nominate the Health Officer for Howard County and the County Council shall confirm the nomination by resolution. The County Council shall submit the name of the confirmed nominee to the Secretary of the Maryland Department of Health and Mental Hygiene for appointment.
- (c) *Appointment.* The Secretary of the Maryland Department of Health and Mental Hygiene shall appoint the confirmed nominee as the Health Officer for Howard County provided that the nominee meets the qualifications as set forth in title 3, subtitle 3 of the Health-General Article of the Annotated Code of Maryland.
- (d) *Annual Evaluation.* The County Executive shall prepare an evaluation of the Health Officer each year. The County Council shall review the evaluation and may add its own comments. It shall then submit the County's evaluation to the Secretary of the Maryland Department of Health and Mental Hygiene. The County Executive and the County Council shall review the annual evaluation with the Health Officer.
- (e) *Restrictions.* If the Health Officer or deputy Health Officer is a physician, the Health Officer or deputy may not practice medicine except in the performance of official duties nor may the Health Officer engage in an occupation that conflicts with the performance of official duties.
- (f) *Removal From Office.* The Health Officer serves at the pleasure of the County Executive, the County Council and the Secretary of the Maryland Department of Health and Mental Hygiene. The Health Officer may be removed with the concurrence of the County Executive, the County Council, and the Secretary of the Maryland Department of Health and Mental Hygiene.
- (g) *Compensation.* The Health Officer is an unclassified State employee and is entitled to the salary provided in the State budget and any additional salary provided in the County budget.
- (h) *Powers and Duties:*
 - (1) The Health Officer shall have the powers and duties set forth in this subtitle and other sections of the Howard County law and as set forth in the Annotated Code of Maryland.
 - (2) The Health Officer is the Executive Officer and Secretary of the Board of Health and shall attend all meetings.
 - (3) The Health Officer is the head of the Howard County Health Department and appoints the staff of the Howard County Health Department.
 - (4) The Health Officer shall enforce State health laws, rules and regulations and County health laws, rules and regulations.
 - (5) The Health Officer shall perform any investigation or other duty or function directed by the Secretary of the Maryland Department of Health and Mental Hygiene, the County Board of Health, the Howard County Council and the Howard County Executive and shall submit appropriate reports to them.
 - (6) The Health Officer may initiate investigations pursuant to the provisions of this statute [subtitle].

- (7) The Health Officer shall have the power to issue subpoenas, apply for injunctive relief, and to bring action to enforce compliance.
- (8) The Health Officer may issue citations.
- (9) The Health Officer may issue licenses and permits pursuant to this subtitle.
- (10) The Health Officer may promulgate rules and regulations to implement this subtitle.

(C.B. 6, 1985)

State Law reference— Health Officers, Ann. Code of Md., Health-General article, § 3-301 et seq.

Sec. 12.103. - Definitions.

Words and phrases used in this subtitle shall have their usual meaning except as specified below:

- (a) *Domestic sewage* means the liquid or water-carried wastes (including gray water and water treatment backwash) from all buildings including, but not limited to, residential buildings, bathhouses, clubhouses, floating homes, commercial buildings, and institutions.
- (b) *Health Officer* means the Health Officer for Howard County or the Health Officer's representative.
- (c) *On-site sewage disposal* means disposal of sewage effluent beneath the soil surface at the site of its origination.
- (d) *On-site sewage disposal system* means all private methods of collecting and disposing of domestic sewage at the site of its origination, including septic tanks, privies, chemical toilets, alternative on-site systems and others.
- (e) *Person* means an individual, corporation, firm, association, group, public corporation, governmental agency.
- (f) *Public sewerage system* means a Howard County owned system of sewers and appurtenances for the collection and transportation of sewage.
- (g) *Public water system* means a Howard County owned water supply system from which water under pressure is available.
- (h) *Water supply source* means all privately owned sources of potable water, including but not limited to bored wells, drilled wells, dug wells, cisterns or springs.

(C.B. 6, 1985; C.B. 81-2006, § 2)

Sec. 12.104. - Right of entry.

- (a) *Place of Business or Employment.* The Health Officer may enter and inspect any place of business or employment in the performance of the Officer's official duties.
- (b) *Private Dwelling.* The Health Officer may enter a private dwelling to inspect for violations of this subtitle or violations of State health law if the Officer has obtained consent of the occupant or owner to enter and inspect.
- (c) *Entry under Warrant.* If the Health Officer has probable cause to believe that a violation of this subtitle or a violation of State health law has occurred and the Officer has been refused entry to the premises, the Officer may apply to a judge of the District or Circuit Court for Howard County for a warrant to enter the premises and investigate the violation.

- (d) *Emergency Entry.* If the Health Officer has probable cause to believe that a violation of this subtitle or a violation of State law has occurred and does not have time or opportunity to obtain a warrant and an exceptional or emergency situation exists, the Health Officer may enter the premises and investigate the violation.
- (e) *Resistance to Health Officer.* It shall be unlawful to knowingly obstruct the Health Officer in the execution of the Officer's powers or in the performance of the Officer's duties.

(C.B. 6, 1985)

Sec. 12.105. - Connection of property with public water supply or sewerage system.

- (a) *Order to Connect to Public System and to Abandon Potentially Dangerous Water Supply or On-site Sewage Disposal Systems.* The Health Officer may order a property owner to connect to the public water and/or sewerage system and to abandon the existing water supply and/or on-site sewage disposal system of the property, leaving it in such a way that it cannot be used or be a health threat, if:
 - (1) The Health Officer determines that the existing water supply and/or on-site sewage disposal system for the property is a potential threat to health; and
 - (2) There is an operating public water main for delivery of water service to the property and/or a public sewer main for reception of domestic sewage from the property, directly available to service the property at the time of the connection.
- (b) *Contents of Notification Ordering Connecting to Public Water and/or Sewerage System.* The notice requiring connection to the public water and/or sewerage system shall be sent by certified mail to the address of the owner as shown on the current tax assessment records of the County and, if the owner's address is address of the property, an additional notice shall be sent to the resident of the property. It shall include:
 - (1) A description of the conditions constituting a potential health hazard;
 - (2) An order to connect to the public water and/or sewerage system, indicating time limits for the connection;
 - (3) An order to abandon the existing system and leave it in such a way that it cannot be used or be a health threat;
 - (4) A statement advising of the right to appeal and the procedures regarding an appeal;
 - (5) An explanation of the penalties for failure to comply.
- (c) *Appeal:*
 - (1) A decision of the Health Officer whether or not to require property to be connected to the public water and/or sewerage may be appealed to the Board of Health.
 - (2) Any person aggrieved by the decision who wishes to appeal it shall file the appeal with the Executive Secretary of the Board of Health within 15 days of receipt of the order to connect.
 - (3) Upon receipt of an appeal, the Board of Health shall schedule a hearing, to be held within 30 days of the filing of the appeal.
 - (4) The Board of Health shall announce its decision on the appeal within 30 days of the hearing.
 - (5) If the Board of Health upholds the order to connect, the property owner shall carry out the order.
- (d) *Compliance:*
 - (1) Within 30 days of receipt of the Health Department's order to connect, or, within 30 days of the Board of Health's upholding of an order to connect, the property owner shall make application

for all permits required by the County for connection and shall pay all permit fees and connection charges. The Health Officer may extend this time frame at his/her discretion. The property owner may arrange with the Director of Finance to pay the connection charges in installments pursuant to subtitle 3, "Water and Sewer Charges and Assessments," of title 20, "Taxation and Public Credit," of the Howard County Code.

- (2) Within 60 days of the Health Department's order to connect or, in the event of an appeal, within 60 days of the Board of Health's upholding of the order to connect, the connection to the public water and/or sewerage system shall have been made and inspected. The Health Officer may extend this time limit at his/her discretion.
- (e) *Court Action to Enforce Order:*
- (1) If a person refuses or fails to comply with an order to connect to the public water and/or sewer system within the required time, the Health Officer may bring an action in court to enforce compliance with the order.
 - (2) The court may order the Department of Public Works to make the necessary connections at the property owner's expense, pursuant to the provisions of section 18.104A, "Mandatory Water/Sewer Connections," of the Howard County Code.
 - (3) In the event that a court orders the connection, and does not order the Department of Public Works to do the work, the property owner shall apply for all permits and pay connection charges (including any arrangement for installment payments) within 30 days of the court order. The connection to the public system shall have been made and inspected within 60 days of the court order.
- (f) *Financial Problems in Complying with Order.* Property owners who have financial difficulties in complying with the order to connect may be eligible for certain financing options offered pursuant to subtitle 3, "Rehabilitation Fund," of title 13, "Housing, Urban Renewal and Economic Development," or subtitle 7, "Water/Sewer Connection Financing Program," of title 20, "Taxation and Public Credit," of the Howard County Code.
- (g) *Conditions after Connection.* After the connection is made to the public sewerage system, all cesspools, septic tanks and dry wells located on the property shall be abandoned, closed, backfilled and left in such condition that they cannot be again used nor become injurious to health. Upon connection to the public water system, all wells and other sources of water shall be disconnected.

(C.B. 6, 1985; C.B. 6, 1998; C.B. 32, 2002, § 1)

Sec. 12.106. - On-site sewage disposal; public swimming pools and spas.

- (a) *On-Site Sewage Disposal:*
- (1) *Permit required.* No on-site sewage disposal system shall be constructed, modified, altered, repaired, connected or caused to receive an increase in flow unless the County Health Officer has issued a sewage disposal permit.
 - (2) *Testing and permit fee.* The Board of Health shall recommend and the County Council shall approve a schedule of fees for:
 - (i) Percolation testing and evaluation to determine suitability for on-site sewage disposal systems; and
 - (ii) Issuance of a sewage disposal permit for construction, alteration or increase in flow of an on-site sewage disposal system.
 - (3) *Denial of permit.* A sewage disposal permit or minor septic repair permit shall be denied when, upon review of the application and required site plan, the approving authority finds that:

- (i) The proposed design is inadequate to collect, treat and dispose of domestic sewage and effluent discharge in accordance with the standards set forth in this subtitle;
 - (ii) Soil and geological conditions are such as to preclude safe and proper operation of the desired installation; or
 - (iii) The construction would be detrimental to the general health and welfare of the residents or the environment.
- (4) *Multiused sewerage systems:*
- (i) Multiused sewerage system means a multiuse sewerage system as defined in section 9-501 of the Environment Article of the Maryland Code, and a multi-used sewerage system as defined in section 26.03.01.01 of the Code of Maryland Regulations.
 - (ii) A person may not install a multiused sewerage system for a project that contains residential units of any kind.
 - (iii) Notwithstanding subparagraph (ii) of this paragraph, a multiused sewerage system may be installed if the County Health Department determines that extraordinary circumstances exist necessitating the use of a multiused sewerage system to protect the public health.
 - (iv) A multiused sewerage system:
 - 1. Is subject to regulation under title 18 of the Howard County Code; and
 - 2. Shall provide at least 10,000 square feet of subsurface disposal area for each 750 gallons of design flow for wastewater.
 - (v) To carry out this paragraph (4) of this subsection, the County Board of Health may adopt regulations.
- (b) *Public Swimming Pools and Spas:*
- (1) *Permit required.* A person may not construct, alter, or operate a public swimming pool or spa without a permit issued by the Health Officer. A separate permit is required for each operation. The permit is nontransferable.
 - (2) *Permit application.* An Applicant shall submit an application to the Health Officer on a form provided by the Officer.
 - (3) *Permit fees.* The Board of Health shall recommend and the County Council shall approve permit fees for the construction, alteration, and operation of public swimming pools and spas.
 - (4) *Rules and regulations:*
 - (i) The County Health Officer shall recommend regulations concerning public swimming pools, spas and natural bathing areas to the Board of Health for its review and recommendations.
 - (ii) After the Health Officer receives the recommendations of the Board of Health, the regulations shall be forwarded to the County Executive for submission to the County Council for its approval by legislative action.
 - (iii) Except as provided in paragraph (5) of this subsection, title 10, subtitle 17, chapter 1 of the Code of Maryland Regulations, "Public Swimming Pools and Spas," as amended from time to time, is hereby adopted as the regulations for public swimming pools and spas in Howard County as if set forth in full in this paragraph.
 - (5) *Appeal.* Notwithstanding any provision of Code of Maryland Regulations 10.17.01, a person aggrieved by a decision of the Health Officer to grant, deny, suspend, revoke, renew or refuse to renew a permit may appeal the decision to the Board of Health. An appeal under this paragraph shall be governed by article III, "Contested Cases," of the Howard County Administrative Procedure Act. The appeal shall be filed with the Executive Secretary of the Board within days of the decision to deny, suspend, revoke, renew or refuse to renew a permit.

(C.B. 6, 1985; C.B. 25, 1986; C.B. 43, 1988; C.B. 15, 1996; C.B. 11, 2000; C.B. 81, 2006, § 2; C.B. 51, 2008, § 1; C.B. 30, 2012, § 1)

Sec. 12.107. - Food handling.

(a) *Definitions.* Words and phrases used in this subsection shall have their usual meaning except as defined below:

- (1) *Food establishment* means a food service facility or a food processing plant.
- (2) *Food processing plant* means a place used for, or in connection with, the manufacturing, preparing, processing, packaging, canning, freezing, storing, distribution, labeling or holding of food or drink for human consumption.
- (3) *Food service facility*:
 - (i) A place where food or drink is prepared for sale or service on the premises or elsewhere; or
 - (ii) An operation where food is served to or provided for the public with or without charge.

Food service facility includes:

- (i) A restaurant, coffee shop, cafeteria, short order cafe, luncheonette, tavern, sandwich stand, soda fountain, hotel, motel, inn, retail store selling nonpotentially hazardous pre-packaged foods and drinks, and a retail bakery outlet;
- (ii) Food operations in an industry, institution, hospital, club, school, camp, religious organization, catering kitchen, commissary, food processing or similar place in which food or drink is prepared for sale or service on the premises or elsewhere;
- (iii) Any other operation where food is served to or provided for the public with or without charge; and
- (iv) An excluded organization, as defined in the Code of Maryland Regulations, section 10.15.03.02.B, either with or without a license, that serves potentially hazardous foods.

Food service facility does not include a:

- (i) Kitchen in a private home where food is prepared at no charge for residents or guests in the home, for guests at a social gathering that is not a public event, or for service to unemployed, homeless, or another disadvantaged population;
 - (ii) Food preparation or serving area where only nonpotentially hazardous food is prepared or served by an excluded organization;
 - (iii) "Bed & breakfast" as defined in the Code of Maryland Regulations, section 10.15.03.02B(8) that serves only a continental breakfast;
 - (iv) Farmer's market offering or selling to the public raw fruit, vegetables, and other food products as specified in the Code of Maryland Regulations, section 10.15.03.27 or eggs sold only on a farm that is in compliance with the Code of Maryland Regulations, section 10.15.03.05A(8); or
 - (v) Business office such as a bank, real estate office, hair salon, medical/dental office, or other business office that only provides courtesy popcorn, prepackaged candy or gum, coffee, tea, bottled soda or water, prepackaged single serve powdered drinks, or pasteurized drinks that do not require immediate refrigeration.
- (4) *License.* A food service facility license issued by the Health Officer authorizing the operating of a food establishment.

- (5) *Potentially hazardous food.* Has the meaning stated in the Code of Maryland Regulations, section 10.15.03.02.B.
- (b) *License Required.* No person may operate a food establishment without a license issued by the Health Officer. A separate license is required for each food establishment. A food handling license is not transferable from person to person or from one food establishment to another.
- (c) *Qualifications for License:*
- (1) Compliance with the requirements of this subtitle and the rules and regulations adopted pursuant to it.
 - (2) Consent to right of entry to the food establishment for inspections permitted or required pursuant to this subtitle.
 - (3) Payment of license fee. The Health Officer may exempt governmental facilities from payment of the license fee.
- (d) *License Application.* An Applicant shall submit an application to the Health Officer on a form provided by the Officer. The application shall include:
- (1) The Applicant's name and address; if the Applicant is not an individual, the names and addresses of the partners or the principal Officer(s);
 - (2) The location of the food establishment for which application is made;
 - (3) A description of the food establishment that the Applicant proposes to operate, including type of food, size of interior, number of seats, number of employees; and
 - (4) Any other information the Health Officer requires to determine qualification for a license.
- (e) *Issuance of License.* Within 30 days of receiving an application for a license, the Officer shall issue a license to any Applicant who meets the requirements of this subtitle and the rules and regulations adopted pursuant to it. The Officer may inspect the food establishment prior to issuing the license.
- (f) *Denial of License.* The Health Officer may deny license if the Officer finds the Applicant:
- (1) Does not meet the requirements of this subtitle or the regulations adopted pursuant to it; or
 - (2) Has fraudulently or deceptively attempted to obtain the license.
- (g) *Duration of License.* A license expires one year from the date of issuance or renewal. The Health Officer may renew the license provided that the licensee pays the renewal fee and has complied with the provisions of the subtitle and with rules and regulations adopted pursuant to it.
- (h) *Display of License.* Each licensee shall display the license conspicuously in the food establishment.
- (i) *Suspension or Revocation of License.* The Health Officer may suspend or revoke a license if the licensee:
- (1) Violates or fails to meet the requirements of this subtitle or of rules and regulations adopted pursuant to it; or
 - (2) Fraudulently or deceptively obtains a license.
- (j) *Appeals:*
- (1) Any person aggrieved by a decision of the Health Officer to grant, deny, suspend, revoke, renew or refuse to renew a license, may appeal the decision to the Board of Health. The appeal shall be filed with the Executive Secretary of the Board within 15 days of the decision to deny, suspend, revoke or refuse to renew a license.
 - (2) Upon receipt of an appeal, the Board of Health shall schedule a hearing to be held within ten days of the filing of the appeal.
 - (3) The Board of Health shall announce its decision within 15 days of the hearing.

- (4) There shall be no further administrative appeal from the decision of the Board of Health.
- (k) *License Fees.* The Board of Health shall recommend fees for food handling licenses to the County Council for approval by resolution.
- (l) *Rules and Regulations:*
 - (1) The County Health Officer shall recommend regulations concerning food establishment facilities in Howard County to the Board of Health, which shall review, and may amend, the regulations. Upon approval of the Board of Health, the regulations shall be forwarded to the County Council for its approval by resolution.
 - (2) Violations of the food establishment regulations shall be treated as violations of this subtitle.
 - (3) A person aggrieved by a decision of the Health Officer regarding enforcement of the food service facilities regulations may appeal the decision, within 15 days of its issuance, to the Board of Health. The Board of Health shall schedule a hearing within ten days of the filing of the appeal.

(C.B. 6, 1985; C.B. 48, 2008, § 1)

State Law reference— Food establishments, Ann. Code of Md., Health-General article, § 21-301 et seq.

Sec. 12.108. - Air pollution.

- (a) *Definitions.* Words and phrases used in this section shall have their usual meaning except as specified below:
 - (1) *Air pollution; air pollutants; air polluting* means the presence in the outdoor atmosphere, from a single source or in combination with other sources, of substances, the characteristics and duration of which:
 - (i) Are injurious to human, plant or animal life or to property; or
 - (ii) May be predicated with reasonable certainty to be injurious to human, plant or animal life or to property; or
 - (iii) Which unreasonably interfere with people's proper use or enjoyment of their property.
 - (2) *Open fire* means a fire where material is burned in the open or in a receptacle other than a furnace, incinerator, or other equipment connected to a stack or chimney.
 - (3) *Particulate matter* means material, except water in an uncombined form, that is or has been airborne, and exists as a liquid or solid at standard conditions.
 - (4) *Unconfined source* means an article, machine, equipment or other apparatus that causes air polluting emissions which are not enclosed in a stack, duct, hood, flue or other conduit but which escape into the atmosphere through openings such as doors, vents, windows, ill-fitting closures, or poorly maintained equipment.
- (b) *Open fires* means except as provided in this subsection, no person shall cause or allow an open fire.
 - (1) An open fire shall be allowed without permit for:
 - (i) Cooking of food for other than commercial reasons.
 - (ii) Recreational purposes, such as campfires.
 - (iii) Oil or gas fired salamanders or similar devices designed specifically for space heating or warming of outdoor works, etc., provided no visible emissions are created.

- (2) Public Officers, in the performance of their official duties may set an open fire or give permission for an open fire, with the concurrence of the Health Officer, if:
 - (i) All reasonable means are employed to minimize smoke; and
 - (ii) The fire is necessary for one or more of the following reasons:
 - a. For the prevention of a fire hazard that cannot be abated by other means.
 - b. For the instruction of public firefighters or industrial employees.
 - c. For the protection of public health or safety when other means for disposing of dangerous or explosive materials are not available.
 - (3) The Health Officer may issue written permission for fires set in the course of agricultural operations in growing crops or raising fowl or animals or in accepted forestry practice. The permit shall not allow the burning of ordinary household or farm trash and debris.
 - (4) The Health Officer may issue written permission for an open fire provided all of the following conditions are met:
 - (i) The Health Officer is satisfied that there is no practical alternate method for the disposal of the material to be burned or to conduct the desired activity.
 - (ii) A hazardous condition or air pollution or nuisance will not be created.
 - (iii) Burning may not be done within 500 yards (457 meters) of an occupied building or heavily traveled public roadway.
 - (iv) There are no violations of fire control laws or other County laws or regulations.
 - (v) Materials which produce a dense smoke shall not be burnt. This includes, but is not limited to, tires and roofing materials.
 - (vi) The material to be burned shall not have been brought to the premises for burning.
 - (vii) The Health Officer may impose conditions to minimize the creation of smoke, to prevent nuisances and air pollution and to protect the health, safety, comfort and property.
- (c) *Particulate Matter:*
- (1) *Emissions.* A person may not cause or permit air polluting emissions from an unconfined source without taking reasonable precautions to prevent particulate matter from becoming airborne. Reasonable precautions include the installation and use of hoods, fans and dust collectors to enclose, capture and vent emissions. The Health Officer shall determine which precautions are appropriate to the situation. In making this determination, the Officer shall consider technological feasibility, practicality, economic impact, and the environmental consequences of the decision.
 - (2) *Handling, transportation or storage of material.* A person shall take reasonable precautions to prevent particulate matter from becoming airborne when handling, transporting or storing materials, or when using, constructing, altering, repairing or demolishing roads, buildings or appurtenances. The Health Officer shall determine which precautions are appropriate to the situation. The reasonable precautions include, but are not limited to:
 - (i) Use of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land.
 - (ii) Application of asphalt, oil, water or suitable chemicals on dirt roads, material stockpiles and other surfaces which can create airborne dusts.
 - (iii) Installation and use of hoods, fans and dust collectors to enclose and vent the handling of dusty materials. Adequate containment methods shall be employed during sandblasting of buildings or other similar operations.

- (iv) Covering materials likely to create air pollution when carried on moving open-bodied vehicles. Alternate means may be employed to achieve the same results as would covering the materials.
- (v) The paving of roadways and their maintenance in clean condition.
- (vi) The prompt removal from paved streets of earth or other material which has been transported there by trucks or earth moving equipment or erosion by water.

(C.B. 6, 1985)

State Law reference— Ambient air quality control, Ann. Code of Md., Environment article, § 2-101 et seq.; power of political subdivisions relative to ambient air quality, Ann. Code of Md., Environment article, § 2-104.

Sec. 12.109. - Reserved.

Editor's note— Section 2 of C.B. 59, 2001 repealed § 12.109, which pertained to miscellaneous requirements, and derived from C.B. 6, 1985, and C.B. 15, 1996.

Sec. 12.110. - Nuisances.

(a) *Definition:*

- (1) A *nuisance* occurs on property when the person who owns or rents the property:
 - (i) Maintains the property in a condition that poses an actual or potential threat to health;
 - (ii) Allows activities to take place on the property which pose an actual or potential threat to health; or
 - (iii) Allows activities to take place on the property which interfere with another's proper use or enjoyment of property.
- (2) A nuisance includes water pollution, contaminated wells, open and abandoned wells, overflowing sewage, infestation with insects, vermin or rodents, unclean facilities for domestic animals and poultry, air pollution, improper refuse disposal, a hazard caused by the presence of lead paint or lead paint dust, or violations of food establishment regulations adopted pursuant to this subtitle.

(b) *Complaints:*

- (1) A person who claims to be affected by a nuisance may complain to the Board of Health or the Health Department to declare that a nuisance exists.
- (2) On the written complaint of at least two persons who claim to be affected by a nuisance condition regarding an agricultural operation, the Health Officer shall investigate any complaint that a nuisance condition exists.

(c) *Investigations:*

- (1) Except as provided in subsection (b)(2) of this section, on receipt of a complaint by at least two persons who claim to be affected by a nuisance, the Health Officer shall investigate the complaint.
- (2) The Health Officer shall investigate all complaints of nuisance received except for nuisance complaints against an agricultural operation when a previous nuisance complaint involving the same claimed nuisance condition resulted in a determination by the Health Officer that a

nuisance condition did not exist. The Health Officer may initiate an investigation without requiring citizen complaint.

- (d) *Declaration of Nuisance.* If the Health Officer believes that a nuisance condition exists as defined in subsection (a) above, the Health Officer may declare the existence of a nuisance. In determining whether a nuisance condition exists in connection with an agricultural operation, as defined in this subtitle, the Health Officer shall apply the criteria provided in subsection 12.110(a) and subsection 12.111(d) of this subtitle. Further, the Health Officer shall consider the professional opinion of the Howard County Cooperative Extension Service of the University of Maryland or the Howard Soil Conservation District in determining whether the agricultural operation being investigated is conducted in accordance with generally accepted agricultural management practices.
- (e) *Notice of Violation; Citations.* Upon finding that a nuisance exists, the Health Officer may:
 - (1) Give written notice of the violation to the person owning and/or renting the property stating that a nuisance exists, describing the nuisance, ordering the nuisance to be corrected within the time specified in the notice, and stating the right to appeal; or
 - (2) Issue a civil citation to the person owning and/or renting the property.
- (f) *Appeal.* The decision of the Health Officer whether or not to issue an order to correct a nuisance may be appealed to the Board of Health. Any person aggrieved by the decision who wishes to appeal it shall file an appeal with the Executive Secretary of the Board of Health within 15 days of the decision. The Board of Health shall schedule a hearing within ten days of the filing of the appeal and shall issue its decision within 15 days of the hearing.

(C.B. 6, 1985; C.B. 32, 1985; C.B. 22, 1989; C.B. 15, 1996; C.B. 15, 2017, § 1)

State Law reference— General power relative to nuisances, Ann. Code of Md. art. 25A, § 5(J); nuisance control, Ann. Code of Md., Environment article, § 10-101 et seq.

Sec. 12.111. - Nuisance suits against agricultural operations.

- (a) *Short Title.* This section shall be known and may be cited as the Howard County Right-To-Farm Act, Bill No. 22, 1989.

(b) *Public Policy.* The practice of agriculture has been a mainstay of the economy of Howard County since the land was settled. Agriculture is a valued and respected way of life, and the preferred land use in the Rural Conservation (RC) Zoning District, a valued land use in the Rural Residential (RR) Zoning District and on property that has an agricultural use assessment as determined by the State Department of Assessments and Taxation. The Howard County Council hereby finds and declares that the practice of farming in Howard County should be protected and encouraged.

In addition, as Howard County continues to grow, residents are increasingly interacting more with the agricultural community making it extremely important for clear communication and mutual respect for one another. Agricultural operations, in many cases, involve noise, dust, odor, slow moving vehicles, and early morning/late evening activity. Howard County farmers are committed to providing a safe quality product for consumers, preserving the environment for the next generation, and being good neighbors. At the same time these activities may have some effect on adjoining properties. It is important that both the agricultural community and neighboring residents respect one another so that agriculture can continue to serve as the foundation of Howard County.

- (c) *Definitions.* In this section agricultural operation includes agriculture, apiaries, horticulture, orchards, agricultural nurseries, viticulture, aquaculture, silviculture, animal and poultry husbandry, and farming as defined in the Howard County Zoning Regulations. An agricultural operation may occur without limitation as to hours of operation. The harvesting and processing of agricultural crops and other uses or structures directly related to or accessory to the premises for farming are considered part of

an agricultural operation. Agricultural practices included as part of an agricultural operation include, but are not limited to:

- (1) The transportation of agricultural products;
 - (2) The transportation, storage, handling, and application of fertilizer, soil amendments, pesticides, and manure; and
 - (3) The operation of agricultural machinery and equipment.
- (d) *Protection for Agricultural Operations.* In RC and RR zoning districts, and on property that has an agricultural use assessment as determined by the State Department of Assessments and Taxation, an agricultural operation may not legally be considered a public or private nuisance; and a private action may not be sustained on the grounds that the agricultural operation interferes or has interfered with the use or enjoyment of other property, whether public or private, if:
- (1) The agricultural operation existed before a change occurred in the adjoining land use or occupancy of land and, before such change in land use or occupancy of land, the agricultural operation did not constitute a nuisance; or
 - (2) The agricultural operation, including any change in the operation, has been ongoing for one year or more and the operation or change did not constitute a nuisance from the date the operation began or the date the change in the operation began; and
 - (3) The agricultural operation is conducted in accordance with generally accepted agricultural management practices.
- (e) *Exceptions.* This section does not apply to:
- (1) An agricultural operation that does not conform to Federal, State or local health, Howard County Fire Prevention Code, or zoning requirements;
 - (2) A Federal, State or local agency when enforcing air, water quality, or other environmental standards under Federal, State or local law; or
 - (3) An agricultural operation that is conducted in a negligent manner.
- (f) *Limitations of Actions.* Notwithstanding any provision of this section, no action alleging that an agricultural operation conducted in accordance with generally accepted agricultural practices has interfered with the reasonable use or enjoyment of real property or personal well-being shall be maintained if the plaintiff has not sought mediation through the Maryland Agricultural Conflict Resolution Service within the Maryland Department of Agriculture, as provided for in Title 5, Subtitle 4 of the Courts and Judicial Proceedings article of the Annotated Code of Maryland.
- (g) *Legal costs.* In any civil action, if a court finds that the agricultural operation alleged to be a nuisance is found not to be a nuisance and that the suit was brought in bad faith or without substantial justification, the court should require the plaintiff to pay the costs of the proceedings and the reasonable expenses associated with the litigation, including reasonable attorney's fees, incurred by the owner, operator or both, the owner and operator, of the agricultural operation in defending against the legal action.

(C.B. 22, 1989; C.B. 41, 1993; C.B. 10, 2013, § 1; C.B. 15, 2017, § 1; C.B. 78, 2017, § 1)

State Law reference— Right to farm, Ann. Code of Md. art. 24, § 18-101.

Sec. 12.112. - Remedies.

- (a) *Civil Penalties:*

- (1) The Health Officer may enforce the provisions of this subtitle using civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. The Health Officer may issue a citation to a person who has:
 - (i) Violated a section of this subtitle or a regulation adopted under this subtitle;
 - (ii) Not corrected a nuisance within the time specified in the notice of violation; or
 - (iii) Created or permitted the creation of a nuisance.
 - (2) Each day that the person violates this subtitle or has not corrected or ceased the nuisance shall constitute a separate offense. A first offense shall be a Class E violation, a second offense shall be a Class D offense, and subsequent violations shall be Class B offenses.
- (b) *Criminal Penalties:*
- (1) The Health Officer may apply to the courts for the issuance of a criminal summons for a person who:
 - (i) Has violated a section of this subtitle or a regulation adopted under this subtitle; or
 - (ii) Fails to correct a nuisance within the time specified in the notice of violation.
 - (2) Each day that the person violates this subtitle or has not corrected the nuisance shall constitute a separate offense.
 - (3) Upon conviction under this subsection a person is subject to a fine:
 - (i) For a first offense up to \$100.00;
 - (ii) For a second offense up to 500.00; and
 - (iii) For a third or subsequent offense up to 1,000.00.
- (c) *Court Action to Enforce Order.* The Health Officer may bring action in court to enforce compliance with an order to comply with this subtitle or to correct a nuisance.
- (d) *Abatement; Lien.* If a person refuses or fails to comply with the provisions of this subtitle or to correct a nuisance within the time specified in the notice of violation, the Health Officer may request the courts for permission to enter the property and to abate the violation or correct the nuisance. If the Health Officer abates the violation or corrects the nuisance, the Officer shall bill the person owning or renting the property for the cost of the work, plus administrative costs. If the person owning or renting the property refuses to pay the bill, the County shall place a lien upon the property for the amount of the bill. The lien shall be enforceable in the same manner as a lien for unpaid County taxes.

(C.B. 6, 1985; C.B. 32, 1985; C.B. 22, 1989; C.B. 15, 1996)

Sec. 12.113. - Severability.

If any section, paragraph or provision of this subtitle is held to be invalid or unenforceable for any reason, the invalidity or unenforceability of the section, paragraph or provision shall not affect any of the remaining provisions of the subtitle.

(C.B. 6, 1985; C.B. 22, 1989)

SUBTITLE 2. - HUMAN RIGHTS¹³

Footnotes:

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Editor's note— Subtitle 2, §§ 12.200—12.213, relating to the Human Rights Commission, derived from C.B. 38, 1975; C.B. 2, 1979; C.B. 47, 1979; and C.B. 2, 1981, was repealed by C.B. 2, 1983, which also enacted a new subtitle, §§ 12.200—12.218.

State Law reference— Human rights, Ann. Code of Md. art. 49B, § 1 et seq.

Sec. 12.200. - Public policy.

I. *Equal Opportunity in Howard County.* The Howard County Government shall foster and encourage the growth and development of Howard County so that all persons shall have an equal opportunity to pursue their lives free of discrimination.

II. *Discriminatory Practices Contrary to Public Policy.* Discrimination practices based upon:

Race,

Creed,

Religion,

Disability,

Color,

Sex,

National origin,

Age,

Occupation,

Marital status,

Political opinion,

Sexual orientation,

Personal appearance,

Familial status,

Source of income, or

Gender identity or expression

are contrary to the public policy of Howard County.

III. *Eliminating Discriminatory Practices.* The Howard County Government shall direct its efforts and resources toward eliminating discriminatory practices within Howard County in:

(1) Housing,

(2) Employment,

(3) Law enforcement,

(4) Public accommodations,

(5) Financing, and

(6) Any other facets of the lives of its citizens where such practices may be found to exist.

IV. *Encouragement of Voluntary Affirmative Action Programs.* The Howard County Government shall encourage the adoption and maintenance of voluntary affirmative action programs.

(C.B. 2, 1983; C.B. 138, 1991; C.B. 68, 1992; C.B. 54, 2011, § 1; C.B. 14, 2014, § 1)

Sec. 12.201. - Definitions.

Words and phrases used in this subtitle shall have their usual meaning except as defined below:

- I. *Administrator* means the County Executive's designee appointed to administer the Office of Human Rights.
- II. *Affirmative action* means affirmative action ordered pursuant to this subtitle may include, but shall not be limited to:
 - (a) Hiring, reinstating or upgrading of employees, with or without back pay.
 - (b) Admission or restoration of individuals to union membership or training.
 - (c) Granting of a loan or mortgage.
 - (d) Admission of individuals to public accommodations.
 - (e) The rental or sale of housing.
 - (f) The posting of notices as to the requirements of this subtitle and compliance therewith in conspicuous places in the respondent's place of business. The form of the notice shall be prescribed by the Administrator.
 - (g) Provision for or completion of educational programs or training of supervisory or management personnel in the obligations imposed by this subtitle.
 - (h) Provision for or completion of reasonable and economically feasible educational programs or training to promote upward mobility of those classes of employees against whom an employer has been found to have discriminated.
 - (i) An award of damages to be paid by the respondent to the complainant or other person sustaining damages as a result of a violation of this subtitle. The damages shall be determined as to the actual damage or loss.
 - (j) The filing of statistical or other reports with the Commission as to compliance with the provisions of this subtitle or of any order issued hereunder.
 - (k) Adoption and implementation of goals, timetables and other affirmative action deemed appropriate.
 - (l) Any other equitable relief or action that is deemed appropriate.
- III. *Aggrieved individual* means an individual who claims to have been injured by discrimination.
- IV. *Complainant* means any person, including the Commission or its members, who files a charge under section 12.212.
- V. *Commission* means the Human Rights Commission established pursuant to this subtitle.
- VI. *Conciliation agreement* means an agreement between the complainant and the respondent subject to approval by the Human Rights Administrator resolving issues raised by a complaint, or by the investigation of a complaint, and achieved through informal negotiations involving the complainant, the respondent, and the Office of Human Rights.
- VII. *Familial status*:
 - (a) The status of individual(s) under age 18 domiciled with:

- (1) A parent or other individual having legal custody of the individual(s); or
- (2) A designee of the parent or other individual having legal custody of the individual(s), with written permission from the parent or other individual; or
- (b) The status of being a pregnant woman;
- (c) The status of an individual who is in the process of securing legal custody of an individual under age 18.

VIII. *Family* includes a single individual.

IX. *Gender identity or expression* means a gender-related identity or appearance of an individual regardless of the individual's assigned sex at birth.

X. *Disability* means with respect to an individual:

- (a) A physical or mental impairment which substantially limits one or more of the individual's major life activities; or
- (b) A record of having such an impairment; or
- (c) Being regarded as having such an impairment.

But the term "disability" does not include current illegal use of or addiction to a controlled substance as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802).

XI. *Hearing* means an inquiry, forum, investigation or meeting conducted pursuant to this subtitle.

XII. *Occupation* means the lawful activity of one's life, regardless of income. It includes but is not limited to students, welfare recipients or retired persons.

XIII. *Office* means the Office of Human Rights established pursuant to this subtitle.

XIV. *Person* means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, financial institutions, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, agents, receivers, or fiduciaries, the government of Howard County and its agencies.

XV. *Personal appearance* means outward appearance of a person with regard to hair style, facial hair, physical characteristics or manner of dress. It does not relate to a requirement of cleanliness, uniforms or prescribed attire, when uniformly applied, for admittance to a public accommodation or to a class of employees.

XVI. *Political opinion* means the opinions of persons relating to:

Government,

The conduct of government,

Political parties,

Candidates for election, or

Elected office-holders.

XVII. *Respondent* means a person against whom a complaint is filed pursuant to section 12.207B or 12.212 or this subtitle. Respondent includes a person identified during an investigation of a complaint and joined as an additional or substitute respondent.

XVIII. *Sexual orientation* means the actual or perceived identification of an individual as to homosexuality, heterosexuality or bisexuality.

(C.B. 2, 1983; C.B. 138, 1991; C.B. 54, 2011, § 1; C.B. 14, 2014, § 1; C.B. 4, 2015, § 1)

Sec. 12.202. - Human Rights Commission.

- I. *General Provisions.* General provisions regarding the following are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- II. *Number of Members.* There is a Human Rights Commission composed of 11 voting members and one nonvoting member.
- III. *Qualifications:*
 - (a) All members shall be residents of Howard County.
 - (b) Members of the Commission shall be broadly representative of the citizens of Howard County.
 - (c) Members may serve no more than two successive full terms.
 - (d) The nonvoting member shall be a student under the age of 18. The student's term shall be for one year, beginning July 1, and ending June 30.
- IV. *Executive Secretary.* The Human Rights Administrator or the Administrator's designee shall serve as the Executive Secretary of the Commission and shall attend all meetings and hearings of the Commission and, in addition to the duties specified in this subtitle, shall perform duties as prescribed by the Commission.
- V. *Legal Advisory, Legal Representative.* The Office of Law shall provide separate legal representation for the Commission and for the Administrator in all hearing or judicial proceedings to which they are party.
- VI. *Monthly and Additional Meetings .* The Commission shall meet at least 11 times per year and shall conduct each meeting pursuant to its rules of procedure. It may hold additional meetings and hearings provided the Chairperson of the Commission gives the Commission members and the Human Rights Administrator at least three days' written notice.
- VII. *Quorums; Hearing Panels:*
 - (a) A quorum consists of a simple majority of the current membership of the Commission.
 - (b) Administrative panels holding hearings pursuant to section 12.207B or 12.212.IV of this subtitle consist of at least three members of the Commission.
 - (c) An individual Commissioner who files a complaint pursuant to this section or section 12.207B or section 12.212 of this subtitle shall not participate, except as a complainant, in any administrative hearing of the Commission arising from the Commissioner's complaint.
- VIII. *Oaths and Subpoenas.* The Commission may administer oaths and issue subpoenas in the administration and enforcement of its authorized surveys and studies, hearings on patterns of discrimination and administrative hearings using the same standards and procedures provided in section 12.207A or 12.212.V.
- IX. *Duties and Responsibilities .* The Human Rights Commission shall carry out all duties and responsibilities assigned to it by law.
 - (a) *Civil rights policy .* The Commission shall be responsible for recommending a civil rights policy to the County Executive and the County Council concurrently.
 - (b) *Studies and surveys.* The Commission shall have the authority to make surveys and studies concerning human rights, conditions, and problems. It may publish reports, make recommendations and, in every way possible, promote human rights in Howard County.
 - (c) *Filing of complaint—Discriminatory practices and patterns of conduct.* The Commission or individual Commissioner(s) shall have the authority to file a complaint when the Commission or Commissioner(s) have reasonable cause to believe the existence of a pattern or practice of discrimination unlawful under the provisions of this subtitle. Complaints filed under this subsection shall be processed in the same manner as complaints filed under section 12.207A or

12.212 of this subtitle. If the Commission files a complaint under the provisions of this section any administrative hearing on the complaint shall be heard by the Howard County Board of Appeals.

- (d) *Hearings—Patterns of discrimination* . The Commission shall have the authority to hold an immediate hearing regarding patterns of discrimination which are not the subject matter of a complaint filed pursuant to section 12.207A or 12.212 of this subtitle. The purpose of the hearing is to resolve the problem promptly by gathering facts and making recommendations to appropriate persons. The recommendations of the Commission, in these instances, do not constitute any binding order upon any person.
- (e) *Administrative hearings* . The Commission shall hold administrative hearings pursuant to section 12.207A or 12.212 of this subtitle.
- (f) *Informing the citizens* . The Commission shall have the authority to inform the citizens of Howard County of practices and patterns of conduct which may be discriminatory.
- (g) *Decisions and orders* . The Commission may issue decisions and orders pursuant to section 12.207B or 12.212 of this subtitle.
- (h) *Affirmative action* . The Commission may order affirmative action pursuant to section 12.207B or 12.212 of this subtitle.
- (i) *Action in circuit court* . The Commission may bring an action in circuit court to enforce compliance with a decision and order issued pursuant to section 12.207B or 12.212 of this subtitle.
- (j) *Appointment of Human Rights Administrator* . The Commission shall assist the Chief Administrative Officer and the County Executive on the appointment of the Human Rights Administrator.
- (k) *Budget* . The Commission shall submit to the County Executive a timely budget request for expenses necessary to carry out the provisions of this subtitle. It shall review the budget of the Office of Human Rights before that budget is submitted to the County Executive. The Commission may comment on its own budget and that of the Office of Human Rights at any time in the budget process.
- (l) *Review monthly reports* . The Commission shall review the monthly reports prepared by the Human Rights Administrator pursuant to section 12.206 of this subtitle.
- (m) *Annual and other reports*. In addition to the annual report, the County Executive or the County Council may require the Commission to make interim reports. The interim reports shall not contain the identities of parties to cases which have been reconciled or are pending. Subject to section 22.1000 of the County Code, on or before February 28 of each year the Commission shall make an annual report to the County Executive and the County Council. The report shall:
 - (i) Outline the activities of the Commission during the previous calendar year.
 - (ii) Identify actions or programs undertaken during the prior calendar year.
 - (iii) Identify other matters relevant to the authorized activities of the Commission.
 - (iv) Report on the cause of and means of eliminating discrimination.
 - (v) Contain recommendations for further legislation as needed.
- (n) *Confidential information* . To the extent permitted by the State Public Information Act, and unless required otherwise by section 12.214 of this subtitle, the Commission shall hold confidential any information that would tend to disclose the identity of a complainant and/or respondent.
- (o) At the directive of the County Executive or by resolution of the County Council, the Human Rights Commission shall review and make recommendations on any matter related to human rights.

- (p) When performing an advisory function under this subtitle, as defined in the State Open Meetings Act, the Commission may meet in closed session if permitted to do so under the State Open Meetings Act.

(C.B. 2, 1983; C.B. 62, 1988; C.B. 138, 1991; C.B. 6, 1992; C.B. 14, 1993; C.B. 64, 1993; C.B. 4, 2015, § 1; C.B. 43, 2018, § 1)

Editor's note— Section 49 of C.B. 62, 1988, effective July 1, 1989, combined the provisions of §§ 12.202—12.204 into a single § 12.202. Sections 12.203 and 12.204 have been reserved to provide continuity.

Sec. 12.203. - Martin Luther King, Jr. Holiday Commission; General Provisions.

- (a) *General Provisions* . General provisions applicable to the Martin Luther King, Jr. Holiday Commission are set forth in subtitle 3, "Boards and Commissions," of this title.
- (b) *Purpose* . The purpose of the Commission is to encourage and coordinate appropriate ceremonies and activities throughout Howard County honoring Martin Luther King, Jr.
- (c) *Membership* . The Commission shall consist of 17 voting members, and at least one nonvoting student member under the age of 19. The student's term shall be for one year. Commission membership shall broadly reflect the diversity of the residents of Howard County.
- (d) *Executive Secretary*. The Administrator or the Administrator's designee shall serve as Executive Secretary to the Commission and attend all meetings.
- (e) *Meetings* . The Commission shall meet at least 11 times per year.

(C.B. 35, 2016, § 1)

Sec. 12.204. - General powers and duties of the Martin Luther King, Jr. Holiday Commission.

The Howard County Martin Luther King, Jr. Holiday Commission shall encourage and coordinate appropriate ceremonies and activities throughout Howard County honoring Martin Luther King, Jr., and provide assistance to the local government and private organizations with respect to the observance of the county, state, and federal holidays honoring the birthday of Martin Luther King, Jr.

(C.B. 35, 2016, § 1)

Sec. 12.205. - Office of Human Rights.

- I. *General Provisions*. General provisions applicable to this Office are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- II. *Head*. The Human Rights Administrator shall head the Office of Human Rights. The Chief Administrative Officer shall exercise administrative supervision over the Office of Human Rights.
- III. *Qualifications of Human Rights Administrator*. The Human Rights Administrator shall have thorough knowledge of the types of discrimination and methods and techniques for eliminating it, including considerable knowledge of County, State and Federal laws regarding discrimination in such areas as housing, employment, public accommodations, law enforcement, financing and related fields. The Administrator shall have had at least five years of experience in human relations or a related field, one year of which shall have dealt with investigating and/or conciliating complaints of discrimination, and two years of which shall have included managerial or administrative experience.

(C.B. 2, 1983; C.B. 62, 1988; C.B. 138, 1991; C.B. 6, 1992)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989. Former subsection IV is now part of § 12.206.

Sec. 12.206. - Functions, powers and duties of the Office of the Administrator.

I. *Duties and Responsibilities:*

- (1) *Administration/enforcement of human rights law.* The Office of Human Rights is responsible for administering and enforcing the provisions of Howard County Human Rights Law, including, but not limited to:
 - (a) Investigating complaints of discrimination to determine whether a violation of the Howard County Human Rights Law has occurred.
 - (b) Attempting to eliminate violations of the Human Rights Law by conference, conciliation and persuasion.
- (2) *Reports.* Subject to section 22.1000 of the County Code, the Office of Human Rights and its Administrator shall make:
 - (a) Annual reports to the County Executive and the County Council providing a statistical summary of the number, type and disposition of complaints received by the Office.
 - (b) Monthly reports to the Commission briefly describing the factual situation of new cases, and the status and disposition of all other cases.

The Human Rights Administrator shall make periodic reports to the County Executive, County Council and the Human Rights Commission on the Office's involvement in discrimination education programs and on the extent of its cooperate efforts with governmental and community agencies to combat discrimination.

- (3) *Liaison with community.* The Office of Human Rights serves as liaison with the public, government agencies and community groups to develop plans and programs to combat discrimination and assist and cooperate with other local, State and Federal agencies and officials to protect and promote better human relations. The Office of Human Rights shall work with these agencies and groups in developing educational programs, heightening public awareness of discrimination and of methods of eliminating discrimination. The Office of Human Rights shall serve as a catalyst in fostering attitudes and beliefs among Howard County citizens which confirm that all individuals have an equal opportunity to pursue their lives free of discrimination.
- (4) *Executive Secretary.* The Human Rights Administrator serves as Executive Secretary of the Human Rights Commission.
- (5) *Rules of procedure.* The Human Rights Administrator shall formulate and promulgate rules of procedure necessary to carry out the purposes of this subtitle, pursuant to the Administrative Procedure Act of Howard County (title 2, subtitle 1 of this Code).
- (6) *Other duties and responsibilities.* The Office of Human Rights and its Administrator shall perform the statutory duties set forth in this subtitle. The Office of Human Rights shall perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 2, 1983; C.B. 6, 1992; C.B. 43, 2018, § 1)

Sec. 12.207. - Unlawful housing practices.

I. *Definitions.* Words and phrases used in this section have their usual meanings except as defined below:

(a) *Discrimination/discriminatory* means acting or failing to act, or unduly delaying any action regarding any person(s) because of:

Race,

Creed,

Religion,

Disability,

Color,

Sex,

National origin,

Age,

Occupation,

Marital status,

Political opinion,

Sexual orientation,

Personal appearance,

Familial status,

Source of income, or

Gender identity or expression in such a way that such person(s) are adversely affected in the area of housing.

(b) *Dwelling:*

(1) The whole or any part of a building, structure, mobile home or manufactured housing which is occupied as, designed for or intended for occupancy as a residence by one or more families; and/or

(2) Land which is offered for sale or lease for the construction or location, in whole or in part, of any such building, structure, mobile home or manufactured housing.

(c) *Housing:*

(1) A dwelling for the use of one or more individuals, groups or families; and/or

(2) A mobile home site or land offered for sale or lease for the construction of such dwelling, building, structure, mobile home site or manufactured housing.

(d) *Housing for elderly* means housing for elderly is occupied or unoccupied housing:

(1) Provided under any government program that is specifically designed and operated to assist elderly individuals;

(2) Intended for and solely occupied by, individuals 62 years of age or older;

- (3) Intended for and operated for occupancy by at least one individual 55 years of age or older per unit; or
- (4) That meets the requirements of housing for the elderly set out in regulations adopted by the U.S. Department of Housing and Urban Development under title 42, section 3607(b)(2)(C) of the U.S. Code (Federal Fair Housing Act).

Housing for elderly includes units occupied as of September 13, 1988, by individuals who do not meet the above age requirements provided that any new occupant of the unit meets the age requirement.

- (e) *Multifamily dwelling* means a building consisting of four or more dwelling units, if the building has one or more elevators; or a ground floor unit in a building consisting of four or more dwelling units if the building has no elevator. This definition applies only in relation to discrimination based on disability.
- (f) *In the business of selling or renting a dwelling:*
 - (1) Within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or of any interest in a dwelling; or
 - (2) Within the preceding 12 months, participated as an agent, other than in the sale of the individual's own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest in a dwelling; or
 - (3) Being the owner of any dwelling designed or intended for occupancy by, or occupied by, two or more families.
- (g) *To rent* includes to lease, to sublease, to let or otherwise grant for a consideration, the right to occupy premises not owned by the occupant,
- (h) *Residential real estate related transaction:*
 - (1) The making or purchasing of loans or providing other financial assistance secured by residential real estate or for purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - (2) The selling, brokering, or appraising of residential real property.
- (i) *Discriminatory restrictive covenants* means any specification limiting the transfer, rental or lease of a dwelling because of discrimination as defined in subsection (a) above.
- (j) *Source of income* means any lawful source of money that is paid to or for the benefit of a renter or buyer of housing, including:
 - (1) A lawful profession or occupation;
 - (2) A Federal, State or local government assistance, grant or loan program;
 - (3) A private assistance, grant or loan program, provided that when the lease or purchase agreement is executed, the private program:
 - (i) Delivers the total amount of the assistance, grant or loan; or
 - (ii) Has executed a valid contract agreeing to pay the assistance, grant or loan; or
 - (iii) Co-signs the lease or purchase agreement;
 - (4) A gift or inheritance, otherwise legally considered a source of income, provided that when the lease or purchase agreement is executed,
 - (i) The gift or inheritance has already been received; or
 - (ii) A valid contract has been executed by the giver of the gift or the Administrator of the estate agreeing to give the gift or turn over the inheritance; or

- (iii) The giver or the Administrator of the estate co-signs the lease or purchase agreement;
- (5) A pension or annuity;
- (6) Alimony or child support which has been regularly received for the six months prior to the execution of the lease or purchase agreement;
- (7) Bank, trust or investment accounts, stocks, bonds, or other financial holdings;
- (8) Any contract right or sale or pledge of any property or interest in property.

Source of income does not refer to a determination of the ability to pay rent or pay a purchase price, which is determined by reasonable and customary standards such as verification of income and its source, the creditworthiness of the buyer or renter, and the creditworthiness of any source of income.

II. *Unlawful Acts:*

- (a) *Sale and rental.* It shall be unlawful if, because of discrimination, any person having the right to sell, rent, lease, control, construct or manage a dwelling (or the person's agent or employee):
 - (1) Makes, or causes the making, printing or publishing of any notice, statement or advertisement regarding the sale or rental of a dwelling that indicates any preference or limitation.
 - (2) Represents to a person that any dwelling is not available for inspection, sale or rental, when the dwelling is in fact available.
 - (3) Refuses to negotiate for the sale or rental of a dwelling.
 - (4) Refuses to sell or rent a dwelling after the making of a bona fide offer.
 - (5) Refuses to make a dwelling available.
 - (6) Restricts the terms, conditions or privileges of sale or rental of a dwelling.
 - (7) Restricts the provision of services or facilities in connection with the sale or rental of a dwelling.
 - (8) Includes any discriminatory covenants in the transfer, sale, rental or lease of housing.
 - (9) Honors, exercises, attempts to honor or attempts to exercise any discriminatory restrictive covenant.
- (b) *Multiple listing, brokers' organization.* It shall be unlawful if, because of discrimination, any person, or their agents or employees, whether or not acting for monetary gain:
 - (1) Denies any person access, membership or participation in; or
 - (2) Restricts the terms and conditions, of access, membership or participation in
 any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings.
- (c) *Availability of residential real estate transactions, access to multiple listing services and real estate brokers' organizations, etc.:*
 - (1) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available a transaction, or in the terms or conditions of a transaction.
 - (2) Nothing in paragraph (1) above prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, creed, religion, disability, color, sex, national origin, age, occupation, marital status, political opinion, sexual orientation, personal appearance, familial status or source of income.

- (d) *Property values, changes in nature of neighborhood.* It shall be unlawful if because of discrimination, any person, firm or association, whether or not acting for monetary gain, represents that the existing or potential proximity of real property owned, used or occupied by persons of any particular race, creed, religion, disability, color, sex; national origin, age, occupation, marital status, political opinion, sexual orientation, personal appearance, familial status or source of income will or may result in:
- (1) The lowering of property values; or
 - (2) A change in the racial, religious or ethnic character of the block, neighborhood or area in which the property is located; or
 - (3) A decline in quality of the schools and institutions serving the area.
- (e) *Solicitation.* It shall be unlawful if, because of discrimination, any person, firm, corporation or association, whether or not acting for monetary gain:
- (1) Knowingly induces or attempts to induce another person to transfer an interest in real property by such representations as are described in subsection 12.20711(c) of this subtitle.
 - (2) Places a sign, display or device designed to indicate that a bona fide offer is being made to sell, lease, assign, transfer or otherwise dispose of any dwelling(s) when, in fact, the property is not being offered for the advertise sale, lease, assignment or transfer.
 - (3) Maintains a sale, lease, assignment, transfer or other such sign for more than seven days at any dwelling(s) after the execution of any contract or written agreement for the sale, lease, assignment or transfer of the dwelling.
- (f) *Modifications for persons with disabilities.* It shall be unlawful:
- (1) To refuse to permit, at the expense of persons with disabilities, reasonable modifications of existing premises occupied or to be occupied by persons with disabilities if:
 - (i) The modifications may be necessary to afford the persons with disabilities full enjoyment of the dwelling; and
 - (ii) For a rental dwelling, the tenant agrees that, upon vacating the dwelling, he or she will restore the interior of the dwelling to the condition that existed before the modification, reasonable wear and tear excepted.
 - (2) To refuse to make reasonable accommodations in rules, policies, practices, or services when the accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling.
- (g) *Multifamily dwelling—Accessibility and usability.*
- (1) It shall be unlawful if multifamily dwellings first occupied on or after July 1, 1991, are not designed and constructed in such a way that:
 - (i) The public use and common use portions of the dwelling are readily accessible to and usable by persons with disabilities;
 - (ii) All doors are designed to allow passage by individuals in wheelchairs;
 - (iii) There is an accessible route into and through the dwelling;
 - (iv) Light switches, electrical outlets, thermostats and other environmental controls are in accessible locations;
 - (v) The bathroom walls are reinforced to allow later installation of grab bars; and
 - (vi) Bathrooms and kitchens are usable and can be maneuvered in by an individual in a wheelchair.
 - (2) Multifamily dwellings are lawful which are in compliance with:

- (i) The appropriate requirements of the American National Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped Individuals (commonly cited as ANSI A117.1); or
 - (ii) The Federal law, regulations and guidelines on accessibility for persons with disabilities adopted under the Federal Fair Housing Act Amendments of 1988 and incorporated by reference in the rules and regulations adopted by the Maryland Department of Housing and Community Development under Article 83B of the Annotated Code of Maryland.
- (h) *Unlawful coercion.* Whether or not acting under color of law, it shall be unlawful to coerce, intimidate, threaten, interfere with, or retaliate:
- (1) Against any person in the exercise or enjoyment of any right granted or protected by this section.
 - (2) On account of a person having exercised or enjoyed any right granted or protected by this section.
 - (3) On account of a person having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this section.
 - (4) Against a person participating lawfully in speech or peaceful assembly opposing any denial of the rights granted or protected by this section.

III. *Discriminatory Restrictive Covenants:*

- (a) *Null and void.* Any discriminatory restrictive covenant is declared to be null, void and of no effect, and contrary to the public policy of this County.
- (b) *Refusal to accept document with discriminatory restrictive covenants.* Any person may decline to accept a document affecting title to real or leasehold property if the document includes any discriminatory restrictive covenant. Refusal to accept delivery of an instrument for this reason shall not be deemed a breach of a contract to purchase, lease, mortgage or otherwise deal with the property.

IV. *Exemptions:*

- (a) *Age-related dwellings.* The provisions of section 12.207 shall not apply to:
 - (1) Any medical, health or educational institution established for a specific age group; or
 - (2) Any domiciliary, retirement or senior citizens' home or facility; or
 - (3) Any preschool children's home or facility.
- (b) *Owner occupied dwelling.* Discrimination shall not be unlawful with regard to the leasing of a room or apartment in an owner occupied dwelling containing only one rental unit.
- (c) *Private membership clubs.* Nothing in this section shall prohibit a private club, not in fact open to the public and which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
- (d) *Religious organizational dwellings.* A religious organization, association or society, or a nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization may limit the sale, rental or occupancy of dwellings which it owns or operates for other than commercial purpose to persons of the same religion and may give preferences to such persons. Unless membership in the religion is restricted on account of race, color, or national origin.
- (e) *Sale or rental of single-family dwellings without broker, agent, advertising, etc.* The provisions of section 12.207 shall not apply to the sale or rental of a single-family dwelling if it is sold or rented without:

- (1) Using the services of a real estate broker, agent, or salesman, or person in the business of selling or renting dwellings or an agent of any of the preceding persons.
 - (2) The publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 12.207.
- (f) *Threats to health and safety.* Provided that the protections included in the Federal Americans With Disabilities Act are not violated, the provisions of section 12.207 do not require that a dwelling be made available to an individual whose ownership or tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.
- (g) *Maximum occupancy.* Nothing in this section limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.
- (h) *Use of attorneys, escrow agents, etc., does not affect otherwise exempted persons.* The use of attorneys, escrow agents, abstractors, title companies, and other similar professional assistance as necessary to perfect or transfer the title shall not affect the exempt status of persons pursuant to this subsection.
- (i) *Source of income.* It shall not be unlawful discrimination based on source of income if:
- (1) The owner of no more than one rental dwelling unit or an assisted rental housing development in Howard County refuses to rent a dwelling to a person because the person is a participant in a government housing assistance program; or
 - (2) A seller elects not to enter into a sales contract that is contingent upon the sale of another property.
 - (3) In this paragraph, the following terms have the meanings indicated:
 - (i) *Assisted rental housing development* means a development consisting of four or more contiguous rental dwelling units in which 20 percent or more of the dwelling units are rented or must be made available for rent to households of low income pursuant to a Federal, State or local government housing assistance program.
 - (ii) *Household of low income* means a person or persons whose annual income does not exceed 50 percent of the median annual income in the Baltimore Metropolitan Statistical Area, as determined from time to time by the United States Department of Housing and Urban Development for Section 8 Housing Programs.

(C.B. 2, 1983; C.B. 138, 1991; C.B. 68, 1992; C.B. 101, 1992; C.B. 21, 1998; C.B. 54, 2011, § 1; C.B. 14, 2014, § 1; C.B. 4, 2015, § 1)

State Law reference— Housing discrimination, Ann. Code of Md. art. 49B, § 19 et seq.

Sec. 12.207A. - Unlawful housing practices—Subpoenas; evidence; conciliation; civil action.

The procedures and requirements provided in section 12.207A and 12.207B shall apply only to matters involving unlawful housing practices. Procedures governing complaints, settlements, investigations, findings of reasonable cause, administrative hearings, appeals, oaths, injunctive relief, and enforcement that are not otherwise contained in this section shall be in accordance with section 12.212 of this subtitle.

I. *Subpoenas, etc.:*

- (a) *Right to subpoena.* The Human Rights Administrator and the Human Rights Commission may issue subpoenas and order discovery in aid of investigations and hearings concerning unlawful

housing practices. Discovery shall be conducted as expeditiously and inexpensively as possible consistent with the need to obtain relevant evidence.

- (b) *Requirement to respond to subpoena to provide evidence.* A person may not willfully fail or neglect to attend and testify, to answer any lawful inquiry, or to produce records, documents, or other evidence, if it is in the person's power to do so, in obedience to the subpoena or other lawful order issued pursuant to paragraph (a) of this subsection.
- (c) *False or incomplete evidence; destruction of evidence.* A person, with intent to mislead another person in a proceeding concerning unlawful housing practices, may not:
 - (1) Make or cause to be made any false entry or statement of fact in a report, account, record or other document produced pursuant to subpoena or other lawful order issued pursuant to paragraph (a) of this subsection;
 - (2) Willfully neglect or fail to make or to cause to be made full, true and correct entries in the reports, accounts, records, or other documents; or
 - (3) Willfully mutilate, alter, or by another means falsify any documentary evidence.
- (d) *Penalty for providing false or incomplete, evidence or for destroying evidence.* Pursuant to Section 20-1102 of the State Government Article of the Annotated Code of Maryland, a person who is convicted of violating the provisions of paragraph (b) or (c) of this subsection shall be fined not more than \$100,000.00 or imprisoned not more than one year or both.

II. *Conciliation:*

- (a) *Settlement by conciliation.* A complaint alleging unlawful housing practices may be settled by conciliation at any time in the process. During the entire period after a complaint is filed, the Human Rights Administrator and, where appropriate, the Human Rights Commission, shall engage in conciliation.
- (b) *Conciliation agreement made public.* A conciliation agreement shall be made public unless the State Public Information Act or other state or federal law permits it to be withheld from disclosure.
- (c) *Confidentiality.* Except in a proceeding to enforce a conciliation agreement, nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this subtitle without the written consent of the persons concerned.
- (d) *Breach of conciliation agreement.* If the Administrator or the Commission has reasonable cause to believe that a respondent has breached a conciliation agreement, the Administrator may institute litigation to enforce the conciliation agreement in the same manner as provided in this section for the enforcement of an order of the Commission.

III. *Civil Action.* After a complaint of alleged unlawful housing practices is filed, if the Human Rights Administrator or the Human Rights Commission concludes that prompt judicial action is necessary to carry out the purposes of this subtitle regarding unlawful housing practices, the Administrator or the Human Rights Commission (if the Commission initiated the complaint) may authorize a civil action in the Circuit Court for Howard County for appropriate temporary or preliminary relief pending final disposition of the complaint pursuant to this subtitle. The commencement of a civil action does not affect the initiation or continuation of administrative proceedings pursuant to this subtitle.

(C.B. 138, 1991; C.B. 4, 2015, § 1)

State Law reference— Civil actions for discriminatory acts, Ann. Code of Md. art. 49B, § 42.

Sec. 12.207B. - Same—Complaint; determination; resolution; enforcement.

I. *Complaint Process:*

- (a) *Filing of complaint.* A person aggrieved by an alleged unlawful housing practice may file a complaint with the Office of Human Rights within one year of the practice having occurred or terminated. The complainant may reasonably and fairly amend the complaint at any time.
 - (b) *Form of complaint.* All complaints shall be filed in writing, under oath or affirmation, and shall be upon a form provided by the Office. The complaint shall state the name and address of the complainant and the respondent and other pertinent information as required by the Administrator.
 - (c) *Advising complainant of procedures.* Within ten days of the filing of a complaint, the Administrator shall:
 - (1) Acknowledge receipt of the complaint;
 - (2) Advise the complainant of the time limits provided pursuant to this section and of the options provided by law.
 - (d) *Advising respondent(s) of procedures.* Within ten days of the filing of a complaint or within ten days of identifying additional respondent(s) to those named in the complaint, the Administrator shall:
 - (1) Advise the respondent(s) of the filing and furnish the respondent(s) with a copy of the complaint;
 - (2) Advise the respondent(s) of the procedural rights and obligations of respondents pursuant to this section.
 - (e) *Opportunity for respondent(s) to reply.* The respondent(s) may file a written answer under oath to the complaint within ten days of receiving a copy from the Office of Human Rights. The answer to the complaint may be reasonably and fairly amended at any time.
- II. *Investigation.* The Human Rights Administrator shall begin an investigation within 30 days of receiving the complaint. Within 100 days of the filing of the complaint, the Administrator shall make an investigation and shall determine, based on the facts, whether reasonable cause exists to believe that an unlawful housing practice has occurred or is about to occur.
- If a determination has not been made within 100 days, the Administrator shall write to the complainant and respondent(s) advising them of the delay and the reasons for the delay.
- III. *Dismissal for Lack of Reasonable Cause:*
- (a) *Notify complainant.* If the Administrator determines that no reasonable cause exists to believe that an unlawful housing practice has occurred, the Administrator shall promptly dismiss the complaint. The Administrator shall notify the complainant by certified mail that the complaint has been dismissed and shall give the reasons for the dismissal and the process for the complainant to seek reconsideration of the Administrator's decision by the Human Rights Commission. The Administrator shall send a copy of the letter to the respondent(s).
 - (b) *Appealing to Human Rights Commission.* A complainant may appeal the Administrator's dismissal of the complaint for lack of reasonable cause, by appealing the dismissal to the Human Rights Commission within 20 days of receiving the letter from the Administrator.
 - (c) *Determination by Commission.* The Commission may hold an administrative hearing on the appeal and issue a decision and order pursuant to the provisions of section 12.212.IV of this subtitle.
- IV. *Referral to Human Rights Commission:*
- (a) *Notification to parties.* If the Administrator determines that reasonable cause exists to believe that an unlawful housing practice has occurred, the Administrator shall so notify the complainant and the respondent(s) by certified mail and shall indicate that the matter shall be referred to the Human Rights Commission if no conciliation is reached within 30 days of the notification.
 - (b) *Referral to Commission.* If the Administrator determines that reasonable cause exists to believe that an unlawful housing practice has occurred and no conciliation has been reached within 30

days of notifying the parties, the Administrator shall notify the Commission of the finding and the lack of conciliation and shall certify the file and the findings and transmit the documents to the Human Rights Commission.

- (c) *Referral to County Solicitor.* If the Administrator determines that the matter involves the legality of a State or local zoning or other land use law or ordinance, the Administrator shall immediately refer the matter to the County Solicitor for further action.
- (d) *[Time limit on disposition.]* The Administrator and the Chairperson of the Human Rights Commission, if the matter has reached the public hearing stage, shall make final administrative disposition of a complaint within one year of receiving the complaint, unless it is impracticable to do so, in which case they shall notify the complainant and respondent in writing of the reasons for not doing so.

- V. *Charge by Human Rights Commission.* Upon receipt of notification from the Administrator that there is reasonable cause to believe that an unlawful housing practice has occurred, the Commission shall issue a charge on behalf of the complainant for further proceedings pursuant to this section. The Commission shall send a copy of the charge to the parties together with information regarding the time, date and place of a public hearing on the matter.

The charge may not be issued after the beginning of the trial of a civil action that is commenced by the complainant pursuant to State or Federal law seeking relief for the same unlawful housing practice. If a complainant initiates such an action, the Administrator and the Commission shall no longer be involved in the matter and shall send the results of its investigations to the U.S. Department of Housing and Urban Affairs.

- VI. *Hearing; Consideration of Evidence .* Within 120 days of notification from the Administrator that there is reasonable cause to believe that an unlawful housing practice has occurred or is about to occur, the Human Rights Commission shall conduct a hearing in accordance with its rules of procedure and applicable law. If the Commission cannot begin the hearing within the 120-day period, the Commission shall notify the complainant and respondent(s).

The hearing shall be conducted as expeditiously and inexpensively as possible consistent with the needs and rights of the parties to obtain a fair hearing and complete record. The hearing shall be de novo. Each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses and obtain the issuance of subpoenas.

- VII. *Decision and Order .* Within 60 days of conclusion of the hearing, the Commission shall issue findings of fact and conclusions of law on the matter. If the Commission finds that the respondent has not engaged in unlawful housing practices, the Commission shall issue a written decision and order including findings of fact and conclusions of law and ordering the dismissal of the complaint. The Commission shall serve each party with the decision and order and shall make public disclosure of the dismissal. If the Commission finds that the respondent has engaged in unlawful housing practices, the Commission shall issue a written decision and order including findings of fact and conclusions of law, ordering the respondent to cease and desist from the practice(s) and ordering appropriate action to carry out the purposes of this subtitle. The Commission shall serve each party with the decision and order.

- VIII. *Appropriate Action .* Appropriate action may be monetary and/or nonmonetary. It may include actual damages suffered by the complainant and injunctive or other equitable relief. Appropriate action may include reasonable and customary attorney's fees.

An order issued pursuant to this subsection and subsection VII shall not affect any contract, sale, encumbrance, or lease consummated before the issuance of the order and involving a bona fide purchaser, encumbrance, or tenant without actual notice of the charge filed under this subtitle.

- IX. *Civil Penalties .* The decision and order may include the assessment of civil penalties to be paid by the respondent(s) to the general fund of the county. Pursuant to Section 20-1028 of the State Government Article of the Annotated Code of Maryland, a civil penalty not exceeding:

- (a) Ten thousand dollars may be assessed if the respondent has not been adjudged to have committed any prior unlawful housing practice;
- (b) Twenty-five thousand dollars may be assessed if the respondent has been adjudged to have committed one other unlawful housing practice during the five-year period prior to the filing of this complaint; and
- (c) Fifty thousand dollars may be assessed if the respondent has been adjudged to have committed two or more unlawful housing practices during the seven-year period prior to the filing of this complaint.

If the unlawful housing practice was committed by the same individual who has been previously adjudged to have committed unlawful housing practice(s), then the civil penalties set forth in paragraphs (b) and (c) of this subsection may be imposed without regard to the period of time within which any subsequent unlawful housing practice occurred.

X. *Regulatory Referral.* If the order concerned an unlawful housing practice that occurred in the course of a business subject to licensing or regulation by a State or County agency, the Commission shall, within 30 days of the issuance of the decision and order:

- (a) Send copies of the decision and order to the State or County agency; and
- (b) Recommend to the State or County, agency appropriate disciplinary action, including, where appropriate:
 - (1) The suspension or revocation of the license of the respondent; or
 - (2) The suspension or debarment of the respondent from participation in State and local loan, grant or other regulated programs.

XI. *Appeal to Circuit Court Review or Enforcement:*

- (a) *Right to appeal.* Within 30 days of its issuance, any party aggrieved by the decision and order may appeal to the Circuit Court of Howard County for judicial review of the decision and order. If such an appeal is taken, the county is a party to the appeal.

If no appeal for review has been filed with the Howard County Circuit Court within 30 days, the findings of fact and conclusions of law of the Commission's final order shall be conclusive.

- (b) *Petition.* The County may file a written petition with the Howard County Circuit Court for the enforcement of the Commission's order and for appropriate temporary relief or restraining order. The Clerk of the county shall send a copy of the petition to the parties in the appeal.

In an enforcement proceeding brought under this paragraph any party to the proceedings before the Commission may intervene in the Circuit Court.

- (c) *Person entitled to relief.* If, within 30 days of issuance of the decision and order, no appeal has been made to the Howard County Circuit Court for judicial review and no petition has been filed by the Commission for enforcement of the order, any person entitled to relief under the order may petition the Howard County Circuit Court for a decree enforcing the order.

(C.B. 138, 1991; C.B. 4, 2015, § 1)

Sec. 12.207C. - Civil action by Commission on its own initiative.

- I. *Authority for Human Rights Commission to Commence a Civil Action.* Whenever the Human Rights Commission has reasonable cause to believe that a person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the housing rights granted by this subtitle, or that any group of persons has been denied any of the housing rights granted by this subtitle and that the denial or resistance raises an issue of general public importance, the Commission may commence a civil action in the Howard County Circuit Court.

II. *Court Award.* In a civil action pursuant to this subsection, the court:

- (a) May award preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this subtitle as is necessary to assure the full enjoyment of the housing rights granted by this subtitle;
- (b) May award other relief as the court deems appropriate, including monetary damages to persons aggrieved; and
- (c) Pursuant to Section 20-1036 of the state Government Article of the Annotated Code of Maryland, may, to vindicate the public interest, assess a civil penalty against the respondent:
 - (1) In an amount not exceeding \$50,000.00 for a first violation; and
 - (2) In an amount not exceeding \$100,000.00 for any subsequent violation.

The court, in its discretion, may allow the prevailing party, including the county, reasonable attorney's fees and costs.

III. *Intervention in the Civil Action Commenced by the Commission.* Upon timely application, a person may intervene in a civil action commenced by the Commission under this section if the action involves:

- (a) An alleged unlawful housing practice to which the person is an aggrieved person; or
- (b) A conciliation agreement to which the person is party.

The court may grant appropriate relief to any intervening party as is authorized to be granted to a plaintiff in a civil action commenced pursuant to Section 20-1013 of the State Government Article of the Annotated Code of Maryland.

(C.B. 138, 1991; C.B. 4, 2015, § 1)

Sec. 12.208. - Unlawful employment practices.

I. *Definitions.* Words and phrases used in this section have their usual meanings except as defined below:

- (a) *Discrimination/discriminatory* means acting or failing to act, or unduly delaying any action regarding any person because of:

Race,

Creed,

Religion,

Disability,

Color,

Sex,

National origin,

Age,

Occupation,

Marital status,

Political opinion,

Sexual orientation,

Personal appearance,

Familial status, or

Gender identity or expression

in such a way that such person(s) are adversely affected in the area of employment.

Discrimination does not include providing services or accommodations to employees that are distinctly personal or private in nature.

- (b) *Because of sex* includes because of or on the basis of pregnancy, childbirth, or related medical conditions. Women affected because of pregnancy, childbirth, or related medical conditions shall be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected, but similar in their ability or inability to perform work.
- (c) *Employee* means an individual employed by an employer. *Employee* does not include any person elected to public office.
- (d) *Employer* means a person, engaged in an industry or business, who has five or more full-time or part-time employees for each working day in each 20 or more calendar weeks in the current or previous calendar year and any agent of such a person. Howard County, Maryland is included as an employer to the extent provided in this section.
- (e) *Employment agency* means a person, paid or unpaid, or his/her agent, regularly undertaking to procure:
 - (1) Employees for an employer; or
 - (2) Opportunities for individuals seeking employment.
- (f) *Labor organization* means an organization, group, association or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with grievances, labor disputes, rates of pay, wages, hours or other terms or conditions of employment.

II. *Unlawful Practices:*

- (a) *Unlawful acts of employers.* It shall be unlawful if, because of discrimination, an employer:
 - (1) Discharges a person; or
 - (2) Refuses to hire a person; or
 - (3) Acts against a person with respect to compensation or other terms and conditions of employment; or
 - (4) Limits, segregates, classifies or assigns employees.
- (b) *Unlawful acts of employment agencies.* It shall be unlawful if, because of discrimination, an employment agency:
 - (1) Fails to refer a person for employment; or
 - (2) Refuses to refer a person for employment; or
 - (3) Acts against a person concerning the kind of employment for which a referral could have been made; or
 - (4) Classifies a person for employment.
- (c) *Unlawful acts of labor organizations.* It shall be unlawful if, because of discrimination, a labor organization with respect to its functions and activities in Howard County:
 - (1) Excludes or expels any person from its membership; or

- (2) Limits, segregates or classifies its membership in any way which would deprive any person of employment opportunities or adversely affect the person's status as an employee or Applicant for employment; or
 - (3) Fails or refuses to refer a person for employment, in any way which would deprive the person of employment opportunities, or adversely affect the person's status as an employee or Applicant for employment.
- (d) *Unlawful acts—Apprenticeship and training programs.* It shall be unlawful if, because of discrimination, an employer or labor organization located or domiciled in Howard County refuses a person for admission to or employment in any program established to provide apprenticeship or other training.
- (e) *Unlawful acts—Employment advertising.* Except where the limitation or specification is a bona fide occupational qualification for employment, it shall be unlawful if, because of discrimination, an employer, labor organization or employment agency prints or causes to be printed any notice or advertisement indicating any preference, limitation or specification relating to:
- (1) Employment by the employer; or
 - (2) Membership in the labor organization; or
 - (3) Any classification by the labor organization; or
 - (4) Any referral by the labor organization; or
 - (5) Any classification by the employment agency; or
 - (6) Any referral by the employment agency.
- (f) *Unlawful acts—Against complainants:*
- (1) It shall be unlawful for an employer to discriminate against any of his/her employees or Applicants for employment because the employee or Applicant has opposed any practice which is unlawful under this section or because the employee or Applicant has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing pursuant to this subtitle.
 - (2) It shall be unlawful for an employment agency to discriminate against any person because the person has opposed any practice which is unlawful under this section or because the person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing pursuant to this subtitle.
 - (3) It shall be unlawful for a labor organization to discriminate against a member or Applicant for membership because the member or Applicant has opposed any practice which is unlawful under this section or because the member or Applicant has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this subtitle.

III. *Exemptions:*

- (a) *Bona fide occupational qualifications.* When it is demonstrated that bona fide occupational qualifications are reasonable, necessary and relevant to the normal operation of the particular business or enterprise, this section shall not apply in the case of bona fide occupational qualifications established by:
- (1) An employer in hiring, assigning, compensating or discharging individuals; or
 - (2) An employment agency in classifying or referring individuals; or
 - (3) A labor organization in classifying members; or
 - (4) An employer or labor organization in denying an individual admittance to any program of apprenticeship, training or retraining.

- (b) *Educational institutions.* This section shall not apply to educational institutions in hiring and employing persons of a particular religion if the school, college or educational institution is:
- (1) Owned, supported, controlled or managed, in whole or in substantial part, by a particular church, synagogue, or other religious organization or corporation; or
 - (2) If the curriculum is designed to comply, in whole or in part, with the doctrines or tenets of a particular religion.
- (c) *Bona fide seniority or employee benefit plans:*
- (1) This section shall not apply to bona fide seniority systems.
 - (2) This section shall not apply to a bona fide employee benefit plan such as a retirement, pension or insurance plan, if the system or plan is not a subterfuge to evade the purposes of this section.
 - (3) No such employee benefit plan shall excuse the failure to hire a person.
 - (4) In addition, pursuant to 29 USC section 263 (as may be amended from time to time), no seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual between the ages of 40 and 70 because of the individual's age.
- (d) *Preferential treatment:*
- (1) No employer, employment agency, labor organization or joint labor management committee may be required to grant preferential treatment to any person(s) because of any unbalance, compared to the general public, in the percentage or total number of people with the following characteristics employed, referred for employment, classified, admitted for membership or admitted to apprenticeship or training programs:
 - Race,
 - Creed,
 - Religion,
 - Disability,
 - Color,
 - Sex,
 - National origin,
 - Age,
 - Occupation,
 - Marital status,
 - Political opinion,
 - Sexual orientation,
 - Personal appearance,
 - Familial status, or
 - Gender identity or expression.
 - (2) An employer, employment agency, labor organization or joint labor-management committee may adopt and maintain a voluntary affirmative action program.

- (e) *Howard County employees.* The Office of Human Rights or the Human Rights Commission may not take action with respect to any allegation of discrimination against the Howard County Government until the aggrieved individual has exhausted all of the individual's administrative remedies pursuant to Article VII of the Howard County Charter and any laws or regulations enacted pursuant to Article VII. Provided that all other requirements of section 12.212 have been met, any time requirements contained in subsection III (a)(2), (b)(3), and (d) of this section shall be stayed pending the outcome of the administrative action required by Article VII of the Howard County Charter.

(C.B. 2, 1983; C.B. 138, 1991; C.B. 74, 1995; C.B. 54, 2011, § 1; C.B. 14, 2014, § 1; C.B. 4, 2015, § 1)

State Law reference— Employment discrimination, Ann. Code of Md. art. 49B, § 14 et seq.

Sec. 12.209. - Unlawful law enforcement practices.

I. *Definitions.* Words and phrases used in this section shall have their usual meanings except as defined below:

- (a) Discrimination/discriminatory means acting or failing to act, or unduly delaying any action regarding any person(s) because of:

Race,

Creed,

Religion,

Disability,

Color,

Sex,

National origin,

Age,

Occupation,

Marital status,

Political opinion,

Sexual orientation,

Personal appearance,

Familial status, or

Gender identity or expression

in such a way that the person(s) are adversely affected in the area of law enforcement.

II. *Authority of Office of Human Rights To Receive Complaints.* The Office of Human Rights may receive any citizen's complaint involving discrimination against any law enforcement Officer

operating within Howard County if the complaint alleges any of the following categories or complaints that are defined and prohibited by law or regulation:

- (a) Police harassment; or
- (b) Excessive use of force in the performance of the Officer's duties; or
- (c) The Officer's use of language which would demean the inherent dignity of any person.

III. *Forwarding of Complaint to Law Enforcement Agency:*

- (a) *Forward complaints with merit.* If the Administrator of the Office of Human Rights finds that the allegations in the complaint may have merit, the Administrator shall forward a request for appropriate action to the law enforcement agency involved, with a copy to the State's Attorney.
- (b) *Contents of request to law enforcement agency.* The request to the law enforcement agency shall contain:
 - (1) The facts concerning the incident;
 - (2) The name of the law enforcement Officer(s) involved;
 - (3) The name and address of the complaining party of all witnesses;
 - (4) A copy of all information compiled by the Office of Human Rights.

IV. *Investigation by Law Enforcement Agency.* Upon request of the Office of Human Rights and when permitted by law, the law enforcement agency shall commence an investigation pursuant to the provisions of Subtitle 1 of Title 3 of the Public Safety Article of the Annotated Code of Maryland, and any other pertinent provisions of law, and upon its completion provide a report of the investigation to the Office of Human Rights.

(C.B. 2, 1983; C.B. 138, 1991; C.B. 54, 2011, § 1; C.B. 14, 2014, § 1; C.B. 4, 2015, § 1)

Sec. 12.210. - Unlawful public accommodations practices.

I. *Definitions.* Words and phrases used in this section shall have their usual meanings, except as defined below:

- (a) *Discrimination/discriminatory* means acting, or failing to act or unduly delaying any action regarding any person(s) because of:

Race,

Creed,

Religion,

Disability,

Color,

Sex,

National origin,

Age,

Occupation,

Marital status,

Political opinion,

Sexual orientation,
Personal appearance,
Familial status, or
Gender identity or expression

in such a way that the person(s) are adversely affected in the area of public accommodations.

- (b) *Public accommodations* means any place which holds itself out as inviting the public to utilize its goods and services, whether or not for profit. Public accommodations does not include accommodations that are distinctly private or personal.
- II. *Unlawful practices* means it shall be unlawful if, because of discrimination, an owner or operator (or his/her agent) of public accommodations denies any person any of the accommodations, advantages, facilities or privileges of such public accommodations.
- III. *Exemptions*. This section shall not apply to:
- (a) Those portions of a private club or similar establishment which is not in fact open to the general public, except to the extent that the facilities of such establishments are made available to the customers or patrons of an establishment within the scope of this section.
- (b) Owner occupied establishments containing less than two rental rooms or apartments.

(C.B. 2, 1983; C.B. 138, 1991; C.B. 54, 2011, § 1; C.B. 14, 2014, § 1)

Sec. 12.211. - Unlawful financing practices.

- I. *Definitions*. Words and phrases used in this section shall have their usual meanings except as defined below:
- (a) *Discrimination/discriminatory* means acting or failing to act or unduly delaying any action regarding any persons because of:
- Race,
Creed,
Religion,
Disability,
Color,
Sex,
National origin,
Age,
Occupation,
Marital status,
Political opinion,
Sexual orientation,

Personal appearance,

Familial status, or

Gender identity or expression

in such a way that such person or persons are adversely affected in the area of financing.

(b) *Dwelling:*

- (1) The whole or any part of a building, structure or mobile home occupied as, designed for or intended for occupancy as a residence by one or more families.
- (2) Land which is offered for sale or lease for the construction or location, in whole or in part, of any such building, structure or mobile home.

(c) *Lending institutions* means a bank, insurance company, savings and loan association, or other person or organization regularly engaged in the business of lending money or guaranteeing loans within Howard County.

II. *Unlawful Acts:*

(a) *Denial of loan.* It shall be unlawful if, because of discrimination, any lending institution denies a loan for purposes including, but not limited to:

- (1) The purchase, construction, improvement, repair or maintenance of a dwelling; or
- (2) The establishment or continuance of a business establishment; or
- (3) Personal purposes.

(b) *Conditions of loan.* It shall be unlawful if, because of discrimination, any lending institution discriminates against any person in the fixing of down payment, interest rate, duration or other terms or conditions of a loan.

(c) *Unlawful deposit of public funds:*

- (1) If the Commission has made a determination of reasonable cause to believe that a lending institution has engaged in a discriminatory practice and if the finding has been upheld by the court, it shall be unlawful for any governmental official whose responsibility it is to account for, invest or manage public funds to deposit public funds in that lending institution.
- (2) Upon the court's judicial enforcement of any order to restrain a discriminatory practice of a lending institution, or upon any order for the lending institution to cease or desist a discriminatory practice, the Administrator shall forward the name of the lending institution to all governmental officials in charge of public funds.
- (3) If public funds are on deposit in any lending institution, the governmental official in charge of the funds shall, upon notification from the Administrator that the lending institution is discriminating, withdraw the funds and redeposit them in another lending institution.
- (4) If, for reasons of sound economic management, this action will result in a financial loss to the County, the action may be deferred for up to one year.
- (5) If the Administrator notifies the government officials that the lending institution has corrected its discriminatory practices, any prohibition on the deposit of public funds is no longer applicable.

(C.B. 2, 1983; C.B. 138, 1991; C.B. 54, 2011, § 1; C.B. 14, 2014, § 1)

Sec. 12.212. - Unfair employment practices, unfair public accommodation practices, unfair law enforcement practices, unfair financing practices—Complaint, investigation, conciliation, decision and order, administrative hearing, subpoena power and enforcement.

I. *Complaint:*

- (a) *Right to file.* Any person claiming to be aggrieved by an alleged unlawful act in violation of this subtitle may file a complaint within six months after the alleged violation has occurred or has been discovered by the complainant.
- (b) *Form of complaint.* All complaints shall be filed in writing, under oath, and shall be upon a form provided by the Office.
- (c) *Where to file.* Complaints shall be filed with the Office of Human Rights.
- (d) *Content of complaint.* The complaint shall state the name and address of the complainant and the respondent and other pertinent information as required by the Administrator.
- (e) *Amendment of complaint.* The complainant may reasonably amend the complaint at any time after it is filed.
- (f) *Withdrawal of complaint.* The complainant may withdraw the complaint at any time by filing written notice with the Office.

II. *Settlement.* The parties may settle the complaint at any time.

III. *Investigation, Determination and Conciliation:*

(a) *Consideration of complaint:*

- (1) The Administrator shall consider all complaints filed.
- (2) Within 15 days of the filing of a complaint, the Administrator shall determine through analysis of law and preliminary investigation if the facts alleged are sufficient to establish that a violation of this subtitle may have occurred. The Administrator may contact the respondent in this determination.

(b) *Dismissal of complaint:*

- (1) If the Administrator determines that the facts alleged are insufficient to establish that a violation of this subtitle may have occurred, the Administrator shall dismiss the complaint.
- (2) If the complaint is dismissed, the Administrator shall send a dismissal letter by certified mail to the complainant stating the fact of dismissal, the reasons for dismissal and the process for the complainant to seek reconsideration of the Administrator's decision by the Human Rights Commission. The Administrator shall send a copy of the dismissal letter by certified mail to the respondent.
- (3) If the complainant seeks reconsideration of the Administrator's dismissal of the complaint, the complainant must send a letter to the Chairperson of the Human Rights Commission within 15 days of receipt of the dismissal letter stating the reasons the complainant disagrees with the dismissal of the complaint.
- (4) Within 15 days of the reconsideration request, the Chairperson of the Commission shall schedule a meeting with the complainant. The Commission shall send written notification of the date, place, and time of the meeting to the Complainant by certified mail. At least two other Commissioners shall be present at the meeting in addition to the Administrator and the Commission's legal advisor.
 - a. If the Chairperson and the Commissioners determine that the complaint should be investigated, the Chairperson shall so state in a letter to the Administrator with a copy to the complainant. The Administrator shall proceed with an investigation of the complaint.

- b. If the Chairperson and the Commissioners determine that the complaint should be dismissed, the Chairperson shall so state in a letter sent by certified mail to the complainant with a copy to the Administrator.
- (5) If the Commission dismisses the complaint, and the complainant wishes to pursue the matter, the complainant may bring a suit seeking a declaratory judgment in the Circuit Court for Howard County.
- (c) *Authorization of complaint for investigation.* If the Administrator determines that the facts alleged are sufficient to establish that a violation of this subtitle may have occurred, the Administrator shall authorize the complaint for investigation.
- (d) *Determination after investigation.* Within 180 days of the authorization of a complaint for investigation, the Administrator shall issue written findings of the results of the investigation which shall state whether or not there is reasonable cause to believe that a violation of this subtitle may have occurred. Due to exigent circumstances, the time period may be extended for an additional 180 days at the discretion of the Administrator. The findings shall:
 - (1) Summarize the factual background of the case.
 - (2) Contain the basis for the finding of reasonable cause or no reasonable cause.
 - (3) Outline the next appropriate steps as provided in subsections 12.212III(e) and (f) of this subtitle.
 - (4) Be sent by certified mail to all parties.
- (e) *Findings of reasonable cause and conciliation:*
 - (1) Within 30 days of a finding of reasonable cause to believe that a violation of this subtitle may have occurred, the Administrator shall attempt to rectify the violation by conference, conciliation and persuasion.
 - (2) Any conciliation agreement for elimination of the violation shall be reduced to a legally enforceable written instrument signed by the complainant, respondent and the Administrator or their authorized representatives.
 - (3) If no conciliation agreement is reached, the Administrator shall notify all parties by certified mail of the failure to conciliate and shall refer the matter to the Commission for a public administrative hearing under the provisions of subsection IV. below.
- (f) *Findings of no reasonable cause.* With the finding of no reasonable cause to believe that a violation of this subtitle may have occurred, the Administrator will issue a decision and order:
 - (1) Advising the parties of their right, within 20 days of the finding, to request an administrative appeal hearing before the Commission;
 - (2) Detailing the method for requesting the hearing; and
 - (3) Requiring any prospective appellant to list the reasons for appeal.

IV. *Administrative Hearings:*

- (a) *Failure to conciliate.* The Human Rights Commission shall hold an administrative hearing in case of failure to reach an agreement for the rectification of violations under subsection 12.212III(e) above.
- (b) *After issuance of finding of no reasonable cause.* The Commission may hold an administrative hearing upon the request of any party if the Administrator has issued a finding of no reasonable cause.
- (c) *Certification of file, transmittal of documents.* The Administrator shall certify the entire file and his/her finding and transmit the documents to the Commission.

- (d) *Distribution of complaint.* The Chairperson of the Commission shall send all parties a copy of the complaint requiring the respondent to answer the charges at a public hearing.
- (e) *Notice.* The Chairperson shall issue and serve on all parties a notice, by certified mail, giving the time and place of the public hearing before the Commission.
- (f) *Rules and procedure.* The Commission shall conduct the hearing in accordance with its rules of procedure and applicable law. All hearings are *de novo*.
- (g) *Oaths, subpoenas.* In the administration and enforcement of its duties, the Commission may administer oaths and issue subpoenas using the same standards and procedures as in subsection VI. of this section.
- (h) *Consideration of evidence; purpose.* The Commission shall consider all evidence to determine whether the respondent has engaged in act(s) which violate the provisions of this subtitle.
- (i) *Dismissal—Decision and order.* If the Commission finds that the respondent has not engaged in acts which violate the provisions of this subtitle, it shall issue a written decision and order, stating its findings of fact and ordering the dismissal of the complaint. The Commission shall serve each party with the decision and order.
- (j) *Violations; decision and order; appropriate action.* If the Commission finds that the respondent has engaged in acts which violate the provisions of this subtitle, it shall issue a written decision and order stating its findings, ordering the respondent to cease and desist from the act(s) and ordering appropriate action to carry out the purposes of this subtitle. The Commission shall serve each party with the decision and order.
 - (1) *Affirmative action.* The affirmative action ordered by the Commission may include, but is not limited to:
 - (i) Reinstatement or hiring of employees.
 - (ii) Back pay (payable by the employer, employment agency or labor organization responsible for the unlawful employment practice). The claimant's interim earnings (or amounts earnable with reasonable diligence) shall operate to reduce monetary relief otherwise allowable.
 - (iii) Reasonable and customary attorney's fees.
 - (iv) Nonmonetary relief.
 - (v) Any other equitable relief that is deemed appropriate.

V. *Appeal:*

- (a) *Right to appeal.* Within 30 days of the Commission's issuance of a decision and order, any party to the proceeding may appeal the decision and order to the Circuit Court of Howard County.
- (b) *Procedure.* Appeals shall be in accordance with the Maryland Rules of Procedure providing for appeals from administrative agencies.
- (c) *Legal representation.* The Commission shall be a party to all appeals and shall be represented at any such hearing by the County Office of Law.

VI. *Oaths and Subpoena Powers:*

- (a) *Administrator.* In the administration and enforcement of any of the provisions of this subtitle, the Administrator may administer oaths and issue subpoenas to compel:
 - The attendance and testimony of witnesses, and
 - The production of records and documents relevant and necessary for proceedings under this subtitle.

- (b) *Service of subpoena.* Any subpoena shall be forwarded for service to the sheriff or deputy sheriff of the political subdivision in which is located the residence of the person or the main office of the firm, association, partnership or corporation to whom the subpoena is issued.
- (c) *Enforcement of subpoena.* In case of disobedience to the subpoena, the Administrator, represented by the Office of Law, shall apply to a court of competent jurisdiction for an order to enforce the subpoena.

VII. *Injunctive Relief:*

- (a) *Civil action.* If, after the filing of a complaint, the Administrator reasonably believes that civil action to preserve the status quo or to prevent irreparable harm is advisable, the Administrator may bring any action necessary to preserve the status quo or to prevent the irreparable harm.
- (b) *Legal representation.* The Administrator shall be represented by the Office of Law.
- (c) *Circuit Court for Howard County.* Any action, including but not limited to an action to obtain temporary injunctive relief, shall be brought in the Circuit Court for Howard County.

VIII. *Enforcement.* If any respondent refuses to comply with a decision and order of the Commission, the Commission may bring an action in the Circuit Court for Howard County to enforce compliance with the decision and order.

(C.B. 2, 1983; C.B. 49, 1983; C.B. 41, 1988; C.B. 138, 1991; C.B. 4, 2015, § 1)

State Law reference— Civil actions for discriminatory acts, Ann. Code of Md. art. 49B, § 42.

Sec. 12.213. - Protection of processes and witnesses.

I. *Unlawful Acts.* It shall be unlawful for any person to:

- (a) Retaliate against another person; or
- (b) Cause or attempt to cause a second party to retaliate against a person; or
- (c) Coerce, or attempt to coerce, a second party to retaliate against a person because the person has:
 - (1) Lawfully opposed any act or failure to act that is in violation of this subtitle; or
 - (2) In good faith, filed a complaint, testified, participated or assisted in any way in a proceeding pursuant to this subtitle.

II. *Enforcement.* This section may be enforced by civil action.

(C.B. 2, 1983)

Sec. 12.214. - Confidential character of information related to investigation.

I. *Confidentiality during Investigations:*

- (a) *No publicity.* To the extent permitted by the State Public Information Act, during the investigation of any complaint alleging a violation of sections 12.207 to 12.211 of this subtitle and until matters related to the complaint reach the administrative hearing stage, the records of the Office and of the Commission related to the investigation are confidential.
- (b) *Exemptions.* The Administrator and members of the Commission shall hold confidential any information that would tend to disclose the identity of the complainant and respondent, except that:

- (1) Information may be released at any time if the complainant and the respondent agree in writing to release the information;
- (2) The identity of the complainant shall be disclosed, upon request, to the respondent;
- (3) The identity of the complainant and respondent may be made public after the parties have been notified that a hearing on their case has been scheduled; or
- (4) The Office may cooperate with Federal and State agencies and shall make available to such agencies its files and investigative data, if permitted or required to do so by State or Federal law or court order.

II. *Violations; Penalty:*

- (a) *Fine, imprisonment; civil penalty.* Any Commissioner or staff member in the Office who is convicted of violating provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined up to \$1,000.00 and/or imprisoned for up to 6 months. Alternatively or in addition to and concurrent with all other remedies, the County Solicitor may enforce the provisions of this section using civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this section shall be a Class A offense.
- (b) *Removal from office.* Any Commissioner who violates the provisions of this section shall be removed from office in accordance with section 903 of the Howard County Charter.
- (c) *Discharge of employee.* Any staff member who violates the provisions of this section shall be discharged in accordance with the Howard County Code and the Howard County Employee Manual.

(C.B. 2, 1983; C.B. 32, 1985; C.B. 53, 1994; C.B. 4, 2015, § 1)

Sec. 12.215. - Criminal penalties for falsification of documents, etc.

A person who:

- I. Falsifies any documents, records or reports that have been subpoenaed pursuant to this subtitle; or
- II. Willfully gives false testimony before the Commission or the Administrator; or
- III. Intimidates any witness, complainant or respondent in any proceeding before the Commission; shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of up to \$1,000.00 and/or imprisonment for up to six months.

(C.B. 2, 1983)

Sec. 12.216. - Civil penalties.

- (a) A person found to have engaged in any discriminatory act(s) in violation of this subtitle resulting in humiliation and mental anguish to the person(s) aggrieved by the discrimination shall be liable for the payment of a civil penalty to the aggrieved person(s).
- (b)
 - (1) Except as provided in paragraph (2) of this subsection, civil penalties, recoverable in a civil action shall be up to \$1,000.00 damages plus reasonable attorney's fees.
 - (2) Civil penalties, recoverable in a civil action for a violation of the employment discrimination provisions of section 12.208 of this subtitle or the public accommodations provisions of section 12.210 of this subtitle shall be up to \$5,000.00, plus reasonable attorney's fees.

(C.B. 2, 1983; C.B. 85, 1996)

Sec. 12.217. - Nonexclusive remedy.

- I. *Rights*. The provisions of this subtitle vest in all persons in Howard County the right to be free of any practices prohibited by this subtitle.
- II. *Action at Law*. Any person who is aggrieved by an act prohibited by this subtitle may bring an action in law or in equity in the Circuit Court for Howard County to seek damages, including counsel fees, redress of injury or injunctive relief arising out of any such prohibited act.
- III. *Termination of Administrative Process*. If the aggrieved person brings an action before the Circuit Court of Howard County, in a matter which is pending before Office or the Commission, the Office or Commission shall close the case and cease all proceedings on the matter.

(C.B. 2, 1983; C.B. 4, 2015, § 1)

State Law reference— Civil actions for discriminatory acts, Ann. Code of Md. art. 49B, § 42.

Sec. 12.218. - Separability.

The provisions of this subtitle are separable; and if any provision, sentence, clause, section, subsection or part thereof is held illegal, invalid or unconstitutional or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality or inapplicability shall not affect nor impair any of the remainder of the subtitle or its application to other persons or circumstances.

(C.B. 2, 1983)

SUBTITLE 3. - LOCAL CHILDREN'S BOARD

Sec. 12.300. - Local Children's Board established; staffing; purpose; general provisions.

- (a) *Board Established*. There is a Howard County Local Children's Board within the Department of Community Resources and Services. In this subtitle, the term "Board" shall mean the Howard County Local Children's Board.
- (b) *Staffing*. Except as provided in section 12.306(a) of this subtitle, the Department of Community Resources and Services shall provide staffing for the Board.
- (c) *Purpose of the Board*. The Board shall approve, oversee, and act as a neutral convener that facilitates interagency collaboration, youth empowerment and community engagement to create and implement a shared vision for children, youth and families in Howard County.
- (d) *General Provisions*. General provisions applicable to the Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 96, 1996; C.B. 12, 2002, § 2; C.B. 12, 2016, § 1; C.B. 5, 2019, § 1)

Editor's note— Section 1 of C.B. 76, 1995, repealed subtitle 3, § 12.300, relating to home for indigent sick and derived from the following Public Local Laws: 1880, ch. 423; 1888, art. 14, § 45; and 1930, § 74.

Sec. 12.301. - Membership of the Board; appointment.

- (a) *Appointment*:

- (1) Members of the Board shall be appointed by the County Executive and confirmed by the County Council.
 - (2) The Board may recommend individuals to fill a vacancy on the Board. The County Executive shall consider the individuals recommended by the Board, but need not fill a vacancy from the list of individuals recommended.
- (b) *Number of Board Members; Apportionment of Representation:*
- (1) The Board shall have at least 19 members and no more than 29 members.
 - (2)
 - (i) As practicable, the Board shall consist of a majority of public sector (ex-officio) representation and a minority of private sector representation.
 - (ii) At least 20 percent of the private sector representation shall be comprised of former consumers or family members of consumers of services for children, youth and families in Howard County.
- (c) *Qualifications of Members of the Board:*
- (1) Members of the Board shall demonstrate an interest in children's services. As far as is practicable, the Board shall reflect the gender, geographic, ethnic and racial makeup of the County.
 - (2) The membership of the Board shall reflect, as closely as is reasonable and practical, the profile contained in this paragraph.
 - (i) The members of the Board from the private sector may include:
 - a. A minimum of two youth members (ages 14-24) with one currently attending a Howard County Public School;
 - b. At least one individual representing private non-profit child-serving agencies;
 - c. At least one individual with business experience;
 - d. At least one individual from the faith community;
 - e. At least one individual representing the disability community;
 - f. At least one individual representing the health care community; and
 - g. At least one individual representing the mental health community.
 - (ii) The following ex officio members shall serve on the Board:
 - a. The Director of the local Department of Social Services;
 - b. The Superintendent of the Howard County Public School System;
 - c. The Supervisor of the Local Office of Juvenile Services;
 - d. The Health Officer;
 - e. The Chief of Police;
 - f. The State's Attorney;
 - g. The Director of the Department of Recreation and Parks;
 - h. The Director of the Department of Community Resources and Services;
 - i. The Director of the Department of Housing and Community Development;
 - j. The Regional Manager of the Local Child Care Administration;
 - k. The Administrator of the Office of Workforce Development; and
 - l. The Director of the Howard County Library System.

- (d) *Voting Members:*
 - (1) All members appointed to the Board shall be voting members.
 - (2) A simple majority, but no less than ten voting members of the Board shall constitute a quorum for the purpose of conducting business.
 - (3) In all matters before the Board, the members shall make every attempt to reach consensus prior to a vote being called.
- (e) *Terms of Members of the Board:*
 - (1) Except for youth members, the members of the Board shall serve staggered terms of five years. Youth members shall serve staggered terms of two years.
 - (2) Vacancies on the Board shall be filled in the same manner as the original appointment or for the unexpired term.
 - (3) At the end of the term a member of the Board, the member continues to serve until a successor is appointed.
 - (4) A member of the Board who is appointed to complete an unexpired term serves only for the rest of that term, unless the member is reappointed.
- (f) *Removal from Office:* In accordance with the provisions of section 903 of the Howard County Charter, a member of the Board may be removed for incompetence, misconduct, or failure to perform the duties of the position.
- (g) *Officers of the Board:*
 - (1) The Board shall elect Officers from among its members, to serve two-year terms as Officers.
 - (2) The Officers shall consist of a Chairperson, a Vice-Chairperson, and three Second Vice-Chairpersons.
 - (3) A member may not be elected to the same office for more than two consecutive terms.

(C.B. 96, 1996; C.B. 12, 2002, § 2; C.B. 12, 2016, § 1; C.B. 13, 2018, § 1; C.B. 5, 2019, § 1)

Sec. 12.302. - Meetings of the Board.

- (a) *Number and Place:* The Board shall meet a minimum of six times per year at the times and places it determines. The Board may meet more often for special meetings at the call of the Chairperson.
- (b) *Board Meetings Are Public:* All meetings of the Board shall be open to the public except when a meeting is closed as authorized under Federal or State law.

(C.B. 96, 1996; C.B. 5, 2019, § 1)

Sec. 12.303. - Committees of the Board.

- (a) *Committee Establishment and Structure:* The Officers of the Board may appoint committees of the Board as it deems necessary for the execution of the mission, purpose, and goals of the Board.
- (b) *Committee Membership:* Committee members may include members of the community or members of the Board and a Board member shall serve as committee chair.

(C.B. 96, 1996; C.B. 5, 2019, § 1)

Sec. 12.304. - Responsibilities and duties of the Board.

- (a) *Responsibilities and Duties:* The Board shall:
- (1) Periodically conduct a needs assessment which identifies priorities, gaps in services, and areas of duplication;
 - (2) Identify barriers to integration or access to services;
 - (3) Prioritize, design, and implement strategies to achieve clearly defined results for families and children;
 - (4) Maintain standards of accountability for locally agreed upon results for children and families;
 - (5) Influence the allocation of resources across systems as necessary to accomplish desired results;
 - (6) Coordinate children and family services within the County to eliminate fragmentation and duplication of services;
 - (7) Create an effective system of services, supports and opportunities that improve outcomes for children, youth and families;
 - (8) Operate based on locally agreed upon principles concerning service delivery;
 - (9) Represent local residents, communities and state and local government; and
 - (10) By April 1 of each year, submit a report to the County Executive and County Council describing the Board's activities in the previous fiscal year, assessing the Board's progress toward the goals and objectives for the previous fiscal year and stating the goals and objectives for the next fiscal year and making recommendations for any legislative and funding changes the Board deems necessary to accomplish the responsibilities and duties established by this section.
- (b) *Limits on Powers of the Board:* The powers and duties granted to the Board may not be construed to authorize the Board to:
- (1) Preempt or supersede the regulatory authority of any State or County department or agency; or
 - (2) Engage in any activity which is beyond the express powers of the Board.

(C.B. 96, 1996; C.B. 12, 2002, §§ 1, 2; C.B. 43, 2018, § 1; C.B. 5, 2019, § 1)

Sec. 12.305. - Conflict of interest.

- (a) *Members and Employees of the Board:* Members and employees of the Board shall be subject to the Howard County public ethics law.
- (b) *Conflict of Interest:*
- (1) A member of the Board shall declare the member's interest in any matter before the Board.
 - (2) If there is any interest to a private sector member in a matter before the Board, the member may not participate in discussions or vote on the matter.
- (c) The Board's subcontractor(s) or subgrantee(s) may not be paid consultants to the Board.

(C.B. 96, 1996; C.B. 12, 2002, § 2; C.B. 5, 2019, § 1)

Sec. 12.306. - In kind services.

- (a) *Acceptance by the Board:* The Board may accept in-kind services of County departments or agencies for needs associated with the operation of the Board.
- (b) *Consultants.* The Board may engage any necessary consultants.

(C.B. 96, 1996; C.B. 5, 2019, § 1)

Sec. 12.307. - Reserved.

Editor's note— C.B. 5, 2019, § 1, adopted March 8, 2019, repealed § 12.307, which pertained to panel to review operations of the Board and derived from C.B. 96, 1996; C.B. 12, 2002, § 2; C.B. 43, 2018, § 1.

Sec. 12.308. - Reserved.

Editor's note— C.B. 12, 2002, § 2, deleted former § 12.308, which pertained to termination, and derived from C.B. 96, 1996.

SUBTITLE 4. - DISABILITY ISSUES⁴⁴

Footnotes:

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Editor's note— Subtitle 4, §§ 12.400—12.409, relating to rat control, derived from C.B. 46, 1973, was repealed by C.B. 17, 1981. Subsequently, a new sub. 4, §§ 12.400, 12.401, was added by C.B. 40, 1988.

Sec. 12.400. - Definitions.

Words and phrases used in this subtitle shall have their usual meanings, except as specifically defined in this section.

- (a) *Person with a disability* means an individual who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.
- (b) *Physical or mental impairment*:
 - (1) *Physiological* means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:
 - (i) Neurological;
 - (ii) Musculoskeletal;
 - (iii) Special sense organs;
 - (iv) Respiratory, including speech organs;
 - (v) Cardiovascular;
 - (vi) Reproductive;
 - (vii) Genitourinary;
 - (viii) Hemic and lymphatic;
 - (ix) Skin and endocrine;
 - (x) Digestive; and
 - (xi) Immune.

(2) *Mental or psychological* means any mental or psychological disorder such as:

- (i) Cognitive and developmental disabilities;
- (ii) Organic brain syndrome;
- (iii) Emotional or mental illness; and
- (iv) Specific learning disability.

Physical or mental impairment includes but is not limited to such diseases and conditions as orthopedic, visual speech and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; H.I.V. (AIDS) infections; heart disease; diabetes; drug addiction; alcoholism.

- (c) *Major life activities* means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- (d) *Has a record of such impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (e) *Is regarded as having an impairment*:
 - (1) Has a physical or mental impairment that does not substantially limit major life activities but is treated as if major life activities are limited:
 - (2) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward that impairment; or
 - (3) Has none of the impairments defined in this section, but is treated as having such an impairment.

(C.B. 40, 1988; C.B. 56, 2007, § 1; C.B. 14, 2014, § 1)

Sec. 12.401. - Commission on Disabilities.

- (a) *General Provisions*. General provisions regarding the following are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Membership*. There is a Commission on Disabilities consisting of 15 members.
- (c) *Qualifications*:
 - (1) At least 13 of the 15 members shall be residents of Howard County.
 - (2) All members shall:
 - (i) Have evinced a broad based interest in, and/or experience with, issues involving persons with disabilities; and
 - (ii) Be willing and able to commit time and effort to actively pursue the responsibilities of a working Commission.
 - (3) At least eight of the members of the Commission shall be persons with disabilities.
 - (4) Two members of the Commission shall be a Board or staff member of an agency providing services to persons with disabilities.
 - (5) Two members of the Commission shall be a relative of persons with disabilities.
- (d) *Meetings*. The Commission shall meet regularly at the call of the Chairperson or at the call of a majority of its members. The Committee shall meet as frequently as necessary to perform its duties, but at least six times a year.

- (e) *Staff.* The County Executive shall designate a disabilities issues coordinator who shall serve as Executive Secretary to the Commission and shall also serve as the 504 compliance monitor for the County.
- (f) *Rules and Regulations.* The Commission has the option of establishing committees for the proper and efficient performance of its duties. Committees may include nonmembers of the Commission.
- (g) *Records.* The records of the Commission's activities and the minutes of its meetings shall be kept on file and open to the public.
- (h) *Duties and Responsibilities:*
 - (1) *Public awareness.* The Commission on Disabilities shall:
 - (i) Listen to the concerns of persons with disabilities, their families, friends, service providers and interested citizens by holding public forums or hearings, and/or conducting surveys and studies.
 - (ii) Develop activities which will increase public awareness of the concerns and contributions in our community of persons with disabilities.
 - (iii) Promote equal rights and opportunities for all persons with disabilities, including identifying barriers to these rights and recommending necessary policies and actions to remove those barriers.
 - (2) *Advise on governmental programs, policies and budget.* The Commission on Disabilities shall:
 - (i) Review overall services and activities of governmental agencies providing services to persons with disabilities, including collecting data and reviewing reports and publications.
 - (ii) Advise the County Executive and County Council on the needs, inequalities, unmet needs, and gaps in such areas as housing, transportation, recreation, employment, education, community services, treatment, rehabilitation and related matters, which may preclude the full integration of persons with disabilities into the community.
 - (iii) Make recommendations to the County Executive and County Council regarding the impact of County Government policies, programs, services and facilities on persons with disabilities.
 - (iv) Make recommendations during the budget development process regarding the funding of programs for persons with disabilities; review the County Executive's budget recommendations for such programs and make recommendations prior to the budget's submission to the County Council.
 - (v) Identify and recommend to the County Executive and the County Council appropriate sources of State and Federal financial assistance for purposes of comprehensively assisting persons with disabilities.
 - (vi) Subject to section 22.1000 of the County Code, submit an annual report to the County Council and the County Executive which sets forth the status of citizens with disabilities and makes recommendations for the most effective delivery of services and programs, annual priorities for delivery of services to individuals and funding proposals as may be appropriate.
 - (vii) Advise the County Executive on other matters related to persons with disabilities.
 - (3) *Compliance.* The Commission on Disabilities shall assist the County Government in ensuring compliance with the requirements of Section 504 of the rehabilitation act of 1973 and the Americans with Disabilities Act of 1990.

(C.B. 40, 1988; C.B. 62, 1988; C.B. 127, 1991; C.B. 14, 2000; C.B. 56, 2007, § 1; C.B. 14, 2014, § 1; C.B. 43, 2018, § 1; C.B. 49, 2018, § 1)

SUBTITLE 5. - OLDER HOWARD COUNTIANS ACT

Sec. 12.500. - Office on Aging and Independence.

- (a) *General Provisions.* General provisions applicable to this Office are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Head .* The Administrator on Aging and Independence shall head the Office on Aging and Independence. The Office is under the general supervision of the Director of Community Resources and Services.
- (c) *Qualifications of Administrator on Aging and Independence .* The Administrator on Aging and Independence shall be thoroughly trained and experienced in the principles and practices of a social services program with considerable knowledge of the financial, social, educational, organizational and other special needs and problems of the elderly. The Administrator shall have had five years of increasingly responsible experience in social service or related work, two years of which shall have been in a managerial position dealing with the provision of services of the elderly.
- (d) *Duties and Responsibilities .* The Office shall:
 - (1) Develop, in cooperation with the Commission on Aging and with other County organizations, both public and private, a comprehensive County-wide annual plan for a coordinated system of health, social and community services for the aged, including housing and institutional and noninstitutional care, and present such plan to the County Executive. The annual plan shall include statements of the long- and short-term needs of the elderly in Howard County, the long- and short-term plans for serving those needs, and the proposed funding sources and administrative responsibility for these plans.
 - (2) Administer those programs and activities for the aged designated as the responsibility of the Office in the annual plan.
 - (3) Subject to existing law, review and coordinate all local programs and services, both public and private, insofar as they relate and are important to the well-being of the County's aged, including, but not limited to, programs and services in the areas of income, maintenance, public health, mental health, housing and urban development, employment, education, recreation and rehabilitation of persons with disabilities.
 - (4) Review and formulate policy recommendations to the County and County Council in reference to publicly funded plans and programs which have an impact on the aged.
 - (5) Consult with the County Commission on Aging on all matters pertaining to policy and programs prior to making recommendations to the Executive and County Council.
 - (6) After consultation with the Commission on Aging, present plans for programs for the elderly to the County Executive and County Council for budgetary approval.
 - (7) Consult with and advise the head of the principal departments of the County Government with respect to programs and services for the aged, for which they are primarily responsible.
 - (8) Cooperate with State, Federal and other local governmental units and agencies in effectuating the purposes of this subtitle.
 - (9) Establish and administer any programs or services deemed desirable by the Commission on Aging and the County Executive, under direction of the State Department of Aging or the provisions of the Older Americans Act, as amended.
 - (10) After prior consultation with the Commission on Aging and approval by the County Executive, apply for, accept and use any State or Federal funds, or other grant, fund and contributions, public or private, available for the purposes specified in this subtitle.

- (11) Prepare and submit to the County Executive a budget for the Office and the Commission on Aging in accordance with customary budget procedures.
 - (12) Subject to section 22.1000 of the County Code, prepare and submit an annual report to the County Executive and the County Council, setting forth the activities of the Office and the Commission on Aging in the preceding year, and its recommendations for legislation and funding.
 - (13) Initiate and carry out any appropriate action, where relevant, to implement the above objectives, or other related objectives, as they become necessary and are deemed appropriate.
 - (14) The Office shall be the principal County agency responsible for the development of services to the aged and the medium through which organizations exchange information, coordinate programs and engage in joint endeavors.
 - (15) *Other duties and responsibilities* . The Office shall perform such other functions as may be prescribed by directive of the County Executive or by law.
- (e) *Guardianship Responsibilities*. The Administrator may serve as guardian of persons pursuant to section 13-707 of the estates and trusts article of the Annotated Code of Maryland.

(C.B. 36, 1975; C.B. 62, 1988; C.B. 152, 1991; C.B. 14, 2014, § 1; C.B. 12, 2016, § 1; C.B. 43, 2018, § 1)

Editor's note— Section 2 of C.B. 36, 1975, reads as follows:

"Section 2. And be it further enacted by the County Council of Howard County, Maryland, that the present Director and staff and all funds heretofore appropriated to the Howard County Commission on Aging created by resolution No. 13, 1969 legislative session of the Howard County Council, and all assets and records of the aforesaid agency, shall, upon the effective date of this Act, be transferred to the Office on Aging as constituted hereunder."

Section 52 of C.B. 62, 1988 repealed subsection (a) and added new subsections (a—c). Section 53 renumbered existing subsection (b) as (d) and added paragraphs (14) and (15). The editor changed the word "Director" in the introductory paragraph of subsection (d) to "office." C.B. 62, 1988 is effective July 1, 1989.

Sec. 12.501. - Commission on Aging.

- (a) *General Provisions*. General provisions applicable to this Commission are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members* . There is a Howard County Commission on Aging composed of no more than 15 members.
- (c) *Qualifications of Members* :
 - (1) All members shall be residents of Howard County.
 - (2) A majority of members of the Commission shall be at least 55 years old.
 - (3) Members shall be selected because of their interest in the problems of the aging and shall be broadly representative of the citizens of the County.

- (d) *Executive Secretary.* The Administrator on Aging and Independence, or the Administrator's designee, shall serve as Executive Secretary of the Commission and shall attend all meetings of the Commission.
- (e) *Duties of the Commission on Aging:*
- (1) The Commission shall make such surveys concerning the problems of the aging as it may determine, or as directed by the Executive or the County Council, and promote in every manner possible the welfare and betterment of the aged people of the County.
 - (2) The Commission shall act as the advisory body to the Office on Aging and Independence and shall review and make recommendations concerning all new programs proposed by the Administrator on aging prior to their implementation.
 - (3) The Commission shall review the proposed budget of the Office on Aging and Independence and make such recommendations as it deems appropriate to the Administrator on aging and the County Executive, prior to its submission to the County Council.
 - (4) Other matters. At the directive of the County Executive or by resolution of the County Council, the Commission on Aging shall review and make recommendations on any matter related to older residents of the County.

(C.B. 36, 1975; C.B. 47, 1979; C.B. 2, 1981; C.B. 62, 1988; C.B. 30, 2005, § 1; C.B. 12, 2016, § 1)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

SUBTITLE 6. - SMOKING IN PUBLIC PLACES^[5]

Footnotes:

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Editor's note— C.B. 38 of 2006, §§ 1, 2, repealed former Subtit. 6, §§ 12.600—12.613, and enacted new provisions as herein set out. Former subtit. 6 pertained to similar subject matter and derived from C.B. 45, 1988; C.B. 56, 1993; C.B. 29, 1994.

Section 3 of C.B. 38 of 2006 provides as follows

"(a) Until June 1, 2007, an owner, operator, manager, or person in control of a bar or restaurant with a separately enclosed and ventilated bar area in existence on April 1, 2006 may permit smoking in its separately enclosed and ventilated bar area in accordance with the provisions of title 12, subtitle 6 of the Howard County Code in existence on April 1, 2006. (b) Until June 1, 2007, an owner, operator, manager or person in control of a bar or restaurant with a separately enclosed and ventilated bar shall comply with all other provisions of this Act; and (c) Effective June 1, 2007, an owner, operator, manager or person in control of a bar or restaurant with a separately enclosed and ventilated bar area in existence on April 1, 2006 shall fully comply with all provisions of this Act."

State Law reference— Clean Indoor Air Act, Ann. Code of Md., Health article, § 24-501 et seq.; local antismoking ordinances. Ann. Code of Md., Health article, § 24-510.

Sec. 12.600. - Findings and purpose.

- (a) The Howard County Council finds that secondhand tobacco smoke is a hazard to the health of the public.

- (b) The purpose of this subtitle is:
 - (1) To protect the public health, safety, and welfare by prohibiting the smoking of tobacco products in public places, at public meetings, in certain government vehicles, in places of employment, and within certain distances from entrances to public places; and
 - (2) To protect the public from involuntary exposure to smoke from tobacco products.

(C.B. 38, 2006, § 2)

Sec. 12.601. - Definitions.

Terms in this subtitle have the meanings indicated.

- (a) *Bar* means an establishment, portion of an establishment, or area of a restaurant licensed under the State Code Article 2B to serve alcoholic beverages for consumption by individuals on the premises and where serving food is only incidental to the consumption of alcoholic beverages. *Bar* includes a cocktail lounge.
- (b) *Electronic smoking device* means any product containing or delivering nicotine or any other substance that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or vape pen, or similar product name or descriptor for such a device.
- (c) *Employee* means an individual who:
 - (1) Works for an employer in consideration for direct or indirect monetary wages or profit; or
 - (2) Volunteers services for a nonprofit entity or business entity.
- (d) *Employer* means a person, partnership, corporation, nonprofit entity, or other business entity that employs the services of one or more individuals.
- (e) *Enclosed area* means an area that is bounded on all sides by walls that extend from the floor to the ceiling regardless of whether the walls contain doors, windows, or vents.
- (f) *Government vehicle* means each car, bus, truck, or van owned or leased by Howard County.
- (g) *Health care facility* means an office or institution where individual care or treatment of a physical, mental, emotional, physiological, or psychological illness or condition is provided including, but not limited to, a hospital, clinic, nursing home, assisted living facility, ambulatory health care facility, limited care facility, adult day care center, home for the aging or chronically ill, medical laboratory, and the Office of a physician, dentist, psychologist, psychiatrist, physiologist, podiatrist, optometrist, chiropractor, or optician.
- (h) *International "No Smoking" symbol* means a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.
- (i) *Outdoor seating area* means any patio, courtyard, sidewalk cafe, backyard or other outdoor area of a restaurant or bar where food and/or beverages are served and/or consumed.
- (j) *Partially enclosed* means an outdoor seating area where the circulation of outdoor air is obstructed by a temporary or permanent wall, tarp, shield, blind, or other kind of covering, exclusive of a temporary or permanent roof, ceiling, overhang, or overhead structure and the perimeter of the adjoining enclosed restaurant or business.
- (k) *Person* means an individual, corporation, partnership, business trust, limited liability company, or any other type of business entity.
- (l) *Place of employment* means an area within a building that employees normally frequent during the course of employment that is under the control of their employer, including, but not limited to, a work

area, employee lounge, restroom, conference and meeting rooms, class room, cafeteria, photocopy room, private offices, elevator, auditorium, medical facility, stairs and hallway.

- (m) *Public meeting* means a meeting, wherever held, open to the public and having no membership restraints.
- (n) *Public place* means:
 - (1) An enclosed area to or in which members of the public are invited or permitted, including, but not limited to:
 - (i) An auditorium;
 - (ii) A bar;
 - (iii) A beauty or barber shop;
 - (iv) A bowling alley;
 - (v) A building owned or leased by Howard County including, but not limited to, any part of a building that is owned, leased, or occupied by the County or a County agency;
 - (vi) A building used for or designed for the primary purpose of exhibiting a motion picture, stage, drama, lecture, musical recital, concert or other similar performance;
 - (vii) A business organization open to the public, including a retail store, bank, credit union, and other financial institution, office, factory, or any other private business, office, or organization;
 - (viii) A common area of an apartment building, condominium, retirement facility, or other multiunit residential facility including, but not limited to, a lobby, hallway, laundry facility, storage facility, exercise facility, restroom, or garage;
 - (ix) A convention hall;
 - (x) An elevator, regardless of capacity, except an elevator in a single-family dwelling;
 - (xi) A facility meeting the definition of an assembly occupancy as defined in the Howard County Fire Code;
 - (xii) A facility offering private, community or school based camp, or recreational programs to minors;
 - (xiii) A health care facility, including, but not limited to, waiting rooms, hallways, wards, and private and semiprivate sleeping rooms;
 - (xiv) A library, museum, and gallery;
 - (xv) A pool hall;
 - (xvi) A public or private educational facility;
 - (xvii) A public transportation facility, including, but not limited to, a ticket, boarding, and waiting area;
 - (xviii) A public transportation vehicle, including, but not limited to, a bus or taxicab;
 - (xix) A restaurant;
 - (xx) A restroom;
 - (xxi) A room, chamber, or place used for a public meeting;
 - (xxii) A service line;
 - (xxiii) A shopping mall including, but not limited to, the common areas, hallways, restrooms and storage facilities;

- (xxiv) A sleeping room, common area, or banquet hall of a hotel or motel including, but not limited to, a lobby, hallway, laundry facility, exercise facility, storage facility, restroom, or garage; and
- (xxv) A sports arena; and
- (2) An outdoor seating or viewing area that is used by the public:
 - (i) To observe a concert, motion picture, stage drama, lecture, musical recital, or other similar performance; or
 - (ii) To observe or participate in an athletic event including the bleacher area of a ball field or sports arena.
- (o) *Restaurant* means:
 - (1) A place that offers for sale or sells food and drink to the public, guests, patrons, or employees including, but not limited to, a coffee shop, fast-food establishment, cafeteria, sandwich stand, private or public school cafeteria; and
 - (2) A kitchen where food is prepared on the premises for serving elsewhere, such as a catering facility.
- (p) *Retail store* means:
 - (1) An establishment whose primary purpose is to sell or offer for sale to consumers goods, wares, merchandise, food for consumption off the premises, or other tangible items; and
 - (2) All related and incidental activities, operations, and services.
- (q) *Retail tobacco store* means a retail store that primarily sells or offers for sale tobacco products and accessories, and where the sale of other products is incidental.
- (r) *Service line* means an indoor line where one or more individuals wait for or receive service of any kind, whether or not the service involves the exchange of money.
- (s) *Shared government vehicle* means any vehicle used expressly for Howard County Government purposes that is not assigned to any one employee for exclusive use.
- (t) *Smoking* means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. "Smoking" also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this article.
- (u) *Sports arena* means a sports pavilion, gymnasium, health spa, boxing arena, swimming pool, roller rink, ice rink, baseball field, football field, soccer field and other similar places where members of the public assemble to engage in physical exercise, participate in athletic competition, or to witness sports events.
- (v) (1) *Tobacco product* means any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff.
 - (2) "Tobacco product" includes electronic smoking devices.
 - (3) Notwithstanding any provision of this subsection to the contrary:
 - a. "Tobacco Product" includes any component, part, or accessory of a tobacco product, whether or not sold separately; and
 - b. "Tobacco Product" does not include patches intended for smoking cessation.
- (W) *Vaping or to vape* means the act of using an electronic smoking device to deliver nicotine or other substances.

(C.B. 38, 2006, § 2; C.B. 28, 2015, § 1)

Sec. 12.602. - Prohibition.

Except as otherwise provided in this subtitle, a person shall not smoke:

- (a) In a public place;
- (b) At a public meeting;
- (c) In a shared government vehicle or in any government vehicle when occupied by more than one person; or
- (d) In a place of employment.

(C.B. 38, 2006, § 2)

Sec. 12.603. - Distance from a public place or place of employment.

Smoking is prohibited within a distance of 15 feet outside public entrances and exits of an enclosed public place or place of employment where smoking is prohibited, except this does not apply in the Ellicott City Historic District or to restaurants and bars with outdoor seating areas that comply with section 12.604.

(C.B. 38, 2006, § 2)

Sec. 12.604. - Exceptions to prohibition.

- (a) The prohibitions in section 12.602 do not apply to:
 - (1) A private club or lodge owned and operated by a membership association licensed under article 2B of the State Code if:
 - (i) The association's duties are performed by its members, including, but not limited to, food preparation and security; and
 - (ii) The members do not receive compensation for the performance of the association's duties;
 - (2) A sleeping room of a hotel or motel, as long as that hotel or motel maintains at least 75 percent of all of its sleeping rooms as smoke-free;
 - (3) Outdoor seating areas. Smoking may be allowed in an outdoor seating area, provided that such area shall:
 - (i) Adjoin an enclosed restaurant or bar; and
 - (ii) Has seating that constitutes no more than 40 percent of the total enclosed seating capacity of the establishment; and
 - (iii) Is not enclosed or partially enclosed; and
 - (iv) Is located in such a way to minimize the likelihood that smoke from the outdoor seating area will infiltrate enclosed areas where smoking is prohibited as provided by the provisions of this subtitle.
 - (4) Smoking as an integral part of a theatrical performance held in a facility primarily used for theatrical performances;
 - (5) A retail tobacco store provided, however, that smoke from the retail tobacco store does not infiltrate areas where smoking is prohibited under the provisions of this subtitle;

- (b) Notwithstanding any other provision of this section, an owner, operator, manager, or other person who controls an establishment subject to this section may declare the establishment as a nonsmoking establishment.

(C.B. 38, 2006, § 2)

Sec. 12.605. - Notification of smoking prohibition in places of employment.

The prohibition on smoking in places of employment shall be communicated to all existing employees by the effective date of this subtitle and to all prospective employees upon their application for employment.

(C.B. 38, 2006, § 2)

Sec. 12.606. - Posting signs.

- (a) An owner, operator, manager, or person in control of a building or area regulated by this subtitle shall post a sign at each entrance used by the public that shall:
 - (1) State "Smoking, Carrying Lighted Tobacco Products, or Vaping Prohibited by Law. Violators are subject to a penalty not to exceed \$250.00"; and
 - (2) Display the international "No Smoking" symbol and a "No Vaping" symbol.
- (b) Each sign shall be conspicuously displayed and have letters of not less than one inch in height.
- (c) An establishment that sells tobacco products shall clearly display signs stating that the sale of tobacco products to minors is forbidden by law.
- (d) The owner, manager, or operator of a theatre or auditorium shall post signs in the lobby stating that smoking is prohibited within the theatre or auditorium.

(C.B. 38, 2006, § 2; C.B. 28, 2015, § 3)

Sec. 12.607. - Responsibilities of owner, operator, etc.

- (a) An owner, operator, manager, or person in control of a public place or place of employment shall remove from any area where smoking is prohibited by this subtitle, all ashtrays and other smoking paraphernalia.
- (b) An owner, operator, manager, or person in control of a restaurant or bar where smoking is prohibited must refuse to serve or seat any person who smokes where smoking is prohibited and must ask the person to leave the establishment if the person continues to smoke after an initial warning.

(C.B. 38, 2006, § 2)

Sec. 12.608. - Enforcement.

- (a) A person who observes a violation of this subtitle may file a complaint with the Police Department.
- (b) If, during an inspection of a building or area regulated by this subtitle, an inspector from the State Fire Marshal's Office, the Department of Fire and Rescue Services, the Health Department, or the Department of Inspections, Licenses and Permits, observes a violation of this subtitle, the inspector may issue a citation under this subtitle.

(C.B. 38, 2006, § 2)

Sec. 12.609. - Nonretaliation.

A person or employer shall not discharge, refuse to hire, or in any manner retaliate against an employee or Applicant for employment because the employee or Applicant exercises the right to a smoke-free environment afforded by this subtitle.

(C.B. 38, 2006, § 2)

Sec. 12.610. - Penalties.

- (a) (1) If an individual smokes in violation of section 12.602 of this subtitle, a Police Officer may issue a civil citation to the individual pursuant to title 24, "Civil Penalties," of this Code.
- (2) A violation of section 12.602 of this subtitle is a Class C offense.
- (3) Each day that a violation continues is a separate offense.
- (b) (1) If an owner, manager, operator, or person in control of a public place or place of employment violates section 12.605, section 12.606, or section 12.607 of this subtitle, a Police Officer may issue a civil citation pursuant to the title 24, "Civil Penalties," of this Code.
- (2) A violation of section 12.605, section 12.606, or section 12.607 of this subtitle is a Class B offense.
- (3) Each day that a violation continues is a separate offense.

(C.B. 38, 2006, § 2)

Sec. 12.611. - Public education.

The Public Information Office and the Health Department shall engage in a program to explain and clarify the purposes and requirements of this subtitle to persons affected by it and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this subtitle.

(C.B. 38, 2006, § 2)

Sec. 12.612. - Provisions cumulative to other laws and regulations.

The provisions of this subtitle are in addition to the provisions of any other Federal, State, or County law, ordinance, rule, or regulation.

(C.B. 38, 2006, § 2)

Sec. 12.613. - Severability.

If any provision of this subtitle or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity shall not affect other provisions or any other application of this subtitle which can be given effect without the invalid provision or application, and for this purpose the provisions of this subtitle are severable.

(C.B. 38, 2006, § 2)

SUBTITLE 7. - WOMEN'S ISSUES^[6]

Footnotes:

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Editor's note— Subtitle 7 was renamed from "Commission for Women" to "Women's Issues" by C.B. 62, 1988, effective July 1, 1989.

Sec. 12.700. - Establishment.

There is hereby established the Commission for Women, hereinafter "the Commission." The Commission shall have as its purpose the promotion of economic, social and political equality of women.

(C.B. 45, 1980)

Sec. 12.701. - Membership.

- (a) *General Provisions.* General provisions applicable to the Commission for Women are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members:* The Commission shall consist of 12 voting members.
- (c) *Qualifications:*
 - (1) All members shall be residents of Howard County.
 - (2) Members shall be broadly representative of the citizens of Howard County and shall have an active interest in the purposes of the Commission.
 - (3) There may be an ex officio nonvoting member selected by the Chairperson of the Human Rights Commission from the current membership of that Commission to serve as liaison between the Human Rights Commission and the Commission for Women.
 - (4) One member shall be a high school student appointed by March 15 of each year to serve a term from July 1 through June 30, except that in 2009 the student member shall be appointed by June 1, 2009.
 - (5) All members, except for the student member, shall serve a five-year term.
 - (6) No member shall serve more than two consecutive terms.
 - (7) The Commission's student member appointee may observe the current student member during the remainder of that student member's term.
- (d) *Executive Secretary.* The Executive Secretary of the Commission shall be the Director of Community Resources and Services or the Director's designee. The Executive Secretary shall attend all meetings and assist with the administrative affairs of the Commission, including preparing and submitting to the County Executive the Commission's recommendation on an annual budget.
- (e) *Meetings.* The Commission shall meet at least once a month or on the call of the Chairperson.
- (f) *Records.* The Commission shall keep a record of its resolutions, transactions, findings and recommendations. It shall keep minutes of its proceedings, all of which shall be filed with the Executive Secretary.

- (g) *Annual Report.* Subject to section 22.1000 of the County Code, the Commission shall submit to the County Executive and County Council annual reports of its activities and the work carried on under its direction.

(C.B. 45, 1980; C.B. 2, 1981; C.B. 62, 1988; C.B. 14, 1993; C.B. 63-2008, 1-5-2009, eff. 3-10-2009; C.B. 12, 2016, § 1; C.B. 43, 2018, § 1)

Editor's note— Section 55 of C.B. 62, 1988, effective July 1, 1989, combined former §§ 12.701, 12.702 into a single § 12.701 and renumbered § 12.703 as § 12.702.

Sec. 12.702. - Powers and duties.

- (1) The Commission may conduct studies, review progress, recommend action and carry on activities in areas including, but not limited to, the following:
 - (a) Assembling, analyzing and disseminating information which will assist in changing attitudes, eliminating discriminatory behavior and meeting the needs of women and referring individual complaints of discrimination to the Office of Human Rights.
 - (b) Studying conditions which demonstrate inequalities and unmet needs concerning women and recommending procedures or legislation to remedy them.
 - (c) Giving impetus to expand educational and employment opportunities for women and publicizing activities and services of interest to women.
 - (d) Promoting a positive image of women and securing recognition of their accomplishments.
 - (e) Encouraging qualified women to seek appointive and elective office.
 - (f) Issuing position papers.
- (2) The County may accept gifts, contributions and bequests of property of any kind on behalf of the Commission.
- (3) The Commission shall advise the County Government on the solicitation and use of grants to fund programs deemed necessary by the Commission.
- (4) The Commission shall stimulate and encourage study and review of the status of women and may act as a clearinghouse for women's activities in Howard County.

(C.B. 45, 1980; C.B. 62, 1988)

Note— See the editor's note to § 12.701.

SUBTITLE 8. - HOWARD COUNTY ARTS COUNCIL

Sec. 12.800. - Declaration of purpose.

The County Council of Howard County, Maryland, hereby finds and declares:

- (a) That the encouragement and support of the arts, while primarily a matter for private and community initiative, is also an appropriate matter of active concern to the County Government.
- (b) That it is necessary and appropriate for the County Government to complement, assist, encourage and promote programs for the advancement of the arts by individuals, groups and organizations, both private and public, within the County.

- (c) That in order to implement these findings, it is desirable for the County Government to encourage and assist a private, independent, nonpartisan County Arts Council.

(C.B. 79, 1980)

Sec. 12.801. - Definitions.

For the purposes of this subtitle, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Arts Council means the appropriate entity established pursuant to the provisions of section 12.802 of this subtitle.

The arts include, without limitation, the acts of creating, writing, composing, designing, studying, interpreting, executing, performing, exhibiting and presenting music (instrumental and vocal); dance; drama; literature; poetry; painting; sculpture; graphics; craft and folk arts; and the selecting and exhibiting of such arts; photography; industrial design; costume and fashion design; motion pictures; television; radio; puppetry; tape and sound recording; architecture; publishing and printing of books, papers and media prints; the history, criticism, theory and practice of the arts and the study and application of the arts to the human environment.

(C.B. 79, 1980)

Sec. 12.802. - Establishment.

The County Government is hereby authorized and encouraged to assist to the extent possible the establishment of a County-based, nonprofit organization to develop, promote and coordinate a County-wide effort for the support, encouragement and performance of the arts in the County.

(C.B. 79, 1980)

Sec. 12.803. - Membership and organization.

- (a) Membership in the Arts Council shall be open to all private and public agencies, organizations and individuals who are interested in, support, participate in, contribute to or generally enhance and promote the arts in the County. Membership in the Arts Council shall be nonpartisan and shall include representation from various areas and elements of the community.
- (b) Governance of the Arts Council shall be vested in a Board of Directors, which shall be elected in an open procedure after adequate public notice. Such notice shall include publication in at least one newspaper published in the County and notification, so far as possible, to all known arts organizations and to business, professional and community groups which may be interested in promoting or sponsoring arts activities in the County. The Board shall be elected under rules of procedure that will best assure that individual arts organizations are not disproportionately represented and that members include or represent:
- (1) Private citizens, organizations and groups who are recognized for their knowledge of or for their interest in the arts;
 - (2) Practicing artists, both professional and amateur;
 - (3) The various disciplines encompassed within the arts;
 - (4) The general public, with representation from minority interests, community groups and organizations which sponsor or may sponsor arts activities or events, the business and professional community, and government agencies with activities or facilities relevant or useful to the arts.

- (c) To avoid conflicts of interest, or the appearance thereof, the bylaws of the Arts Council shall provide that any of its members who are closely connected with, or are Officers of, an arts organization requesting funding from the Arts Council shall abstain from voting on grants for such organizations.

(C.B. 79, 1980)

Sec. 12.804. - Recognition requirements; recognition by County Council; withdrawal of recognition.

- (a) Any organization seeking recognition as the County Arts Council under this subtitle shall submit to the County Council an application which includes:
 - (1) A general description of its membership and of the actions which have been and are being taken to obtain members;
 - (2) A copy of its Charter and bylaws;
 - (3) A listing of its Officers and Directors, together with a full explanation of the method followed to select the same, including the notification and publication procedure, the organizations and individuals notified, and the membership of and procedures and criteria employed by any nominating committee or similar group which undertook to evaluate candidates for office;
 - (4) A statement of the criteria and procedures which the organization proposes to use in awarding grants, including the categories of eligible recipients, the provisions to assure that there will be adequate public advertising and notification to potential Applicants, and the procedures to provide for timely action on grant requests and prompt notification of approvals or disapprovals with appropriate explanations;
 - (5) A statement of the general nature of, and the manner in which the Arts Council proposes to provide services to local artists and art organizations, including the place or places from which those services will be provided, the extent to which the Arts Council expects to use paid staff, volunteer services, or services provided by the County Government or other organizations, and including also a job description for the person who will serve as principal staff Officer;
 - (6) A statement of the procedures, including procedures for an Advisory Board of Local Arts organizations and for other membership and public participation, to be followed in developing and carrying out a County arts program that will include the elements specified in subsection (b).
- (b) Any organization seeking recognition as the County Arts Council shall endeavor to develop and carry out a program of services and financial assistance that will include at least the following activities:
 - (1) Arts coordination and promotion activities, to include making and publishing an inventory of local artists and art groups, helping coordinate arts events through a continuing calendar or other means, publicizing local arts events and activities, acting to expand exhibition and performance opportunities, and providing to the local arts community representation services, appropriate administrative support, and technical assistance, consultation and advice;
 - (2) Arts facilities activities, to include developing an inventory of and a program for expanding the facilities available for visual and performing arts in various areas of the County, with appropriate steps to increase the flexibility of existing facilities and to encourage the donation or low-cost availability of school and other public and private facilities;
 - (3) Community service activities, to include actions to make art experiences available to groups and areas who would otherwise be excluded because of income, location or lack of mobility, to provide art education opportunities not otherwise available, and to encourage the use of art resources in support of community service activities of local government and private organizations;

- (4) Arts financing activities, to include making a continuing evaluation of the grants program, encouraging expanded business and private support for the arts, developing budget and grant requests that will reflect diverse needs within the community, helping arts groups improve their budgeting, financing and fundraising procedures, and making a general assessment of the financial needs of the arts in Howard County that will be useful in public and private planning.
- (c) On the basis of the submissions made under this section, the County Council, after receiving the recommendations of the County Executive, may by resolution and after a public hearing recognize the Applicant as the County Arts Council. This recognition shall be provisional until such time, within two years, as the Arts Council submits evidence that it has a program in accordance with subsection (b), and the County Council, after reviewing the activities completed, underway and planned, approves the submission as satisfactory.
- (d) It shall be a condition of continued recognition under this subtitle that the Arts Council shall establish an adequate system for maintaining and updating its arts program, with reasonable annual goals and priorities, and that it make, at least annually, a written report to the County Council and the public on its progress and problems in carrying out its responsibilities.
- (e) The County Council may by resolution and after public hearing withdraw its recognition of the Arts Council, if it deems that the Arts Council has ceased to fulfill the recognition requirements of this section.

(C.B. 79, 1980)

Sec. 12.805. - Support from County and State government.

- (a) The County Government is authorized to provide administrative and financial support, within the limits of available funds, to the Arts Council, including but not limited to grants for local arts activities, the provisions of public facilities, and such other appropriate assistance as may be legally authorized.
- (b) The Arts Council shall be the designated recipient of the funds allocated to Howard County from the Maryland State Arts Council's State/County partnership program and other similar programs.

(C.B. 79, 1980)

Sec. 12.806. - Arts and cultural activities in the Baltimore City area.

- (a) *Funding for Baltimore City Programs and Activities.* There are many arts programs and cultural activities located in Baltimore City which serve residents of the surrounding counties in addition to the residents of the city. Howard County has long recognized that a portion of its arts funding should be reserved for these city programs and facilities which serve Howard County residents and has made grants to these institutions.
- (b) *Role of Arts Council.* In addition to other duties set forth in this subtitle, the Arts Council may be designated to forward grants, on behalf of the County, to arts programs and cultural activities in Baltimore City which serve Howard County residents. The County Executive shall seek the advice of the Arts Council in:
 - (1) Determining which programs and activities shall receive grants; and
 - (2) How much each program or activity shall receive.

(C.B. 44, 1993)

SUBTITLE 9. - DEPARTMENT OF COMMUNITY RESOURCES AND SERVICES⁷¹

Footnotes:

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Editor's note— Subtitle 9, §§ 12.900—12.902, was added by C.B. 62, 1988, effective July 1, 1989. C.B. 12, 2016, changed the title of Subtitle 9 from "Department of Citizen Services" to "Department of Community Resources and Services."

Sec. 12.900. - General provisions.

General provisions applicable to this Department are set forth in subtitle 2, "Administrative Departments and Offices" of title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 62, 1988)

Sec. 12.901. - Department of Community Resources and Services.

- (a) *Head*: The Director of Community Resources and Services shall head the Department of Community Resources and Services.
- (b) *Qualifications of the Director* . The Director shall be thoroughly trained and experienced in the principles and practices of human services and their administration. The Director shall have had at least ten years of increasingly responsible experience in human services administration, including a minimum of five years in a managerial position.
- (c) *Duties and Responsibilities* . The Department is responsible for the County's human services programs, including but not limited to:
 - (1) Overall supervision of program development and operations for the following functions:
 - (i) Aging.
 - (ii) Consumer protection.
 - (iii) Children and family services.
 - (iv) Support services for veterans.
 - (v) Services for persons with disabilities.
 - (vi) Community partnerships.
 - (vii) Coordination of the Americans with Disabilities Act.
 - (viii) Selected emergency management responsibilities.
 - (ix) Administering the Plan to End Homelessness.
 - (2) *Other duties and responsibilities* . The Department shall perform such other functions as may be prescribed by directive of the County Executive or by law.
 - (3) *Setting of fees* . The Department may set fees for programs, which may include the establishment of a procedure for payment of a reduced fee based upon a participant's financial ability to pay.
- (d) *Authority to Adopt Regulations* . The Director may adopt regulations to establish eligibility for those County Government human service programs that provide financial support for elderly, disabled, or low or moderate income individuals, families and households and the requirements of the

Administrative Procedure Act as defined in title 2 of the Howard County Code shall be followed with regard to the adoption of the regulations described in this subsection.

(C.B. 62, 1988; C.B. 151, 1991; C.B. 6, 1992; C.B. 33, 2000; C.B. 42, 2006, § 1; C.B. 12, 2016, § 1)

Sec. 12.902. - Reserved.

Editor's note— Section 12.902 was renumbered § 13.404 by C.B. 151, 1991.

SUBTITLE 10. - ALCOHOL AND DRUG ABUSE^[8]

Footnotes:

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Editor's note— C.B. No. 67, 1989, added subtitle 9, § 12.900, to title 12. The editor has redesignated the provisions as subtitle 10, § 12.1000, since C.B. 62, 1988 had previously added subtitle 9.

Sec. 12.1000. - Local Behavioral Health Advisory Board.

- (a) *General Provisions.* General provisions applicable to the Local Behavioral Health Advisory Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code:
- (b) *Number of Members.* The Board shall have 18 appointed members and 10 ex officio members.
- (c) *Ex Officio Members.* The ex officio members shall be:
 - (1) The Chief of Police or the Chief's designee;
 - (2) The Superintendent of the Public School System or the Superintendent's designee;
 - (3) The Director of the Department of Community Resources and Services, or the Director's designee;
 - (4) The Administrative Judge of the Circuit Court (5th Judicial District) or the judge's designee, who shall be a judge from the district or circuit courts in Howard County;
 - (5) The Director of the Department of Corrections or the Director's designee;
 - (6) The State's Attorney or the State's Attorney's designee;
 - (7) The Director of the Local Department of Social Services or the Director's designee;
 - (8) The District Public Defender for the 5th Judicial District or the District Public Defender's designee;
 - (9) The Regional Director of the Department of Juvenile Services, or the Director's designee; and
 - (10) The Regional Director of the Division of Parole and Probation, or the Director's designee.
- (d) *Qualifications of the Appointed Members:*
 - (1) Seven members shall be family members of an individual who has experienced a behavioral health condition of which:
 - a. Three members shall be the family members of an individual with a mental health condition;

- b. Three members shall be the family members of an individual with a substance use disorder; and
 - c. One member shall be the family member of an individual with either a mental health condition or a substance use disorder;
- (2) Seven members shall be consumers of behavioral health treatment services of which:
- a. three members shall be the consumers of mental health treatment services;
 - b. three members shall be the consumers of substance use disorder treatment services; and
 - c. One member shall be the consumer of either mental health treatment services or substance use disorder treatment services;
- (3) Two members shall be advocates or behavioral health professionals that provide education, treatment, or prevention of which:
- a. One member shall be a mental health professional; and
 - b. One member shall be a substance use disorder professional; and
- (4) Two members shall be members of the general public of which one shall have interest in mental health and one shall have interest in substance use disorders.
- (e) *Staff Support.* The Health Department shall provide staff support to the Board.
- (f) *Meetings.* The Board shall meet at least nine times per year. Special meetings may be held at any time, at the call of the chair or upon written request of at least six members.
- (g) *Quorum.* A quorum shall consist of a majority of members.
- (h) *Duties and Responsibilities .* The Local Behavioral Health Advisory Board's mission is to advise the County Health Officer and the County Executive in their responsibility to plan, manage, and monitor behavioral health programs and services for Howard County residents. The Board shall:
- (1) Serve as advocates for clients/consumers/family members in need of short and long-term care in the local behavioral health community;
 - (2) Coordinate with and support the efforts of individuals and community organizations on behavioral health;
 - (3) Make recommendations as needed to the County Health Officer and County Executive concerning behavioral health topics, including:
 - (i) Best-in-class services and facilities;
 - (ii) Education and treatment;
 - (iii) Strengths and weaknesses of existing and new opportunities to provide Howard County residents with behavioral health related resources and services;
 - (4) Proactively or at the direction of the County Executive or by resolution of the County Council, review and make recommendations on any matter related to local behavioral health needs;
 - (5) Subject to section 22.1000 of the County Code, prepare an annual report submitted to the County Health Officer, County Executive, and the County Council on the local behavioral needs and resources available in the community; and
 - (6) Carry out any other duty or responsibility assigned by law.
 - (i) *Designation under State law .* The Local Behavioral Health Advisory Board shall serve as Howard County's Local Drug and Alcohol Abuse Council, as provided by Section 8-1001 of the Health General Article of the Annotated Code of Maryland.

(C.B. 67, 1989; C.B. 91, 1991; C.B. 106, 1992; C.B. 73, 1993; C.B. 9, 2003, § 1; C.B. 10, 2004, § 1; C.B. 77, 2004, § 1; C.B. 54, 2008, § 1; C.B. 13, 2018, § 1; C.B. 43, 2018, § 1; C.B. 7, 2019, § 1)

Secs. 12.1001—12.1099. - Reserved.

SUBTITLE 12. - PLACEMENT OF TOBACCO PRODUCTS

Sec. 12.1200. - Purpose.

The Howard County Council finds and declares that tobacco products are a hazard to the health of the general public, especially youth, and that tobacco products should be made accessible at retail places only through the intervention of the retail seller or seller's employee.

(C.B. 51, 2000)

Sec. 12.1201. - Placement of tobacco products.

- (a) A retail seller of any tobacco product must not display or store the product in any place that is accessible to buyers of the product without the intervention of the seller or an employee of the seller.
- (b) Tobacco product means any substance containing tobacco, including cigarettes, cigars, smoking tobacco, snuff or smokeless tobacco.
- (c) This section does not apply to:
 - (1) The sale of any tobacco product from a vending machine that complies with all requirements of State law; and
 - (2) Any store where only or primarily tobacco products are sold.

(C.B. 51, 2000)

Sec. 12.1202. - Enforcement.

- (a) An owner or person in charge of a retail establishment covered by this subtitle shall comply with all the requirements herein.
- (b) Any citizen who desires to register a complaint under this subtitle may file a complaint with the County Health Officer.
- (c) If, during routine inspections of retail establishments covered by this subtitle, the County Department of Fire and Rescue or Inspectors under the County Health Officer or the Board of License Commissioners find that the requirements of this subtitle are not being met, they shall report such noncompliance to the Health Officer.

(C.B. 51, 2000)

Sec. 12.1203. - Penalties.

- (a) It shall be unlawful for a person to store or display tobacco products in a retail establishment if not in compliance with the provisions of this subtitle.
- (b) A violation of this subtitle is a civil offense and is subject to a penalty based on the following schedule and costs:

First Offense	\$250.00 fine imposed on offender and offender is given two weeks to comply with the provisions of this subtitle before being subject to a fine for a second offense
Second Offense	500.00 fine imposed on offender
Third Offense	750.00 fine imposed on offender
Fourth Offense	1,000.00 fine imposed on offender

(C.B. 51, 2000)

SUBTITLE 13. - DISTRIBUTION OF TOBACCO PRODUCTS TO MINORS¹⁰¹

Footnotes:

--- (10) ---

State Law reference— Distribution of tobacco product or paraphernalia to minor, Ann. Code of Md., Criminal Law article, § 10-107.

Sec. 12.1300. - Definitions.

In this subtitle the following words have the meanings indicated:

- (a) *Distribute* means to:
 - (1) Give away, sell, deliver, dispense, or issue;
 - (2) Offer to give away, sell, deliver, dispense, or issue; or
 - (3) Cause or hire any person to give away, sell, deliver, dispense, or issue or offer to give away, sell, deliver, dispense, or issue.
- (b) *Employee* means an individual employed by an owner.
- (c) *Minor* means an individual under the age of 18.
- (d) *Owner* means a person engaged in the business of selling or otherwise distributing tobacco products for commercial purposes.
- (e) *Tobacco product* means any substance containing tobacco, including cigarettes, cigars, smoking tobacco, snuff, or smokeless tobacco.

(C.B. 14, 2001)

Sec. 12.1301. - Unlawful distribution.

- (a) A person engaged in the business of selling or otherwise distributing tobacco products for commercial purposes shall not:
 - (1) Distribute any tobacco product to a minor, unless the minor is acting solely as the agent of the minor's employer who is engaged in the business of distributing tobacco products;
 - (2) Distribute cigarette rolling papers to a minor; or
 - (3) Distribute to a minor a coupon redeemable for any tobacco product.
- (b) A person, who is not a person described under subsection (a) of this section, shall not:
 - (1) Buy for or sell to a minor any tobacco product; or
 - (2) Buy for or sell to a minor cigarette rolling papers.
- (c) This section does not apply to the distribution of a coupon which is redeemable for any tobacco product when the coupon is contained in a newspaper, a magazine, or any other type of publication in which the coupon is incidental to the primary purpose of the publication, or sent through the mail.
- (d) A person has not violated this section if:
 - (1) The person examined a driver's license or another valid identification issued by an employer, a government entity, or an institution of higher learning; and
 - (2) The license or other identification identified the buyer or recipient of a tobacco product as being at least 18 years old.
- (e) If a minor bought a tobacco product from a vending machine, this section does not apply to the owner of the vending machine or any other person with control over the vending machine.

(C.B. 14, 2001)

Sec. 12.1302. - Enforcement and penalties.

- (a) This subtitle shall be enforced by the Health Officer.
- (b) A person who believes that a violation of this subtitle has occurred may file a complaint with the Health Officer.
- (c) A person who violates subsection 12.1301(a) of this subtitle is subject to a civil penalty under title 24 of this Code, as follows:
 - (1) A violation by an owner is a Class B offense, and a subsequent violation within one year is a Class A offense;
 - (2) A violation by an employee is:
 - i. For the employee a Class D offense, and for a subsequent violation within one year a Class C offense; and
 - ii. For the owner a Class B offense, and for a subsequent violation within one year a Class A offense.
- (d) A violation of subsection 12.1301(b) of this subtitle is a Class D offense.
- (e) For the purposes of this section, a subsequent violation means a separate and distinct action at a different time and occasion.

(C.B. 14, 2001)

SUBTITLE 14. - DISTRIBUTION OF TOBACCO PRODUCTS

Sec. 12.1400. - Purpose.

The distribution of tobacco products, free of charge, particularly at public gatherings, increases the accessibility of tobacco products to minors. The purpose of this bill is to eliminate the accessibility to minors by prohibiting the distribution of free tobacco products.

(C.B. 10, 2003, § 1)

Sec. 12.1401. - Definitions.

In this subtitle the following words have the meaning indicated:

(a) *Tobacco product* means:

- (1) Any substance containing tobacco, including cigarettes, cigars, smoking tobacco, snuff, or tobacco in any other form that may be chewed or held in the mouth or inhaled through the nostrils.
- (2) Any tobacco or nicotine product that is now, or in the future, defined in subtitle 1 of title 10 of the Criminal Law Article of the Maryland Annotated Code and made illegal to distribute to a minor.

(b) *Distribute* means to give, dispense, issue, deliver or offer to give dispense, deliver or issue; or to cause or hire any person to give, dispense, issue, deliver or offer to give, dispense, deliver or issue.

(C.B. 10, 2003, § 1)

Sec. 12.1402. - Prohibited.

A person who distributes tobacco products for commercial purposes, including a person licensed under title 16 of the Business Regulation Article of the Maryland Annotated Code, may not distribute a tobacco product free of charge, to any consumer.

(C.B. 10, 2003, § 1)

Sec. 12.1403. - Enforcement and penalties.

- (a) This subtitle shall be enforced by the Health Officer or Health Officer's designee.
- (b) A person who believes that a violation of this subtitle has occurred may file a complaint with the Health Officer.
- (c) A person who violates section 12.1402 of this subtitle is subject to a civil penalty under title 24 of this Code, as follows:

An initial violation is a Class C offense and a subsequent violation within one year is a Class B offense.

- (d) For the purpose of this section, a subsequent violation means a separate and distinct action at a different time and occasion.

(C.B. 10, 2003, § 1)

Sec. 12.1404. - Severability.

If any portion of this subtitle is held invalid or unconstitutional by a court of competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision; and the holding shall not affect the validity of the remaining portions of the subtitle.

(C.B. 10, 2003, § 1)

SUBTITLE 15. - SERVICES FOR CHILDREN AND FAMILIES^[11]

Footnotes:

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Editor's note— Section 1 of Council Bill 12, 2016, adopted April 14, 2016, amended subtitle 14 in its entirety to read as herein set out. Former subtitle 15, § 12.1500, pertained to children's services, and derived from C.B. 11, 2003, § 2.

Sec. 12.1500. - Office of Children and Families.

- (a) *Office* . There is an Office of Children and Families in the Department of Community Resources and Services.
- (b) *General Provisions* . General provisions applicable to this Office are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (c) *Head* . The Administrator of Children and Families shall head the Office of Children and Families. The Office and the Administrator are under the general supervision of the Director of Community Resources and Services.
- (d) *Qualifications of Administrator* . The Administrator of the Office shall be thoroughly trained and experienced in the principles and practices of a social services program with considerable knowledge of the financial, social, educational, organizational and other special needs and problems of children and youth. The Administrator shall have had five years of increasingly responsible experience in social service or related work, two years of which shall have been in a managerial position dealing with the provision of services for children, youth and families.
- (e) *Duties and Responsibilities* . Under the direction of the Director of Community Resources and Services, the Office of Children and Families shall:
 - (1) Develop, in cooperation with other County organizations, both public and private, a comprehensive County-wide annual plan for a coordinated system of health, social and community services for children and youth. The system will provide an integrated continuum of care and services that is child centered and family oriented the annual plan shall be presented to the County Executive and include statements of the long- and short-term needs of children and youth in Howard County, the long- and short-term plans for serving those needs, and the proposed funding sources and administrative responsibility for these plans.
 - (2) Consult with the Howard County Local Children's Board on all matters pertaining to policy and programs prior to making recommendations to the County Executive and County Council.
 - (3) Monitor the delivery of services for programs funded through the Howard County Local Children's Board to ensure access to effective programs, track outcomes, and track expenditures for reporting on service delivery.

- (4) Subject to existing laws, review and coordinate all local programs and services, both public and private, insofar as they relate and are important to and promote the well-being of the County's children and youth.
 - (5) Review and formulate policy recommendations for the County Executive and County Council in reference to publicly funded plans and programs that have an impact on children and youth.
 - (6) Cooperate with State, Federal and other local governmental units and agencies in effectuating the purposes of this subtitle.
 - (7) Work collaboratively with the Local Children's Board and with the approval of the County Executive, apply for, accept and use any State or Federal funds, or other grant, fund and contributions, public or private, available for the purposes specified in this subtitle.
 - (8) Prepare and submit to the County Executive a budget for the Office and Local Children's Board in accordance with customary budget procedures.
 - (9) Subject to section 22.1000 of the County Code, prepare and submit an annual report to the County Executive and the County Council, setting forth the activities of the Office and the Local Children's Board in the preceding year, and the Office's recommendations for legislation and funding.
 - (10) Initiate and carry out any appropriate action, where relevant, to implement the above objectives, or other related objectives, as they become necessary and are deemed appropriate.
 - (11) In collaboration with the Local Children's Board, be the principal County agency, outside the Howard County Public School System, responsible for the development of services to the children and youth and the medium through which organizations exchange information, coordinate programs and engage in joint endeavors.
 - (12) Perform such other functions as may be prescribed by directive of the Director of Community Resources and Services, the County Executive or by law.
- (f) *Staffing of the Howard County Local Children's Board* . The Administrator of the Office of Children and Families shall be responsible for providing staff support for the Howard County Local Children's Board.

(C.B. 12, 2016, § 1; C.B. 43, 2018, § 1)

SUBTITLE 16. - COLLECTION OF COMMERCIAL GARBAGE DUMPSTERS

Sec. 12.1601. - Nighttime collection prohibited.

- (a) *Findings*. Noise caused by emptying commercial dumpsters is disturbing to residents in the vicinity and is particularly detrimental during nighttime hours.
- (b) *Authority*. This section supplements other State and local laws regulating noise. Section 3-105 of the Environmental Article of the Maryland Annotated Code specifically allows local noise control ordinances as long as they are not less stringent than adopted by the State rules and regulations.
- (c) *Prohibition*. It shall be unlawful to collect, arrange for, or permit the collection of garbage, trash, or refuse from a commercial dumpster located within 500 feet from the property line of a parcel of property containing a residential dwelling between the hours of 10:00 p.m. and 7:00 a.m.
- (d) *Dumpster Posting Requirements*. Any person leasing, owning, or otherwise using a commercial garbage dumpster located within 500 feet from the property line of a parcel of property containing a residential dwelling shall attach a notice that lists prohibited hours of garbage collection and a responsible contact to notify of any violation.
- (e) *Penalties*:

- (1) In addition to all remedies provided by law, any person violating subsection (c) above may be issued a civil citation and is subject to civil penalties pursuant to title 24 "Civil Penalties" of the Howard County Code as follows:
 - a. A first violation shall be a Class D offense;
 - b. A second violation shall be a Class A offense; and
 - c. Any subsequent violation shall be subject to the maximum fine of a Class A offense.
- (2) A violation of the notification requirements in subsection (d) above is a Class D offense.
- (f) *Enforcement.* A civil citation under this section may be issued by the Howard County Police Department, the Health Officer, and any County employee designated by the County Executive.

(C.B. 35, 2004)

SUBTITLE 17. - BOARD TO PROMOTE SELF-SUFFICIENCY¹²¹

Footnotes:

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Editor's note— The section numbering used in § 3 of C.B. 23, 2008, which enacted this subtitle, has been changed by the editor to conform to the system used in this Code.

Sec. 12.1700. - General provisions; purpose.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch" of this Code.
- (b) *Purpose of the Board.* The purpose of the Board is to:
 - (1) Support the goal of the Human Services Master Plan to build a community that enables individuals and families to have adequate income and resources to meet their basic needs;
 - (2) Act as the planning and coordinating mechanism for initiatives to:
 - (i) Promote the economic stability of individuals and families; and
 - (ii) Reduce the incidence of poverty in Howard County; and
 - (3) Serve as the governance body for the distribution of certain resources that support initiatives of the Board.

(C.B. 23, 2008, § 2)

Sec. 12.1701. - Membership.

- (a) *Number of Members.* The Board shall have a minimum of 20 members and a maximum of 27 members.
- (b) *Apportionment of Representation.* As practicable, the Board shall consist of a majority private sector representation and a minority public sector representation.
- (c) *Method of Appointment.* Each appointed member shall be appointed by the County Executive and confirmed by the County Council.

(d) *Qualifications of Members:*

- (1) All members shall either reside or work in Howard County.
- (2) As practicable, the Board shall reflect the gender, geographic, ethnic, and racial makeup of the County.
- (3) Ex-officio members from the public sector shall include the following:
 - (i) The Director of the Department of Social Services, or the Director's designee;
 - (ii) The Director of the Department of Community Resources and Services, or the Director's designee;
 - (iii) The Director of the Howard County Health Department, or the Director's designee;
 - (iv) The Director of the Department of Housing and Community Development or the Director's designee;
 - (v) The Director of the Department of Corrections, or the Director's designee;
 - (vi) The Administrator of the Office of Workforce Development, or the Administrator's designee;
 - (vii) The President of Howard Community College, or the President's designee;
 - (viii) The Superintendent of the Howard County Public School System, or the Superintendent's designee; and
 - (ix) The Chairperson of the Howard County Housing Commission or the Chairperson's Designee.
- (4) Ex-officio members from the public sector may include:
 - (i) The Chief of the Department of Police, or the Chief's designee; and
 - (ii) The Director of the Department of Planning and Zoning, or the Director's designee.
- (5) Appointed members from the private sector shall include:
 - (i) A representative from the Community Action Council or any other Federally designated anti-poverty agency;
 - (ii) A representative from grassroots or any other homeless shelter serving both individuals and families;
 - (iii) A representative from congregations concerned for the homeless or any other provider of family stabilization services;
 - (iv) A representative from the Association of Community Services or any other network of human services providers and advocates focused on serving families in Howard County;
 - (v) At least one individual who is, or was, homeless or a recipient of emergency, transitional, or subsidized housing services;
 - (vi) At least one individual who is, or was, a recipient of cash benefits or services, or both, to support their transition from welfare to work;
 - (vii) A representative of a business that provides entry and midlevel employment opportunities;
 - (viii) A representative of the Howard County Chamber of Commerce or any other organization whose purpose is to facilitate the success of businesses;
 - (ix) A representative of a faith-based organization;
 - (x) An individual or representative of a business that provides financial services; and

- (xi) A representative of an organization that provides, or advocates for, transportation services.
- (6) Appointed members from the private sector may include other community members or representatives from nonprofit organizations, for-profit organizations, or faith-based organizations that:
 - (i) Provide crisis intervention services;
 - (ii) Support the financial stability of individuals and families;
 - (iii) Advocate for the basic needs of County residents; or
 - (iv) Represent the needs of children and families, seniors, or people with mental or physical disabilities.

(C.B. 23, 2008, § 2; C.B. 12, 2016, § 1; C.B. 13, 2018, § 1)

Sec. 12.1702. - Terms of membership.

Appointed members of the Board shall serve overlapping terms of five years or until a successor is confirmed as provided in section 6.300 of this Code.

(C.B. 23, 2008, § 2)

Sec. 12.1703. - Responsibilities of the Board.

The Board shall:

- (a) Review data and analyze the nature and characteristics of poverty within Howard County, barriers to, and gaps in, existing services, and best practices from other jurisdictions;
- (b) Participate in the development of a collaborative, multidisciplinary plan for an integrated strategy that emphasizes prevention and early intervention;
- (c) Encourage and promote services and partnerships which support the implementation of the plan, maximize the efficient use of available resources, and generate additional resources;
- (d) Support the development of an integrated approach to data collection and information management;
- (e) Evaluate the impact, effectiveness, and cost benefit of self-sufficiency initiatives;
- (f) If requested by a County agency, make recommendations to a County agency on the use and distribution of Federal, State, or local funds for crisis intervention, financial literacy, crisis prevention, and self-sufficiency activities including, but not limited to, funds received under the Stewart B. McKinney-Vento Homelessness Assistance Act;
- (g) Act as a County advocate for issues related to poverty, financial literacy and self-sufficiency, and undertake activities which will educate and increase public awareness of these issues;
- (h) Subject to section 22.1000 of the County Code, by December 1 of each year, submit a report to the County Executive and County Council describing achievements for the previous fiscal year, and providing recommendations regarding policies, legislation, and funding strategies deemed necessary to accomplish the responsibilities and duties established by this section; and
- (i) At the directive of the County Executive, or by resolution of the County Council, review and make recommendations on any matter related to issues of poverty or economic self-sufficiency in Howard County.

(C.B. 23, 2008, § 2; C.B. 43, 2018, § 1)

Sec. 12.1704. - Officers.

- (a) *Election of Officers.* The Board shall elect a Chairperson and a Vice-Chairperson from among its members to serve as the Board's Officers as follows:
 - (1) One Officer shall be from the public sector; and
 - (2) One Officer shall be from the private sector.
- (b) *Vacancy.* If there is a vacancy during the term of an Officer, the Board shall elect an Officer to fill the remainder of the term.

(C.B. 23, 2008, § 2)

Sec. 12.1705. - Meetings; voting.

- (a) *Number and Place.* The Board shall meet at least quarterly at the times and places it determines. The Board may meet more often for special meetings at the call of the Chairperson with ten days' notice to members.
- (b) *Board Meetings Are Public.* All meetings of the Board are open to the public except:
 - (1) When funding decisions are being made; or
 - (2) When a meeting is closed as authorized under Federal, State, or local law.
- (c) *Voting.*
 - (1) All members of the Board are voting members.
 - (2) A simple majority of current members shall constitute a quorum.
 - (3) Action may be taken by the Board upon a vote of a simple majority of the members present at a meeting at which there is a quorum.

(C.B. 23, 2008, § 2)

Sec. 12.1706. - Committees; operating procedures; staffing.

- (a) *Authority to Establish Committees.* The Board may establish committees and subcommittees as it deems necessary to carry out its purpose and responsibilities.
- (b) *Authority to Establish Operating Procedures.* The Board shall adopt operating procedures that set forth:
 - (1) Committee responsibilities;
 - (2) General operations of the Board; and
 - (3) Terms and term limits for Officers.
- (c) *Delegation of Authority.* The Board may delegate certain decision-making authority to a committee as deemed necessary to meet the Committee's assigned responsibilities.
- (d) *Committee Membership.* A Committee may include members of the community in addition to members of the Board but the Chairperson of the Committee shall be a member of the Board.
- (e) *Department of Community Resources and Services.* The Department of Community Resources and Services shall provide staffing for the Board.

(C.B. 23, 2008, § 2; C.B. 12, 2016, § 1)

SUBTITLE 18. - HEALTHY FOOD AND BEVERAGES—COUNTY PROPERTY

Sec. 12.1800. - Definitions.

- (a) In this subtitle the following words have the meanings indicated.
- (1) *County-sponsored event* means any activity, event, meeting, or program that is hosted by a County agency, department or office, excluding those sponsored directly by the Howard County Public School System.
 - (2) *County property* means any property owned, leased or operated by Howard County. County property does not include property managed by the Howard County Public School System.
 - (3) *Food or beverage vending machine* means a self-service machine offered for public use which, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses servings of food or beverage in bulk or in packages, or prepared by the machine, without the necessity of replenishing the device between each vending operation.
 - (4) *Healthy food or beverage option* means any packaged food or beverage that meets the Howard County healthy food and beverage standards as established in section 12.1801 of this subtitle.
 - (5) *Packaged* means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant. "Packaged" does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.
 - (6) *Youth-oriented County government program* means any County-sponsored program designed for youth participation without parental supervision, including before and after school programs, recreation programs, and day camps.

(C.B. 17, 2015, § 1)

Sec. 12.1801. - Howard County healthy food and beverage standards.

- (a) Healthy beverage options shall contain no more than 40 calories per package except:
- (1) Milk, including non-fat, or low-fat milk, soy milk, rice milk or other similar dairy or nondairy milk with no more than 130 calories per eight ounces packaged in containers no larger than 12 ounces;
 - (2) Packages of eight ounces or less of 100 percent fruit or vegetable juice or fruit juice combined with water, with no added caloric sweeteners, and no more than 140 mg of sodium per package.
- (b) Water with no added caloric or non-caloric sweeteners must be sold as part of the total beverage offerings in any beverage vending machine on County property.
- (c) Diet drinks with non-caloric sweeteners shall constitute no more than one-third of the total beverage offerings in a vending machine on County property.
- (d) Healthy food options shall meet the following standards:
- (1) Contain no trans-fat (0.5 g or less per serving);
 - (2) Contain no more than 200 calories per package;
 - (3) Contain less than 35 percent of calories from fat, except for food containing 100 percent nuts or seeds;

- (4) Contain less than ten percent of calories from saturated fat;
- (5) Contain no more than 35 percent of calories from total sugars, except for low fat (one percent or two percent) or nonfat dairy or nondairy milk products, and fruits or vegetables; and
- (6) Contain no more than 200 mg of sodium per package.

(C.B. 17, 2015, § 1)

Sec. 12.1802. - Food and beverages on County property.

- (a) All packaged food or beverage items, served or sold as part of youth-oriented County government programs, shall be healthy food or beverage options.
- (b) On all County property, at least 75 percent of the packaged food and beverage options offered in vending machines shall be healthy food or beverage options.

(C.B. 17, 2015, § 1)

Sec. 12.1803. - Exemptions.

- (a) The requirements of this subtitle do not apply to the following:
 - (1) Property managed by Howard County Public School System.
 - (2) County-sponsored events held on private property, including the July 4th Festival and Fireworks and Wine in the Woods.
 - (3) Packaged food and beverages sold by non-profit organizations on County property for fundraising purposes.
 - (4) Packaged food or beverages offered or provided by County employees for their own consumption or consumption by fellow County employees.

(C.B. 17, 2015, § 1)

Sec. 12.1804. - Packaged food and beverage placement.

- (a) All healthy food or beverages offered for sale in vending machines on County property must be displayed in ways that are easily visible and distinguishable from less-healthy items.
- (b) Healthy food and beverage options shall comprise at least half of each row of display space in vending machines on County property so that healthy options are easily visible at every level.

(C.B. 17, 2015, § 1)

Sec. 12.1805. - Food and beverage contracts.

- (a) In the absence of any existing binding contract or agreement, all packaged food and beverages offered for sale in vending machines on County property or served or sold as part of youth-oriented County government programs, shall comply with this subtitle.
- (b) In cases where County property is leased to a private entity, the County will encourage tenants to adopt the Howard County healthy food and beverage standards.

(C.B. 17, 2015, § 1)

Sec. 12.1806. - Monitoring and recommendations.

- (a) The Department of County Administration shall review the Howard County healthy food and beverage standards and, subject to section 22.1000 of the County Code, submit a biennial report (from the date of implementation) to the County Executive, the County Council and the County Board of Health.
- (b) The biennial report shall review the Howard County healthy food and beverage standards and make recommendations on the best practice nutrition standards for packaged food and beverages offered for sale in vending machines on County property or served or sold as part of youth-oriented County government programs and may:
 - (1) Develop a healthy food and beverage guide to support compliance;
 - (2) Maintain a list of products that meet the Howard County healthy food and beverage standards as established in section 12.1801; and
 - (3) Report on the top selling packaged food and beverages sold by quarter, as well as total revenues per machine over time.

(C.B. 17, 2015, § 1; C.B. 43, 2018, § 1)

Sec. 12.1807. - Enforcement and compliance.

- (a) This subtitle shall be enforced by the Department of County Administration.
- (b) Compliance will be monitored by the Department of County Administration through complaint-based inspections.
- (c) Non-compliance will be addressed through on-going training and support to vendors; continued non-compliance may result in termination of the contract.

(C.B. 17, 2015, § 1)

SUBTITLE 19. - OFFICE OF COMMUNITY PARTNERSHIPS

Sec. 12.1900. - Office of Community Partnerships.

- (a) *Office.* There is an Office of Community Partnerships in the Department of Community Resources and Services.
- (b) *General Provisions.* General provisions applicable to this Office are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (c) *Head.* The Administrator of the Office of Community Partnerships shall head the Office of Community Partnerships and the Administrator is under the general supervision of the Director of the Department of Community Resources and Services.
- (d) *Qualifications of Administrator.* The Administrator of the Office of Community Partnerships shall have a thorough knowledge of human service delivery systems including, but not limited to, principles of strategic community planning; management of site based social service delivery models; grant making from local, state and national sources relevant to a wide range of human services; coordinated models that reduce homelessness; and the role of non-profit organizations as part of the human service system. At the time of appointment the Administrator shall have had at least five years experience in human service systems and at least two years in a managerial capacity.

- (e) *Duties and Responsibilities*. Under the direction of the Director of Community Resources and Services, the Office of Community Partnerships shall:
- (1) *Administration of grants* . Administer the Community Service Partnership Grant program, the Howard County Government funding program; coordinate with relevant state and federal grants; provide technical support to nonprofit grantees or contractors; and monitor the effectiveness of programs and grantees.
 - (2) *Participation* . Participate in community-based organizations with membership of nonprofit agencies to integrate human service and housing efforts of County Government with nonprofit agencies.
 - (3) *Implementing Plans* . Administer the Continuum of Care system and related organizational units in the Plan to End Homelessness.
 - (4) *Facilities* . Administer site- or center-based programs that offer consumers access to multiple services in a single community based location.
 - (5) *Policy recommendations* . Review and formulate policy recommendations for the County Executive and County Council in reference to publicly funded plans and programs that have an impact on populations seeking affordable housing, moving out of homelessness, or other issues covered in this Office.
 - (6) Initiate and carry out any appropriate action, where relevant, to implement the above objectives, or other related objectives, as they become necessary and are deemed appropriate.

(C.B. 12, 2016, § 1)

SUBTITLE 20. - COMMISSION FOR TRANSITIONING STUDENTS WITH DISABILITIES¹³

Footnotes:

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Editor's note— Section 2 of C.B. 36, 2016, adopted July 8, 2016, set out provisions intended for use as subtitle 19 §§ 12.1900—12.1903. Inasmuch as there were already provisions so designated, C.B. 36, 2016, § 2, has been codified as set out herein, at the discretion of the editor.

Sec. 12.2000. - Commission for Transitioning Students with Disabilities; General Provisions; Purpose.

- (a) *General provisions* . There is a Howard County Commission for Transitioning Students with Disabilities. General provisions applicable to the Commission for Transitioning Students with Disabilities are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch" of this Code.
- (b) *Purpose* . The purpose of the Commission is to make recommendations on ways to establish an effective, efficient, and comprehensive delivery of services that will most successfully meet the transition needs of Howard County students with disabilities as they transition from high school to post-secondary education and employment.
- (c) *Definitions* . For purposes of this Subtitle, HCPSS means the Howard County Public School System.

(C.B. 36, 2016, § 1)

Sec. 12.2001. - Membership.

- (a) *Number of members* . The Commission shall consist of a minimum of 22 members and a maximum of 30 members.
- (b) *Qualifications* . All members shall either reside or work in Howard County.
- (c) *Membership* . The commission shall be comprised of the following:
 - (1) Ex officio members:
 - (i) Program Head, Transition Services, HCPSS;
 - (ii) Instructional Facilitator, Secondary Education, HCPSS;
 - (iii) Coordinator, Career and Technology Education, HCPSS;
 - (iv) Executive Director, Special Education and Student Services;
 - (v) Parent Coordinator, HCPSS;
 - (vi) Coordinator, School Counseling Services, HCPSS;
 - (vii) Manager, Teacher Recruitment and Retention, HCPSS;
 - (viii) Director, Department of Community resources and Services, Howard County Government;
 - (ix) ADA Coordinator, Department of Community resources and Services, Howard County Government;
 - (x) Administrator, Office of Human Resources, Howard County Government;
 - (xi) Administrator, Office of Workforce Development, Howard County Government;
 - (xii) Administrator, Office of Human Rights, Howard County Government;
 - (xiii) Administrator, Division of Rehabilitation Services, Region V, State of Maryland;
 - (xiv) Representative, Resource Coordination Providers;
 - (xv) Representative, Howard Community College; and
 - (xvi) Manager, Therapeutic Recreation, Department of Recreation and Parks, Howard County Government; and
 - (2) Appointed members of the private sector:
 - (i) Two representatives, Howard County business community;
 - (ii) Three parent representatives;
 - (iii) An individual with a disability; and
 - (iv) Up to eight community members interested in supporting the Commission and its work.
- (d) *Commission Chairperson* . The Commission shall be chaired jointly by a representative of the Department of Special Education, Howard County Public School System, and a family member of a student with a disability.
- (e) *Method of appointment*. Each appointed member shall be appointed by the County Executive and confirmed by the County Council.
- (f) *Staffing* . The Department of Community Resources and Services shall provide staffing for the Commission.
- (g) *Meetings* . The Commission shall meet at least quarterly.

(C.B. 36, 2016, § 1)

Sec. 12.2002. - General powers and duties of the Commission.

(a) *In general.* The Howard County Commission for Transitioning Students with Disabilities may:

- (1) Advocate for policy on behalf of students with developmental, intellectual, and/or physical disabilities;
- (2) Examine current practices and make recommendations on ways to improve postsecondary outcomes for students with disabilities;
- (3) Make recommendations that would facilitate successful customized employment and postsecondary education for students exiting the Howard County Public School System; and
- (4) Foster greater collaboration between business, academic, non-profit, and public sectors to engage in successful initiatives designed to immerse students with disabilities in a work environment and provide important job skills.

(C.B. 36, 2016, § 1)

Sec. 12.2003. - Annual Report.

Subject to section 22.1000 of the County Code, on or before January 31 of each year, the Commission shall submit an annual report to the County Council and the County Executive on its activities during the previous calendar year. The report may include recommendations on any matter related to the work of the Commission.

(C.B. 36, 2016, § 1; C.B. 43, 2018, § 1)

TITLE 13 - HOUSING AND COMMUNITY DEVELOPMENT¹¹

Footnotes:

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Editor's note— C.B. 59, 2001, §§ 4—11, amended Title 13 in its entirety, by changing the title from "Housing, Urban Renewal and Economic Development" to "Housing and Community Development" (§ 4), and by the following: (§ 5) repealing former subtitle 5, "Housing and Community Development", and adding new subtitle 1, "Department of Housing and Community Development"; (§ 6) renumbering former subtitle 2, "Urban Renewal", as new subtitle 11, and adding a new subtitle 2, "Housing and Community Development Board"; (§ 7) repealing and reenacting with amendments subtitle 3, "Rehabilitation Fund", and subtitle 4, "Moderate Income Housing Units"; (§ 8) repealing and reenacting with amendments former subtitle 11, "Tenant Retrofit Loan and Grant Program", renumbered as new subtitle 5; (§ 9) renumbering former subtitle 6, "Lease Extensions—Conversions of Rental Housing to a Condominium Regime", as a new subtitle 12, and repealing and reenacting with amendments former subtitle 12, "Housing Initiatives Loan Program", renumbered as new subtitle 6; (§ 10) repealing and reenacting subtitle 7, "Rental Housing Expense Assistance Program", subtitle 8, "Rental Housing Development Program", and subtitle 9, "Homeownership Assistance Program"; and (§ 11) renumbering former subtitle 10, "Howard County Housing Commission Articles of Organization", as new subtitle 13, and repealing and reenacting with amendments former subtitle 13, "Displacement Assistance Program", renumbered as new subtitle 10. History notes have been retained where appropriate. For a complete disposition of these amendments, see the Code Comparative Table.

SUBTITLE 1. - DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Sec. 13.100. - General provisions.

General provisions applicable to this Department are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 59, 2001)

Sec. 13.101. - Department of Housing and Community Development.

- (a) *Head.* The Director of Housing and Community Development shall head the Department of Housing and Community Development.
- (b) *Qualifications of Director of Housing and Community Development.* The Director of Housing and Community Development shall have a thorough knowledge of the methods and principles of community development, housing management, rehabilitation of existing housing, and community planning, including grant programs associated with these functions. At the time of appointment the Director shall have had at least five years' experience in community development, housing and/or real estate, including at least two years in a managerial capacity.
- (c) *Executive Secretary.* The Director of Housing and Community Development shall serve as Executive Secretary of the Housing and Community Development Board.
- (d) *Duties and Responsibilities .* The Department of Housing and Community Development develops, manages and implements various programs designed to secure safe and decent housing for the citizens of Howard County, including but not limited to the following:
 - (1) *Policy and plans.* Consulting with other County agencies and with public and private organizations to develop policy and plans related to housing, community development and urban renewal.
 - (2) *Coordination.* Reviewing, analyzing and coordinating housing or community development projects, especially those which involve more than one Department of County Government.
 - (3) *Grants.* Designing, writing and negotiating housing and community development related grant proposals and applications.
 - (4) *Liaison.* Maintaining liaison with other County, State and Federal agencies with programs or services affecting housing policy and specific housing and community development programs.
 - (5) *Administering programs .* Administering various local, State and Federal loan and grant programs for moderate- and low-income individuals and families including, but not limited to, the overall supervision of program development and operations for the following:
 - (i) The Community Development Block Grant Program;
 - (ii) The Home Investment Partnership Program; and
 - (iii) The Community Legacy Program and other programs offered by the State of Maryland.
 - (6) *Other duties and responsibilities .* Performing such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 59, 2001; C.B. 60, 2003, § 1; C.B. 11, 2006, § 1; C.B. 12, 2016, § 1)

Sec. 13.102. - Transitional provision.

All agreements and contracts to which the Office of Housing and Community Development is a party shall continue in effect as though made by the Department of Housing and Community Development.

(C.B. 59, 2001)

Sec. 13.103. - Federal, State, and local grants.

- (a) *Application for Grant.* The Department may apply on behalf of Howard County to any source for any grant, gift, contribution, or aid of any kind for the purpose of implementing approved urban renewal and community development plans subject to the approvals required by law.
- (b) *Acceptance of Grants.* The Department may accept grants, gifts, contributions, or bequests of property of any kind on behalf of Howard County for the purpose of implementing approved urban renewal and community development plans. Such acceptance shall be subject to the approvals required by law, including normal budgetary approval.
- (c) *Council Approval of Plan .* The Department shall obtain County Council approval, through a resolution, of its Annual Action Plan for Community Development Block Grant and Home Investment Partnership Program funds before submitting the plan to the United States Department of Housing and Urban Development.
- (d) *Authority to Award Grants and Loans .* Council approval of the plan under subsection (c) of this section shall be deemed to authorize the Department to award grants and loans in accordance with the programs approved in the plan or grant.

(C.B. 11, 2006, § 2; C.B. 12, 2016, § 1)

SUBTITLE 2. - HOUSING AND COMMUNITY DEVELOPMENT BOARD

Sec. 13.200. - General provisions.

General provisions applicable to the Housing and Community Development Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 59, 2001)

Sec. 13.201. - Organization.

- (a) *Number of Members.* There is a Housing and Community Development Board consisting of seven voting members and one nonvoting member.
- (b) *Qualifications:*
 - (1) *Voting members:*
 - (i) All members shall be residents of Howard County.
 - (ii) Members shall be broadly representative of the citizens of Howard County.
 - (iii) Members shall have no financial interests in any land or property which is acquired or held for an urban renewal or community development project.
 - (iv) No members shall serve more than two consecutive full terms.
 - (2) *Nonvoting member.* The nonvoting member of the Board shall be a member of the Howard County Housing Commission selected in accordance with subsection 13.1307(b) of this Code.
- (c) *Executive Secretary.* The Director of Housing and Community Development or the Director's designee shall serve as Executive Secretary to the Board and shall attend all meetings.
- (d) *Liaison to Housing Commission.* By majority vote of all members, the Board shall annually select from among its members a liaison to the Howard County Housing Commission. The selected

member shall serve as a nonvoting ex officio member of the Housing Commission in accordance with subsection 13.1305(a)(2)(i) of this Code.

- (e) *Meetings.* The Board shall meet at least monthly to carry out its duties. Special meetings may be called at the request of the Chairperson or at the request of a majority of the members of the Board. Members shall be entitled to at least seven days' advance notice of all meetings unless the entire Board votes to waive such notice.
- (f) *Quorum.* A majority vote consists of four or more votes of the total membership. A quorum consists of four voting members. Official action of the Board shall be taken only upon approval by a majority of the total voting membership.
- (g) *Records.* The Board shall keep a record of its resolutions, transactions, findings and recommendations. It shall keep minutes of its proceedings.

(C.B. 59, 2001)

Sec. 13.202. - Powers and duties.

The Board shall have the following powers and duties:

- (1) To give guidance for dealing with the problems of slums and blight within the community and guidance for the establishment, reestablishment and/or preservation of well planned communities with well organized neighborhoods.
- (2) To give guidance for the undertaking of feasible community activities designed to achieve the purposes of the Howard County Urban Renewal Law. Recommendations shall be for separable urban renewal projects which can be undertaken independently to achieve identifiable goals and stated public policy.
- (3) To review and make recommendations to the County Executive and the County Council concerning:
 - (i) An urban renewal plan for Howard County, which may include subarea plans for all areas of the County exhibiting signs of significant decay and/or deterioration.
 - (ii) An operating and capital budget to support any approved urban renewal project.
 - (iii) Any administrative procedures to implement Howard County laws which have been promulgated by the Department of Housing and Community Development.
 - (iv) Community development block grant applications and other community development grant applications.
 - (v) Community development block grant performance reports.
 - (vi) A housing assistance plan for Howard County.
- (4) To act as a grievance panel when so designated in administrative procedures by the Department of Housing and Community Development.
- (5) To plan and promote auxiliary social or community service programs for the residents of areas which are moral, economic and/or physical liabilities to Howard County.
- (6) To review applications for housing-related industrial revenue bonds and MIDFA loans and bonds and make recommendations to the Industrial Revenue Bond Review Subcommittee of the Economic Development Authority.
- (7) To perform such other duties as may be designated by the County Executive pursuant to section 13.1103, "Powers, Authority," subsection (o).
- (8) At the direction of the County Executive, or by resolution of the County Council, the Board shall review and make recommendations on any matter related to housing in the County.

(C.B. 59, 2001; C.B. 22, 2006, § 1; C.B. 12, 2016, § 1)

SUBTITLE 3. - REHABILITATION FUND

Sec. 13.300. - Purpose.

- (a) A County-wide rehabilitation loan fund is established for the purpose of making available certain funds for the primary residence of owners of improved real property or mobile homes within Howard County, for the purpose of making low-interest loans for a homeowner's primary residence for home improvements in order that they may meet conditions related to public health, safety, welfare, and revitalization.
- (b) *Mobile home* means a structure that is:
 - (1) Transportable in one or more sections;
 - (2) Eight or more body feet in width and 30 or more body feet in length;
 - (3) Built on a permanent chassis; and
 - (4) Designed to be used as dwelling, with or without a permanent foundation when connected to the required utilities.

Mobile home includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

(C.B. 37, 1975; C.B. 137, 1991; C.B. 59, 2001; C.B. 18, 2014, § 1)

Sec. 13.301. - Application.

- (a) The loan shall be made available to Howard County residents who are unable to obtain credit from private institutions on terms and conditions they can reasonably be expected to meet. The rehabilitation loans are for home improvements, including, but not limited to, expansions, renovations, water and sewer connections, plumbing repairs, central heating installation and repairs, home insulation, roof repairs, transportation of mobile homes, trailer tiedowns and other structural repairs.
- (b) The length of the loan and its terms shall be determined by the homeowner's ability to repay the money, but for a period not to exceed 30 years. Interest rates shall be lower than the market rate based on adjusted family income and shall be made a part of the rules and procedures administering this fund.
- (c) If the loan is for improvements to real property and is made for more than \$500.00, a mortgage shall be obtained from the property owner to secure the loan before the work for which the loan is obtained is commenced.
- (d) If the loan is for improvements to a mobile home and is for more than \$500.00, the owner of the mobile home shall provide the County, before the work begins, with a security interest in the mobile home to secure the loan.

(C.B. 37, 1975; C.B. 137, 1991; C.B. 59, 2001; C.B. 18, 2014, § 1)

Sec. 13.302. - Authorization procedure.

- (a) The Department of Housing and Community Development is authorized to establish and administer rules and procedures for the County-wide rehabilitation fund in accordance with section 2.103 of the Howard County Code.

- (b) No loan shall be issued until the funds have been certified as available by the Director of Finance of Howard County.

(C.B. 37, 1975; C.B. 59, 2001)

Sec. 13.303. - Remedy for nonpayment.

If the property owner defaults on payment of his loan, the County may enforce the terms of the loan and/or mortgage obtained pursuant to the loan against the owner of record at the time the loan was granted or the owner of record at time a suit is filed, or any owner of record between said dates.

(C.B. 37, 1975; C.B. 59, 2001; C.B. 12, 2016, § 1)

SUBTITLE 4. - MODERATE INCOME HOUSING UNITS

Sec. 13.400. - Applicability.

This subtitle applies to:

- (a) Any residential zoning district, or portion of a zoning district, where a moderate income housing unit obligation is required by the Zoning Regulations; and
- (b) Any development for which the provision of moderate income housing is proffered by the petitioner and made a condition of approval in a preliminary development plan approved by the Zoning Board.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 21, 2003, § 1; C.B. 22, 2006, § 2; C.B. 55, 2016, § 1)

Sec. 13.401. - Definitions.

- (a) *In General.* In this subtitle, the following words have the meanings indicated:
- (b) *Commission* means the Howard County Housing Commission.
- (c) *Department* means the Howard County Department of Housing and Community Development.
- (d) *Designee* means the Howard County Housing Commission, a nonprofit corporation, or a quasi-public housing development organization designated by the Department as eligible to operate and maintain moderate income housing units on a long-term basis.
- (e) *Director* means the Director of the Department of Housing and Community Development.
- (f) *Dwelling unit* has the meaning stated in the Howard County Zoning Regulations.
- (g) *Eligible purchaser* means a holder of a certificate of eligibility under section 13.406 of this subtitle who has been prequalified by the Department to obtain a mortgage in an amount sufficient to enable the individual to purchase a moderate income housing unit.
- (h) *First-time home buyer* means an individual who, during the three years before receiving a certificate of eligibility:
 - (1) Has not owned any property used or usable as a residence; or
 - (2) Has owned a personal residence but, because of the separation or divorce of the joint tenants or the death of one of the joint tenants, needs to purchase a personal residence without the former joint tenant.

- (i) *Initial sale price* means the price set by the Housing and Community Development Board under section 13.403 of this subtitle for the first sale of a type of moderate income housing unit.
- (j) *Median income* means the median annual income of Howard County as determined by the U.S. Census Bureau.
- (k) *Moderate income* means an annual household income of up to 80 percent of the median income in Howard County.
- (l) *Moderate income housing unit* means a dwelling unit offered for sale or rent to households with moderate incomes.
- (m) *Moderate income housing unit offered for sale* means a unit that is built on a subdivided lot or subject to a condominium regime, as provided in a moderate income housing unit agreement under subsection 13.402(b) of this subtitle.
- (n) *Proffered unit* means a moderate income housing unit in a development for which the provision of moderate income housing is proffered by the petitioner and made a condition of approval in a preliminary development plan approved by the Zoning Board.
- (o) *Rehabilitated existing moderate income housing unit* means an existing residential housing unit that has been determined by the Department of Housing and Community Development to have met the specified eligibility criteria and rehabilitation requirements for such units as provided in this subtitle and that is subject to and bound to comply with all of the requirements in this subtitle applicable to newly built moderate income housing units.
- (p) *Rental unit* means a moderate income housing unit that is not a moderate income housing unit offered for sale.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 21, 2003, § 1; C.B. 66, 2003, § 1; C.B. 22, 2006, § 2; C.B. 74, 2007, § 1)

Sec. 13.402. - Development procedures; moderate income housing unit agreement; alternative.

(a) *Development Procedures:*

- (1) When a development is subject to this subtitle, the developer shall submit to the Department of Planning and Zoning, concurrent with the submission of the original final plat or original site development plan for approval; as applicable:
 - (i) An agreement to meet moderate income housing unit requirements; and
 - (ii) Recordable covenants approved by the Department and the County Solicitor.
 - (2) Covenants under this subsection shall be recorded among the land records of Howard County concurrently with the recordation of the final subdivision plat or site development plan approval, as applicable.
 - (3) Covenants under this subsection shall be extinguished in accordance with the agreement under subsection (b) of this section.
- (b) *Moderate Income Housing Unit Agreement.* The moderate income housing unit agreement under this section shall be in a form prescribed by the Department and shall include:
- (1) A statement of the number of moderate income housing units required under the zoning regulations;
 - (2) A requirement that the developer comply with the minimum specifications for moderate income housing units established by the Department;
 - (3) A plan for construction of moderate income housing units offered for sale and rental units, which shall, to the extent practicable, taking into account current market conditions, the needs

of eligible purchasers, and planning considerations, require that each phase of the development contain its proportionate share of the total number of moderate income housing units required under the approved final plan or site development plan; and

- (4) A statement of how moderate income housing units will be provided that shall include the number of units, types of units, and location of units.
- (c) *Covenants*. The covenants under this section shall be in a form prescribed by the Department and shall include provisions prohibiting the sale or rental of a moderate income housing unit except to an eligible purchaser, the Commission, the County, or a designee in accordance with this subtitle.
- (d) *Requirements Applicable to Moderate Income Housing Units*. Except as provided in subsections (e) and (f) of this section, and except as provided in section 13.402A of this subtitle, a developer obligated to provide moderate income housing units in accordance with the zoning regulations as part of a development shall provide all of the units:
 - (1) On the site of the development project;
 - (2) In the same ratio of unit types as proposed for the development; and
 - (3) Evenly distributed within each phase of development.
- (e) *Optional Methods*:
 - (1) A developer required to provide moderate income housing units under the zoning regulations may request permission to provide the required units:
 - (i) At a different location; or
 - (ii) As a different ratio of unit types.
 - (2) A developer may use an optional method under this subsection if the Director, upon recommendation from the Housing and Community Development Board and in consultation with the Director of Planning and Zoning and the Director of Community Resources and Services, determines that:
 - (i) a. The number of moderate income housing units to be constructed in the development will render the development economically unfeasible; or
 - b. The development proposes an indivisible package of services and facilities to all residents that would cost the moderate income housing unit owners so much that the units would be rendered unaffordable to eligible purchasers; and
 - (ii) The optional method results in geographic distribution of moderate income housing units throughout the County.
 - (3) A developer who uses an optional method of providing moderate income housing units in accordance with paragraph (1) of this subsection shall calculate the number of units to be provided as set forth below:

- (i) For every one moderate income single-family detached housing unit required by the zoning regulations, the requirement shall be increased by the multiplier in the following chart:

Type of Unit	On-site	Off-site
Single Family Detached	Not Applicable	1.5 Moderate Income Units
Single Family Attached	1.5 Moderate Income Units	1.75 Moderate Income Units

Apartment	1.75 Moderate Income Units	2.0 Moderate Income Units
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(ii) For every one single-family attached moderate income housing unit required by the zoning regulations, the requirement shall be increased by the multiplier in the following chart:

Type of Unit	On-site	Off-site
Single Family Attached	Not Applicable	1.5 Moderate Income Units
Apartment	1.5 Moderate Income Units	1.75 Moderate Income Units

(iii) For every one moderate income apartment required by the zoning regulations, the requirement shall be modified by the multiplier in the following chart:

Type of Unit	On-site	Off-site, Apartment Units
Apartment	Not Applicable	1.5 Moderate Income Units
Single Family Attached	Not Applicable	.67 Moderate income Units

(f) *Alternative Compliance to Optional Methods.*

- (1) A developer may request permission from the Director to use a method other than those set forth in subsection (e) of this section to provide moderate income housing units.
- (2) A request shall include the following information:
 - (i) A description of the alternative compliance proposal, including a comparison of the required and proposed units, in terms of the location, numbers, types, bedrooms, and square footage; and
 - (ii) The projected fair market value of the required and proposed units.
- (3) In determining whether to approve a request under this subsection, the Director, upon recommendation from the Housing and Community Development Board and in consultation with the Director of Planning and Zoning and the Director of Community Resources and Services, shall consider whether:
 - (i) The phasing of moderate income housing units will be provided sooner than would be required by the phasing of market rate units;

- (ii) The units present innovative architecture or site design features that contribute to affordability;
 - (iii) The design reduces operating and maintenance costs;
 - (iv) The location of the proposed alternative is part of a mixed-use development with existing or potential transit service; and
 - (v) The development provides a package of services or amenities for the benefit of moderate income residents.
- (4) In granting a request under this subsection, the Director may reduce the number of units that would have been required under subsection (e) of this section, but may not reduce the number of units below the number required by the zoning regulations.
- (g) *Alternative of Providing Rehabilitated Existing Moderate Income Housing Units.* The developer of a housing development subject to this subtitle may provide up to five rehabilitated existing moderate income housing units if the developer's requirement is for 29 or fewer moderate income housing units or, if the developer's requirement is for 30 or more moderate income housing units, the developer may provide a maximum of 20 percent of the required moderate income housing units by providing rehabilitated existing moderate income housing units provided that:
 - (1) Prior to approval of a final subdivision plat or, if the property is not being subdivided, a site development plan:
 - (i) The developer provides:
 - a. One rehabilitated existing moderate income housing unit certificate approved by the Department as provided below for each moderate income housing unit required by this subtitle; or
 - b. Two rehabilitated existing moderate income housing unit certificates for condominium apartment units approved by the Department as provided below for each moderate income housing unit required by this subtitle; and
 - (ii) The developer executes all of the required agreements and covenants relating to the provision of newly built moderate income housing units in this subtitle.
 - (2)
 - (i) If a developer is required to provide age-restricted moderate income housing units by the zoning regulations, the developer may use the alternative of providing rehabilitated units as permitted by this subsection.
 - (ii) A developer may use a non-age-restricted rehabilitated unit instead of an age-restricted rehabilitated unit under this subsection if the Director, with the concurrence of the Chief Administrative Officer:
 - a. Has made a good faith effort to find, but is unable to find, any eligible purchaser who meets the criteria for the age-restricted moderate income housing unit consistent with Federal discrimination law exemptions; or
 - b. Has determined that the unit is not physically suited for use by an age-restricted eligible purchaser.
 - (iii) The total number of non-age-restricted rehabilitated units that are substituted for age-restricted units shall not exceed ten.
 - (3) Except as provided in subsection (i) of this section, the rehabilitated existing moderate income housing units are subject to all of the requirements applicable to newly built moderate income housing units in this subtitle.
- (h) *Approval of Certificates for Rehabilitated Existing Moderate Income Housing Units; Sale of Certificates.* The application, approval and sale of certificates for rehabilitated existing moderate income housing units shall be governed by the following criteria and procedures:

- (1)
 - (i) The owner of a residential housing unit or units or an Applicant acting on their behalf may apply to the Department for eligibility to apply for a certificate for a rehabilitated existing moderate income housing unit.
 - (ii) Within 20 business days following application, the Department shall approve such a unit as eligible for a certificate application if it finds:
 - a. That the unit is in need of substantial repairs based on an itemized estimate of cost of repairs submitted by the Applicant;
 - b. That the unit shall not be or previously have been a moderate income housing unit approved pursuant to this subtitle; and
 - c. That the unit will add to the stock of needed moderate income housing units in the County.
- (2)
 - (i) If the Department approves a unit as being eligible for certificate application, the owner of the unit or an Applicant acting in his behalf may apply for that certificate.
 - (ii) The Department shall approve the application and issue a certificate for a rehabilitated existing moderate income housing unit if it finds that the Applicant has executed the required moderate income housing unit covenants and agreements and met the following rehabilitation requirements for the unit:
 - a. Kitchen and bath cabinets shall be new or updated in the last ten years and in good condition; kitchen and bath fixtures shall conform to current maximum water usage standards; and all major kitchen appliances shall be new and warranted for at least one year;
 - b. All carpets and flooring shall be new except for hardwood flooring that is new or newly refinished;
 - c. The heating and cooling systems shall be new or have been replaced in the last ten years and be in good working order;
 - d. All drywall or other wall materials shall be in good condition with no outdated finishes;
 - e. All doors and locks shall be in good working order;
 - f. All windows shall be new or replaced in the last ten years, have insulated glass or storm windows and be in good condition;
 - g. The roof shall be new or replaced in the last ten years, be in good condition, and have at least a 20-year manufacturer's warranty remaining at the time of sale;
 - h. Facia, gutters and downspouts shall be in good condition;
 - i. The Applicant shall certify that the unit complies with all applicable asbestos and lead paint laws;
 - j. Exterior paint shall be new and siding shall be new or replaced in the last ten years and be in good condition;
 - k. Decks shall be power washed and stained and be in good condition;
 - l. The yard shall be in good condition with adequate and appropriate ground cover, trimmed trees and bushes, if any, fences in good condition, if any, and with any sidewalks and driveways in good condition and not in need of repairs; and
 - m. The Applicant shall provide the following items for the purchaser of the moderate income housing unit:
 - i. A new power mower, for units having a lawn;
 - ii. Pruning shears, for units having shrubs or other similar landscaping;

- iii. A power edger, for units having a lawn;
- iv. A rake, for units having a lawn;
- v. One gallon of interior paint in each color used;
- vi. One gallon of exterior paint in each color used, where appropriate; and
- vii. Paint brushes and rollers for interior and exterior surfaces.

All rehabilitation done to the outside of apartment units pursuant to this section shall be consistent with other units in the structure.

- (3) The Department shall have the unit inspected by an independent inspector who will certify that the unit meets the above rehabilitation requirements prior to the Department's decision on the application. The Applicant shall pay the costs of this inspection before the Department makes a decision on the application.
- (4) The owner of the rehabilitated existing moderate income housing unit is the holder of the certificate for that unit once it is issued by the Department and may:
 - (i) Receive credit for providing alternative moderate priced housing units pursuant to subsection (g) of this section, which units shall be sold and, except as provided in subsection (i) of this section, otherwise subject to all of the requirements applicable to newly built moderate priced housing units in this subtitle; or
 - (ii) Sell the certificate and the unit to which it applies to a developer of moderate income housing units at a price to be agreed to by the holder and developer who shall then receive credit for providing alternative moderate income housing units pursuant to subsection (g) of this section, which units shall be subject to all of the requirements applicable to newly built moderate priced housing units in this subtitle.
- (i) *Initial Sale Price for Units Sold through the Moderate Income Housing Unit Community Revitalization Program.* The Housing and Community Development Board shall:
 - (1) Establish the initial sale price for rehabilitated units provided through the moderate income housing unit community revitalization program; and
 - (2) Adopt regulations setting the standards to be used for establishing the initial sale price.
- (j) *Annual Analysis of the Moderate Income Housing Programs.* The Director shall complete an annual analysis of the moderate income housing unit programs and, subject to section 22.1000 of the County Code, shall submit the analysis to the County Executive and to the County Council, along with a presentation in a public meeting to the County Council, by April 1 of each year. The analysis shall include:
 - (1) The number, types, and location of moderate income housing units provided on-site and as required by the zoning regulations;
 - (2) Moderate income housing units provided as an optional method under subsection (e) of this section and as an alternative compliance under subsection (f) of this section;
 - (3) The number of moderate income housing units that have been renovated and the financial costs of renovating the unit;
 - (4) The range of sale prices and rental rates, including the average sales price and rental-rate;
 - (5) Income information on the home buyers and renters participating in the program;
 - (6) The number of applicants selected to purchase a moderate income housing unit and the priority categories for which they qualify under section 13.406(e); and
 - (7) All marketing and outreach efforts of the department to each of the categories in section 13.406(e).

- (k) *Alternative of Satisfying Moderate Income Housing Unit Requirement in Residential Mobile Home Development.* The developer of a housing development in an R-MH zoning district which is subject to this subtitle may satisfy all, or a portion of, its moderate income housing unit requirement by providing for the sale of lots in an adjoining subdivision to the Commission or designee as defined in this subtitle at below market price by an agreement with the Commission or designee as defined in this subtitle provided that:
- (1) The housing development and the adjoining subdivision were part of the same original sketch plan;
 - (2) The adjoining subdivision shall be zoned residential-mobile home and shall consist of previously leased pad sites in a mobile home park;
 - (3) The residential mobile home development and the adjoining subdivision share a stormwater management facility;
 - (4) The lots shall be sold to the Commission or designee as defined in this subtitle at below market price for either conveyance through shared equity financing to an eligible purchaser or rental to an individual of moderate income;
 - (5) Each lot sold to the Commission or designee as defined in this subtitle shall equal one moderate income housing unit required in the adjacent housing development;
 - (6) Concurrent with, prior to, or within 120 days subsequent to the approval of a site development plan or the final plat of subdivision for the housing development, the developer and the Commission or designee as defined in this subtitle shall execute an agreement which satisfies the requirements of this section;
 - (7) The agreement shall provide that any covenant to provide moderate income housing units which is already recorded shall be extinguished upon the sale of the same number of lots to the Commission or designee as defined in this subtitle; and
 - (8) An existing resident in the adjoining subdivision who meets the eligibility requirements of this subtitle shall be given first priority as an eligible purchaser of a lot or as a tenant of a lot owned by the Commission or designee as defined in this subtitle.
- (l) *Prohibited Transfers.* A developer using an optional or alternative method of compliance may not provide the required moderate income housing units on property:
- (1) Wholly owned by the Howard County Housing Commission;
 - (2) Owned by a limited partnership or limited liability company formed solely for the purpose of obtaining the benefit of low income housing tax credits under section 42 of the Internal Revenue Code and in which the Commission is the general partner or managing member;
 - (3) Owned by the County; or
 - (4) In a census tract block group where the poverty level is ten percent or greater according to the most recent census.
- (m) *Calculations—Fractions of a Unit.* If a calculation to determine the number of moderate income housing units a developer is required to provide under the Zoning Regulations results in a fraction of a moderate income housing unit, the developer shall provide an additional moderate income housing unit.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 58, 2002, § 1; C.B. 13, 2003, § 1; C.B. 21, 2003, § 1; C.B. 66, 2003, § 1; C.B. 29, 2004, § 1; C.B. 14, 2005, § 1; C.B. 78, 2004, § 1; C.B. 22, 2006, § 2; C.B. 61, 2006, § 2; C.B. 74, 2007, § 1; C.B. 6, 2008, § 1; C.B. 10, 2011, § 1; C.B. 43, 2013, § 1; C.B. 18, 2014, § 1; C.B. 12, 2016, § 1; C.B. 43, 2018, § 1)

Editor's note— Section 2 of C.B. 74, 2007 provided that the prohibition of subsection (m) of section 13.402 shall not apply to transfers approved on or before January 1, 2010 for which site development plans are technically complete on or before January 1, 2008.

Sec. 13.402A. - Market-based required alternatives to moderate income housing unit obligation.

- (a) *Application.* This section shall apply when the base sales price for a moderate income housing unit, as determined by the Department at the time the seller offers the unit for sale pursuant to section 13.404 of this subtitle, is 90 percent or more of the market price. For purposes of this section, market price is the net price offered to the public by the seller for a comparable unit within the development. In this instance, instead of providing moderate income housing units as required by section 13.402 of this subtitle, the developer shall pursue one or a combination of the alternatives set forth in subsection (b), (c), or (d) of this section.
- (b) *Units in Foreclosure.* The developer shall substitute units by purchasing, rehabilitating, and offering for sale existing housing units that are in foreclosure and are located throughout the County as follows:
 - (1) A substitute unit is eligible under this option if it:
 - (i) Has had mortgage or tax foreclosure proceedings initiated;
 - (ii) Has not had a mortgage or tax payment made for at least 90 days; and
 - (iii) Has been offered for sale by the owner to the public;
 - (2) The Department must approve each substitute unit before purchase by the developer, and shall ensure that the developer provides the same number of bedrooms;
 - (3) The rehabilitation of each substitute unit shall meet the Department's minimum standards, as determined by regulation of the Department;
 - (4) Upon completion of rehabilitation, the Department must approve each completed unit;
 - (5) A developer shall purchase and rehabilitate the unit and request a priority period, as set forth in section 13.404 of this subtitle, within one year of the developer's initial notification of sale under section 13.404;
 - (6) The sales price for a substitute unit shall be the lowest of the following:
 - (i) The moderate income housing unit price determined by the Department at the time of the developer's request for a priority period for the substitute unit;
 - (ii) Ninety percent of the appraised value of the substitute unit, as rehabilitated; or
 - (iii) The developer's actual cost of purchasing, rehabilitating, and selling the substitute unit, including carrying costs; and
 - (7) A developer shall purchase substitute units of the following types and at the following ratio:

TYPE OF REQUIRED MIHU:	TYPE OF SUBSTITUTE UNIT:	RATIO:
Apartment	Apartment	1:1
Apartment	Single-family, attached	3:2

Apartment	Single-family, detached	2:1
Single-family, attached	Apartment	2:3
Single-family, attached	Single-family, attached	1:1
Single-family, attached	Single-family, detached	3:2
Single-family, detached	Apartment	1:2
Single-family, detached	Single-family, attached	2:3
Single-family, detached	Single-family, detached	1:1

- (c) *Offer to Low-Income Purchasers.* The developer shall substitute units by offering one-third of the moderate income housing units required under this subtitle to eligible low-income purchasers who shall have an annual household income of up to 60 percent of the median income. The purchase price for these units shall be established in the same manner as set forth in section 13.403 of this subtitle, except that the base price shall be affordable to a purchaser with a household income equal to the following percentages of median income, adjusted by family size appropriate to the size and number of bedrooms in the unit:
- (1) Fifty-five percent for proffered units and single-family homes;
 - (2) Fifty percent for semi-detached (duplexes) and single-family attached (townhomes); and
 - (3) Forty-five percent for apartments (condominiums).
- (d) *Fee-In-Lieu.* The developer shall pay a fee-in-lieu to the Department for each moderate income housing unit required by this subtitle as follows:
- (1) The fee-in-lieu shall be calculated as the difference between the prevailing market price for the same unit type and the sale price for the moderate income housing unit provided, however, the fee-in-lieu shall not be less than seven and one-half percent of the sale price for the moderate income housing unit;
 - (2) The prevailing market price shall be determined by a survey of sales prices of units of the same type sold in the County within the previous 12 months;
 - (3) Sales of the following units shall be excluded from the survey:
 - (i) Townhouses less than 1,200 square feet and more than 2,000 square feet;
 - (ii) Single-family detached homes less than 1,500 square feet and more than 2,800 square feet;
 - (iii) Apartments less than 650 square feet and more than 1,300 square feet;
 - (iv) Units in poor condition or in need of significant repair or renovation; and
 - (v) The three highest and three lowest sales prices;

- (4) A developer shall pay the fee-in-lieu before use and occupancy permits may be issued for the units designated as moderate income housing units by the development's moderate income housing unit agreement; and
- (5) The fee-in-lieu collected by the Department shall be used for housing programs operated by the Department.

(C.B. 10, 2011, § 1)

Sec. 13.402B. - Mixed income option.

- (a) *Option.* Instead of providing moderate income housing units as required by the Zoning Regulations and section 13.402 of this subtitle, the developer may provide a mix of moderate income housing units and low income housing units at one of the percentages of total units set forth in subsection (c) of this section.
- (b) *Low Income Defined.* "Low income" is an annual household income of up to 60 percent of the median income in Howard County if the unit is for sale and up to 40 percent of the median income in Howard County if the unit is for rent. A low income housing unit for sale shall be offered to an eligible low income purchaser in accordance with section 13.404 of this subtitle. A low income housing rental unit shall be offered for rent to an eligible low income renter in accordance with section 13.405 of this subtitle.
- (c) *Percentage of Restricted Units.*
 - (1) *Fifteen percent requirement:* If the Zoning Regulations require that 15 percent of the units for sale or rent must be moderate income housing units, the developer may meet its obligation by providing moderate and low income housing units in one of the following percentages:

IF MIHU REQUIREMENT 15%		
OPTION	LOW INCOME UNITS	MODERATE INCOME UNITS
A	5%	5%
B	4%	7%
C	3%	9%
D	2%	11%
E	1%	13%

- (2) *Ten percent requirement:* If the zoning regulations require that ten percent of the units for sale or rent must be moderate income housing units, the developer may meet its obligation by providing moderate and low income housing units in one of the following percentages:

IF MIHU REQUIREMENT 10%		
OPTION	LOW INCOME UNITS	MODERATE INCOME UNITS
A	4%	2%
B	3%	4%
C	2%	6%
D	1%	8%

- (d) *Purchase Price.* The purchase price for the low income housing units shall be established in the same manner as set forth in section 13.403(a) of this subtitle, except that the base price shall be affordable to a purchaser with a household income equal to the following percentages of median income, adjusted by family size appropriate to the size and number of bedrooms in the unit:
- (1) Fifty-five percent for proffered units and single-family homes;
 - (2) Fifty percent for semi-detached (duplexes) and single-family attached (townhomes); and
 - (3) Forty-five percent for apartments (condominiums).
- (e) *Rental Rates.* The rental rates for the low income housing units shall be established in the same manner as set forth in section 13.403(b) of this subtitle, except that the Department shall establish maximum rates for rental units, by bedroom size, that are equal to 30 percent of the monthly income of a household whose annual income does not exceed 40 percent of the median income.

(C.B. 34, 2013, § 1)

Sec. 13.402C. - Alternatives to moderate income housing unit obligation in certain zones.

- (a) *Application.* This section shall apply only to:
- (1) Residential developments of single-family detached homes offered for sale in the RC, RR, R-ED, R-20, R-12, and R-SC zoning districts;
 - (2) Age-restricted adult housing and planned senior communities;
 - (3) Single-family attached homes in R-H-ED; and
 - (4) Mixed use developments in MXD.
- (b) *Alternative Compliance.* In these developments, instead of providing moderate income housing units as required by section 13.402 of this subtitle, the developer may pursue one or a combination of the alternatives set forth in subsection (c), (d) or (e) of this section.
- (c) *Substitute Units.* The developer may substitute units by purchasing, rehabilitating, and offering for sale existing housing units that are located throughout the County as follows:

- (1) The Department must approve each substitute unit before purchase by the developer, and shall ensure that the substitute unit provides the same number of bedrooms as planned for the on-site unit;
- (2) The rehabilitation of each substitute unit shall meet the Department's minimum standards, as determined by regulation of the Department;
- (3) Upon completion of rehabilitation, the Department must approve each completed unit before resale;
- (4) A developer shall purchase and rehabilitate the unit and request a priority period, as set forth in section 13.404 of this subtitle, within one year of the developer's initial notification of sale under section 13.404;
- (5) The sales price for a substitute unit shall be the lowest of the following:
 - (i) The moderate income housing unit price determined by the Department at the time of the developer's request for a priority period for the substitute unit; or
 - (ii) The developer's actual cost of purchasing, rehabilitating, and selling the substitute unit, including actual and reasonable carrying costs; and
- (6) A developer shall purchase substitute units of the following types and at the following ratio:

TYPE OF REQUIRED MIHU	TYPE OF SUBSTITUTE UNIT	RATIO
Apartment	Apartment	1:1
Apartment	Single-family, attached	3:2
Apartment	Single-family, detached	2:1
Single-family, attached	Apartment	2:3
Single-family, attached	Single-family, attached	1:1
Single-family, attached	Single-family, detached	3:2
Single-family, detached	Apartment	1:2
Single-family, detached	Single-family, attached	2:3
Single-family, detached	Single-family, detached	1:1

- (d) *Offer to Low-Income Purchasers.* The developer may substitute units by offering one-third of the moderate income housing units required under this subtitle to eligible low-income purchasers who shall have an annual household income of up to 60 percent of the median income. The purchase price for these units shall be established in the same manner as set forth in section 13.403 of this subtitle, except that the base price shall be affordable to a purchaser with a household income equal

to the following percentages of median income, adjusted by family size appropriate to the size and number of bedrooms in the unit:

- (1) Fifty-five percent for proffered units and single-family detached homes;
 - (2) Fifty percent for semi-detached (duplexes) and single-family attached (townhomes); and
 - (3) Forty-five percent for apartments (condominiums).
- (e) *Fee-In-Lieu*. The developer may pay a fee-in-lieu to the Department for each unit in the development or portion of the development that is not providing MIHUs onsite:
- (1) The fee-in-lieu for Fiscal Year 2014 shall be \$2.00 per square foot of residential space for each unit in the development as calculated for the building excise tax, section 20, subtitle 5 of the Howard County Code of Maryland;
 - (2) The fee-in-lieu shall be set yearly by Council resolution based upon the percentage of increase in the ENR Construction Cost Index for the Baltimore Region as reported in ENR, Engineering News Record;
 - (3) The fee-in-lieu shall be published on the County's website together with the base sales prices and rents for moderate income housing units;
 - (4) If the developer chooses to provide a portion of the required MIHUs on site, the fee shall be prorated accordingly.
 - (5) Except as provided in paragraph (a) of this section, a developer may not pay a fee in lieu of a single-family attached or apartment moderate income housing unit except in an age-restricted adult housing or planned senior community;
 - (6) A developer shall pay the fee-in-lieu before a use and occupancy permit may be issued for any unit in the development;
 - (7) The fee-in-lieu collected by the Department shall be used for the following:
 - (i) The Settlement Downpayment Loan Program;
 - (ii) The Rehabilitation Loan Program;
 - (iii) Grants to other County entities for rental housing subsidies, the purchase and rehabilitation of existing properties for sale or rent to low or moderate income households, emergency eviction support, or other housing opportunities for low and moderate income households; and
 - (8) Subject to section 22.1000 of the County Code, by February 1 of each year, the Department shall provide a detailed annual report to the Council of each collection and expenditure of all fee-in-lieu funds for the prior calendar year.
 - (9) In census tract block group where the poverty level is ten percent or greater according to the most recent census, the fee-in-lieu collected by the Department shall be used only for the Settlement Downpayment Loan Program and the Rehabilitation Loan Program.
- (f) *Multi-Plex Dwellings*. Notwithstanding section 13.402(d) of this subtitle, any development of single-family detached dwelling units may provide moderate income housing units on site in the form of multi-plex dwelling units in accordance with the applicable provisions of the Zoning Regulations.

(C.B. 35, 2013, § 1; C.B. 18, 2014, § 1; C.B. 43, 2018, § 1)

Sec. 13.403. - Prices for moderate income housing units offered for sale; rates for rental units.

- (a) *Base Prices for Moderate Income Housing Units Offered for Sale*. The base sale price for a moderate income housing unit shall be determined by the Housing and Community Development Board in accordance with this subsection.

- (1) Twice a year, the Board shall establish the base sale price for each type of moderate income housing unit offered for sale.
- (2) Before establishing the base sale price under this subsection, the Board shall provide information concerning the real property tax, insurance, and interest rate factors it proposes to use in establishing the base sale price on the County's website.
- (3) Before establishing the base sale price for moderate income housing units located in planned senior communities and age-restricted adult housing developments, the Board shall consult with the Office on Aging and Independence.
- (4) The Department shall provide to the Board information concerning current real property tax and insurance rates.
- (5) The base sale prices for moderate income housing units shall be based upon:
 - (i) A base size unit of the following types:

Type	Number of Bedrooms	Moderate Income Units—Base Size (sq. ft.)
Single-family detached	2	1,540
	3	1,680
	4	1,820
Semi-detached (duplex) and single-family attached (townhouse)	2	1,500
	3	1,640
	4	1,780
Back-to-back single-family attached (townhouse)	2	1,400
	3	1,540
	4	1,680
Apartments	1	750
	2	950
	3	1,100

- (ii) Factors established annually by the Board, for:

- a. Real property taxes; and
 - b. Insurance rates;
 - (iii) Factors established twice a year by the Board for:
 - a. Interest rates on FHA 30-year mortgages; and
 - b. FHA mortgage insurance premiums, as determined by the United States Department of Housing and Urban Development; and
 - (iv) An average of the homeowners' association fees or condo fees charged for similar units in the market, based on an annual survey of fees.
- (6) The Department shall provide to the Board the price at which an eligible purchaser with a household income equal to the following percentages of median income, adjusted by family size appropriate to the size and number of bedrooms in the dwelling unit, can afford to purchase a dwelling unit:
- (i) Seventy percent for proffered units and single-family homes;
 - (ii) Sixty-five percent for semi-detached (duplexes) and single-family attached (townhomes); and
 - (iii) Fifty percent for apartments (condominiums).
- (7) For the purposes of this subsection:
- (i) A purchaser can afford to purchase a dwelling unit if the purchaser's monthly income would qualify the purchaser to obtain a 30-year fixed rate mortgage at the prevailing interest rate in an amount sufficient to pay 97 percent of the purchase price of the unit;
 - (ii) A purchaser's monthly income qualifies for a mortgage if the monthly payment required to pay (1) the monthly principal and interest of the mortgage loan, plus (2) the monthly payment of taxes and insurance on the property, calculated in accordance with the factors established by the Department under subsection (a) of this section, plus (3) the monthly payment of homeowners or condominium association fees, plus (4) the monthly payment of the FHA mortgage insurance premium, does not exceed 28 percent of the purchaser's monthly income; and
 - (iii) The prevailing interest rate is the prevailing mortgage interest rate for FHA-insured 30-year fixed-rate mortgages in the Baltimore Metropolitan Area with zero points. The Department shall calculate the prevailing interest rate by surveying, twice a year, at least three mortgage lenders and two banks for at least three consecutive business days.
- (8) The Board shall determine the prevailing interest rate as of December 1 and June 1 of each year.
- (9) As determined by the regulations of the Department and subject to paragraph (11) of this subsection, an increase in the base sales price of a moderate income housing unit may be made for the following upgrades in size, design, or amenities provided that the Board determines that they are necessary to ensure the compatibility of the moderate income housing unit with the development's market rate units:
- (i) Single-family attached (townhouse) units that are larger than the base size established by this section;
 - (ii) Additional bathrooms or powder rooms;
 - (iii) Finished basements;
 - (iv) Garages in single-family attached (townhouse) units; and
 - (v) Other upgrades in design or amenities that are necessary to ensure architectural compatibility with the development's market rate units.

- (10) As determined by regulations of the Department and subject to paragraph (11) of this subsection, an increase in the base sales price of a moderate income housing unit may be made if the homeowners' association or condominium association fees applicable to the unit are less than the average of the homeowners' association fees or condominium fees charged for similar units in the market, as determined by the Department.
- (11) Any increase in the base sales price of a moderate income housing unit may not exceed:
 - (i) Fifty percent of the base sales price for apartment (condominium) units;
 - (ii) Twenty percent of the base sales price for semi-detached (duplex) and single-family attached (townhouse) units; and
 - (iii) Ten percent of the base sales price for single-family detached and proffered units.
- (12) As determined by regulations of the Department, a reduction in the base sales price of a moderate income housing unit shall be made:
 - (i) For units that are smaller than the base size established by this section;
 - (ii) For single-family detached units, semi-detached (duplex) units, and single-family attached (townhouse) units without basements; or
 - (iii) If the homeowners' association or condominium association fees applicable to the unit are more than the average of the homeowners' association fees or condominium fees charged for similar units in the market, as determined by the Department.

(b) *Rates for Rental Units:*

- (1) The Department shall establish maximum rates for rental units, by bedroom size, that are equal to 30 percent of the monthly income of a household whose annual income does not exceed 60 percent of the median income.
- (2) The maximum rental rates shall include an allowance for utilities paid by the tenant. The allowance shall be calculated by the Department based upon the average utility costs prevailing for similar sized units in Howard County. If required by the lease, all utility costs, including those in excess of the allowance, shall be paid by the tenant.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 21, 2003, § 1; C.B. 22, 2006, § 2; C.B. 74, 2007, § 1; C.B. 10, 2011, § 1; C.B. 12, 2016, § 1)

Sec. 13.404. - Sale of moderate income housing unit.

(a) *Initial Sale of Moderate Income Housing Unit—Priority Period.*

- (1)
 - (i) Except as provided in section 13.407 of this subtitle, the seller of a moderate income housing unit offered for sale shall offer the unit for initial sale for a 120-day priority period through the Department to an eligible purchaser.
 - (ii) During the priority period, the price for the moderate income housing unit shall not exceed the initial price established for the unit under section 13.403 of this subtitle.
- (2)
 - (i) A seller shall notify the Department of the proposed offering and the proposed date on which the priority period will begin.
 - (ii) The notice shall set forth the number of units offered, the location of each unit, a description of the amenities offered in each unit, the sales price and information regarding any mortgage financing available to buyers.
 - (iii) The seller shall also provide a vicinity map of the offering, a copy of the approved subdivision or site development plan, and such other information as required by the Department.

- (iv) If the Department determines that the notice is incomplete, the Department shall notify the seller within five business days of receipt of the notice. The seller shall submit a complete notice before the priority period begins.
 - (3) Within the priority period, the Department shall provide the seller with the name of an eligible purchaser for each unit.
 - (4) The seller shall make a good faith effort to enter into a contract with the eligible purchaser within the priority period. The contract shall allow the purchaser at least 60 days from the date of the notice provided in paragraph (3) of this subsection to obtain a financing commitment. The contract shall require the seller to make a good faith effort to complete construction of the moderate income housing unit within the time set forth in the purchaser's financing commitment.
 - (5) If the seller fails to make a good faith effort under paragraph (4) of this subsection, the settlement date shall be extended until ten days after the date construction is actually completed.
 - (6) If the eligible purchaser fails to comply with the conditions of the commitment for mortgage financing or fails to enter into a purchase contract, the Department may substitute another eligible purchaser.
 - (7) Any earnest money collected from an eligible purchaser may not exceed \$500.00.
- (b) *Same—Settlement.*
- (1) (i) An eligible purchaser who enters into a contract to purchase a moderate income housing unit shall settle on the property after completion of the construction of the unit.
 - (ii) For purposes of this subsection, a moderate income housing unit shall be deemed complete on the date that a use and occupancy permit for the unit is issued by the Department of Inspections, Licenses and Permits.
 - (iii) The seller shall notify the purchaser at least ten days prior to the settlement date.
 - (iv) The purchaser shall settle on the property within two business days of the settlement date, unless extended by the parties.
 - (v) The seller shall make a good faith effort to settle with the purchaser within the time set forth in the notice.
 - (2) (i) If a purchaser fails to settle on the property by the agreed upon settlement date, the seller shall notify the Department and offer to extend the priority period for 60 days from the agreed upon settlement date.
 - (ii) The Department shall accept or reject the offer within five business days of receipt of the notice.
 - (iii) If the Department accepts the offer to extend the priority period, the Department shall pay to the seller the seller's reasonable and actual carrying costs, such as interest, insurance, taxes, utilities, homeowners' association fees, and maintenance costs for the moderate income housing unit for the period of the extension.
 - (iv) The Department shall notify eligible households and priority purchasers of the availability of the moderate income housing unit in accordance with sections 13.406 and 13.407 of this subtitle.
- (c) *Same—Sale after Priority Period:*
- (1) After the priority period or extension the seller may offer a moderate income housing unit for sale to the general public without restriction as to price if:
 - (i) After the priority period expires an eligible purchaser has not signed a purchase contract;

- (ii) An eligible purchaser has not settled on the property by the settlement date and the Department has not accepted the seller's extension offer under subsection (b)(2)(i) of this section; or
 - (iii) The extension of the priority period expires and an eligible purchaser has not signed a purchase contract.
- (2) If the moderate income housing unit is offered for sale to the general public without restriction as to price, the seller shall pay to the County an amount equal to 50 percent of the difference between:
 - (i) The sale price of the moderate income housing unit, less a seven percent reduction for the seller's cost of sale, and less the seller's reasonable and actual carrying costs from the end of the initial priority period, if applicable; and
 - (ii) The initial price established for the moderate income housing unit under section 13.403 of this subtitle.
- (d) *Subsequent Sale of Moderate Income Housing Unit.* A subsequent sale of a moderate income housing unit shall be:
 - (1) Offered through the Department to an eligible purchaser at the sale price established under section 13.403 of this subtitle;
 - (2) Subject to the covenants required under subsection 13.402(c) of this subtitle; and
 - (3) Subject to regulations adopted by the Department under this subtitle.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 22, 2006, § 2; C.B. 74, 2007, § 1; C.B. 10, 2011, § 1)

Sec. 13.405. - Rental of moderate income housing units.

- (a) *Duration of Rental Restrictions.* Except as provided in subsection (f) of this section, the restrictions on the rental of moderate income housing units set forth in this subtitle shall apply to each rental moderate income housing unit development in perpetuity beginning on the date of initial offering as set forth in subsection (c) of this section.
- (b) *Application of Rental Restrictions:*
 - (1) The owner of any rental development subject to this subtitle shall ensure that the number of moderate income housing units required under the approved final plan or site development plan are rented or available for rent as moderately priced dwelling units to persons determined to be eligible under section 13.406 of this subtitle.
 - (2) The owner is not required to permanently designate particular units as moderate income housing units in order to meet this requirement.
- (c) *Rental During Priority Period:*
 - (1) A moderate income housing unit offered for rent must first be offered for a 60-day priority period to an eligible applicant or to a designee. During the priority period, the moderate income housing unit shall be offered at a rent not to exceed the rent established for the unit under section 13.403 of this subtitle.
 - (2)
 - (i) Before offering a moderate income housing unit for rent, the owner must notify the Department of the proposed offering and the proposed date on which the priority period will begin.
 - (ii) The notice must set forth the number of units offered, the location of each unit, the unit type, bedroom size and floor area of each unit, a description of the amenities offered in each unit and the rental rate.

- (iii) The owner shall also provide a vicinity map of the offering, a copy of the approved subdivision or site development plan, and such other information as the Department finds necessary.
 - (iv) If the Department determines that the notice is incomplete, the Department shall notify the owner within five business days of receipt of the notice. The owner shall submit a complete notice before the priority period may begin.
 - (3) The owner shall make a good faith effort to enter into a lease with an eligible applicant within the priority period.
- (d) *Rental after Priority Period:*
 - (1) After the priority period expires, a unit in the development may be offered for rent to the general public without restriction as to rent if:
 - (i) An eligible applicant has not signed a lease agreement for the unit; and
 - (ii) As provided in the moderate income housing unit agreement, the required number of units in the development are rented or, at the time the priority period expired, were available for rent as moderate income housing units.
 - (2) If, because an owner rents one or more units under paragraph (1) of this subsection, the number of units in the development that are rented as moderate income housing units is below the number required in the moderate income housing unit agreement. The owner shall offer to rent the next available unit to an eligible applicant and shall continue to do so until:
 - (i) The number of rental units equals the number required under the agreement; or
 - (ii) The Department cannot provide the owner with the name of an eligible applicant to rent the unit.
- (e) *Reports:*
 - (1) The owner of rental units shall submit a report to the Department, in a form prescribed by the Department, listing the occupants of moderate income housing units in the development and the rental rates charged, and certifying that the occupants are eligible under section 13.406.
 - (2) A report under this subsection shall be submitted monthly until the required number of moderate income housing units are occupied and annually thereafter.
- (f) *Condominium Conversions:*
 - (1) Before a rental development is converted to a condominium regime, the owner of the development shall give notice to the Department.
 - (2) The notice shall be given concurrently with the registration of the public offering statement with the Secretary of State under section 11-127 of the Real Property Article of the Annotated Code of Maryland.
 - (3) The owner shall execute and record a revised moderate income housing unit agreement governing the sale of the condominium units, which shall provide that the number of units for sale as moderate income housing units will be at least the number required under the approved final plan or site development plan.
- (g) *Authority to Assign.* When issuing a certificate of eligibility for a moderate income housing unit offered for rent, the Department may assign its responsibility for accepting applications and certifying eligibility under subsection 13.406(b) of this subtitle to an apartment complex that contains moderate income housing units offered for rent.
- (h) *Duties upon Assignment.* When the Department assigns responsibility under subsection (g) of this section:
 - (1) The Department shall annually notify the apartment complex of the applicable income limits and other eligibility criteria; and

- (2) The apartment complex shall, upon request of the Department, submit their application form, lease form, and leasing procedures to the Department for review and approval.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 74, 2007, § 1; C.B. 6, 2008, § 1; C.B. 10, 2011, § 1)

Sec. 13.406. - Eligibility to purchase or rent.

- (a) *Application Required.* Unless the Department assigns authority under subsection 13.405(g) of this subtitle, to be eligible to purchase or rent a moderate income housing unit, an individual shall apply to the Department.
- (b) *Qualifications.* An individual shall be eligible to purchase or rent a moderate income housing unit if the individual has a verifiable source of income, agrees to occupy the moderate income housing unit as the principal place of residence, and:
 - (1) Has applied to purchase a moderate income housing unit and has an annual household income equal to or less than 80 percent of the median income; or
 - (2) Has applied to rent a moderate income housing unit and has an annual household income equal to or less than 60 percent of the median income.
- (c) *Prospective Purchasers—Notification.* An individual seeking to purchase a moderate income housing unit shall apply to the Department for placement on the waiting list maintained by the Department. The Department shall maintain the waiting list by date of application and household size. When a moderate income housing unit becomes available, the Department shall notify each eligible purchaser identified in accordance with subsection (f) of this section of the availability.
- (d) *Same—Ability to Purchase.* An individual who is notified by the Department of the availability of a moderate income housing unit shall contact the Department within ten days to indicate that the individual is ready and willing to buy the moderate income housing unit.
- (e) *Same—Selection by Department:*
 - (1) The Department shall select an eligible purchaser to purchase each available moderate income housing unit.
 - (2) In selecting an eligible purchaser the Department shall give priority to those:
 - (i) With the lowest incomes who qualify for mortgage financing available at the time;
 - (ii) Who are first-time home buyers applying to purchase a moderate income unit;
 - (iii) Who reside and work in Howard County;
 - (iv) Who work in Howard County;
 - (v) Who reside in Howard County;
 - (vi) Who are employed by:
 - a. Howard County Government;
 - b. Board of Education of Howard County;
 - c. Howard Community College;
 - d. Howard County Library Board of Trustees;
 - e. Howard County Economic Development Authority;
 - f. Howard County Health Department;
 - g. Howard County Department of Social Services; or

- h. A nonprofit entity that is:
 - 1. Organized or operated for the purpose of providing health and human services to any group of persons residing in Howard County; and
 - 2. Designated as an entity eligible to receive this preference by Department regulations;
- (vii) Who are displaced, within one year prior to application for a certificate of eligibility, by the closure of a mobile home park adjacent to Route 1;
- (viii) Who are participants in the Federal Family Self-Sufficiency Program authorized by 42 U.S.C. 1437U and 24 C.F.R. Part 984 as administered by the Commission; and
- (ix) Who have been on the waiting list for the longest duration.
- (f) The Department shall adopt regulations establishing a process for pre-qualifying eligible purchasers from those identified by the Department under subsection (e) of this section and providing for a lottery to determine which of the prequalified eligible purchasers will have the option of purchasing a moderate income housing unit.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 9, 2004, § 1; C.B. 33, 2004; C.B. 22, 2006, § 2; C.B. 66, 2007, § 1, C.B. 74, 2007, § 1; C.B. 6, 2008, § 1; C.B. 10, 2011, § 1)

Editor's note— C.B. 10, 2011, § 1, adopted April 8, 2011, amended § 13.406 title to read as herein set out. Former § 13.406 title pertained to certificate of eligibility.

Sec. 13.406A. - Continuing Care Retirement Communities.

- (a) *Authority to Establish Subsidy Fund.* Instead of providing moderate income housing units as required by this subtitle or the zoning regulations, a Continuing Care Retirement Community that is certified by the Maryland Department of Aging may establish a subsidy fund:
 - (1) In accordance with regulations adopted by the Department; and
 - (2) To be used to defray the rental component of any fee charged for the occupancy of a moderate income housing unit such that the unit will be affordable to a household with an annual household income equal to or less than 60 percent of the median income.
- (b) *Authority to Assign.* The Department may assign its responsibility for determining if a person is eligible to occupy a moderate income housing unit within a Continuing Care Retirement Community.
- (c) *Duties upon Assignment.* When the Department assigns responsibility under subsection (b) of this section:
 - (1) The Department shall annually notify the Continuing Care Retirement Community of the applicable income limits and other eligibility criteria; and
 - (2) The Continuing Care Retirement Community shall, upon request of the Department, submit their application form, occupancy agreement form, and admissions and occupancy procedures to the Department for review and approval.

(C.B. 6, 2008, § 1)

Sec. 13.407. - Purchase or rent by designee.

- (a) *Option to Rent.* A designee shall have the option to rent a moderate income housing unit in a development.

- (b) *Commission Purchase Option.* The Commission has the option to buy, for its own programs or programs administered by it, the available moderate income housing units in a development before the end of the priority period for the initial or subsequent sale of the units.
- (c) *Designee Purchase Option.* A designee other than the Commission has the option to buy the available moderate income housing units in a development before the end of the priority period for the initial or subsequent sale of the units. The Department shall adopt regulations governing allocation of units if more than one designee applies to exercise an option under this subsection.
- (d) *Same Price Negotiation.* If a designee exercises its purchase option, the designee may make the purchase for the initial sale price per unit or negotiate a different price for a larger or enhanced unit.
- (e) *Assignment of Option.* An option under this section may be assigned to persons of moderate income who are eligible for housing assistance under any Federal, State or local program.
- (f) *Notice of Availability.* The Department shall notify all designees promptly after receiving notice from a seller of the availability of moderate income housing units. Within ten days of receiving notice from the Department, the designee shall notify the seller and the Department of its intent to exercise its option.
- (g) *Limit on Rental Units:*
 - (1) If moderate income housing units are sold or leased to a designee other than the Commission, the designee may not offer for rent more than 40 percent of the units. The 40 percent limit does not apply to moderate income housing units in planned senior communities or age-restricted adult housing developments.
 - (2) If the Commission is the designee or if the County retains ownership of moderate income housing units, the Commission or the County may not offer for rent more than 25 percent of the units. The 25 percent limit does not apply to moderate income housing units in planned senior communities or age-restricted adult housing developments.
- (h) *Units Offered through Department.* A moderate income housing unit offered for sale or rent by a designee must be offered through the Department to holders of a certificate of eligibility. Except as provided in subsection (j) of this section the moderate income housing unit must be offered at a price or rental rate not to exceed the initial price or rental rate established under section 13.403 of this subtitle.
- (i) *Units to Be Maintained.* A designee offering a moderate income housing unit for rent shall maintain the unit in good condition at all times. The designee shall comply with any applicable home owner association restrictions or covenants concerning improvements to or maintenance of the unit.
- (j) *Co-Ownership Purchases:*
 - (1) If a designee purchases a moderate income housing unit the designee may sell the unit without restriction as to price if the designee enters into a written agreement with the Department providing that:
 - (i) The designee will sell a co-ownership interest in the unit to a holder of a certificate of eligibility for a price not to exceed the initial sale price;
 - (ii) Upon resale of the unit, any net proceeds received by the designee shall be used to purchase a unit for resale or rent to an eligible purchaser or another designee;
 - (iii) The designee may resell its interest in the unit only if the development includes, at the time of resale by the designee, at least the minimum number of moderate income housing units required by the zoning regulations when the development was constructed.
 - (2) The resale of a unit subject to a co-ownership agreement is not subject to the restrictions of this subtitle.
 - (3) The Department shall prepare a standard agreement to be used by a designee that wishes to enter into an agreement under this subsection. The standard agreement shall not be used until

approved by resolution of the County Council. If the Council fails to act on the standard agreement within 60 days after receiving it, the failure to act constitutes approval.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 22, 2006, § 2; C.B. 74, 2007, § 1)

Sec. 13.408. - Foreclosures; waiver.

- (a) *Notice to Department.* Before a moderate income housing unit is sold in foreclosure proceedings, the person authorized to make the sale shall notify the Department by certified mail of the time, place, and terms of the sale. The notice shall be set not later than ten days before the date of the sale.
- (b) *Restrictions Terminate after Sale.* If a moderate income housing unit is sold in foreclosure proceedings, the restrictions of this subtitle shall terminate and, if notice was received under subsection (a) of this section, the County Executive shall execute a release of the covenants on the property. Proceeds of the sale of the moderate income housing unit are paid to the County as follows:
 - (1) For a unit originally offered for sale, all proceeds in excess of the initial sale price at the time of the foreclosure sale, plus the reasonable and actual costs and fees of foreclosure; and
 - (2) For a rental unit, all proceeds attributable to the unit that are in excess of the initial sale price that would have been permitted if the unit had been originally offered for sale, as determined by the Department, plus the reasonable and actual costs and fees of foreclosure attributable to the rental unit.
- (c) *Variance or Waiver of Restrictions.* The County Executive may vary or waive the restrictions on the resale price or subsequent rental rates for a moderate income housing unit sold at foreclosure sale if the restrictions conflict with the requirements of a Federal or State housing program that affords eligible households the opportunity to buy or rent a moderate income housing unit.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 22, 2006, § 2)

Sec. 13.409. - Regulations.

The Department shall adopt, in accordance with the Administrative Procedure Act, the regulations necessary to implement and administer this subtitle, including regulations to establish:

- (1) The form of a co-ownership agreement;
- (2) Criteria for determining the eligibility of prospective purchasers or renters of moderate income housing units;
- (3) A process for the selection and notification of eligible purchasers;
- (4) Standard terms of moderate income housing unit agreements;
- (5) Criteria for determining the resale price of a moderate income housing unit and procedures for the subsequent resale;
- (6) Criteria for determining designees;
- (7) Minimum specifications for moderate income housing units;
- (8) Criteria governing allocation of units if more than one designee applies to exercise an option under subsection 13.407(c) of this subtitle;
- (9) A co-ownership program for designees in accordance with subsection 13.407(j) of this subtitle;
- (10) Criteria for the sale or rental of a moderate income housing unit under section 13.407 of this subtitle;

- (11) Criteria for administering the moderate income housing unit community revitalization program; and
- (12) Criteria for subsidy funds created by Continuing Care Retirement Communities under subsection 13.402(l) of this subtitle.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 66, 2003, § 1; C.B. 22, 2006; C.B. 74, 2007, § 1)

Sec. 13.410. - Appeals.

A party aggrieved by a decision of the Department issued under this subtitle may, within 30 days of the decision, appeal the decision to the Howard County Board of Appeals according to its rules of procedure.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001)

SUBTITLE 5. - TENANT RETROFIT LOAN AND GRANT PROGRAM

Sec. 13.500. - Definitions.

In this subtitle, the following words have the meanings indicated:

- (a) *Annual income* means gross income received during the previous 12 months from all sources less:
 - (1) Unusual or temporary income items; and
 - (2) Unusual expenses of a long-term nature, such as extraordinary medical, physical or mental rehabilitation expenses or special education expenses.
- (b) *Applicant* means an individual or individuals applying for a loan or grant.
- (c) *Grant* means a grant of money made by the Department under this subtitle.
- (d) *Loan* means a loan of money made by the Department under this subtitle.
- (e) *Median income* means the median annual income as set from time to time by the United States Department of Housing and Urban Development for section 8 housing programs in the Baltimore Metropolitan Statistical Area, as adjusted for household size.
- (f) *Department* means the Department of Housing and Community Development.
- (g) *Program* means the tenant retrofit loan and grant program.
- (h) *Qualified tenant* means an Applicant who:
 - (1) Is or resides with a person with a disability as defined by the Fair Housing Amendments Act of 1988 (42 U.S.C. 361);
 - (2) Has a lease to rent and occupy a residence in Howard County for at least one year following approval of the loan or grant; and
 - (3) Meets the eligibility requirements of this subtitle.
- (i) *Retrofit improvements* means reasonable modifications of existing premises occupied or to be occupied by a person with a disability that are necessary to afford the person with a disability full enjoyment of the premises. Retrofit improvements may include, but are not limited to:
 - (1) The installation of grabbars, ramps, and electrical aids for hearing and visually impaired tenants; and

(2) The relocation or modification of doorways, fixtures, and appliances for accessibility.

- (j) *Restoration* means modification of retrofit improvements to restore the interior of the premises to the condition that existed before the retrofit improvements, reasonable wear and tear excepted.

(C.B. 61, 1991; C.B. 59, 2001; C.B. 14, 2014, § 1)

Sec. 13.501. - Establishment.

There is a tenant retrofit loan and grant program administered by the Department of Housing and Community Development.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.502. - Purpose.

The purposes of the program are to:

- (a) Provide financial assistance to qualified tenants who cannot otherwise finance retrofit improvements to rental units; and
- (b) Increase the supply of affordable, accessible and usable housing in Howard County.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.503. - Loans and grants; source of funds.

- (a) The Department may make loans and grants to qualified tenants in accordance with the provisions of this subtitle.
- (b) The Department may make loans and grants from monies appropriated to the program in the budget.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.504. - Eligibility.

- (a) To be eligible to receive a loan or grant, an Applicant shall be a qualified tenant who meets the requirements of this section.
- (b) To be eligible to receive a loan, the Applicant's annual income may not exceed 110 percent of median income.
- (c) To be eligible to receive a grant, the Applicant's annual income may not exceed 40 percent of median income.
- (d) The Applicant shall provide evidence, satisfactory to the Department, that the Applicant is otherwise unable to afford financing for the retrofit improvements and restoration costs.
- (e) The Applicant shall meet reasonable minimum requirements for creditworthiness, as established by the Department.

Sec. 13.505. - Use of loan and grant funds.

A loan or grant may be used for:

- (a) The costs of retrofit improvements to a residence rented by a qualified tenant and occupied or to be occupied by a handicapped person; and
- (b) If lawfully required by the qualified tenant's landlord, the costs of restoration of the residence.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.506. - Loan and grant amount.

- (a) Except as provided in subsection (b), the amount of a loan or grant may not exceed the lesser of:
 - (1) The estimated cost of the retrofit improvements or restoration, as applicable; or
 - (2) Five thousand dollars.
- (b) A loan or grant may exceed \$5,000.00 only upon the review and approval of the Housing and Community Development Board.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.507. - Loan terms and conditions.

- (a) Except as provided in subsection (b), a loan shall be repaid on a monthly basis with interest at a rate of five percent per annum over a period not to exceed five years.
- (b) For qualified tenants whose annual income does not exceed 80 percent of the median income, a loan may include terms that the Department deems necessary to make the costs of the retrofit improvements affordable to the qualified tenant, including a reduced interest rate and deferred payment of principal and interest.
- (c) In order to assure repayment of a loan, the Department may require security for the loan in the form of collateral or a third-party guaranty.
- (d) The Department shall set such other terms and conditions of a loan as are reasonable and necessary.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.508. - Retrofit improvements.

- (a) The retrofit improvements shall be approved by the Department and the qualified tenant's landlord. The retrofit improvements shall comply with all applicable Federal, State, and local housing and building codes, including without limitation the Rental Housing Code of Howard County.
- (b) The retrofit improvement work shall be performed by a qualified contractor approved by the Department.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.509. - Application procedures.

- (a) An application for a loan or grant shall be made to the Department on a form prescribed by the Department.
- (b) Together with the application, an Applicant shall submit to the Department:
 - (1) The Applicant's lease for the residence;

- (2) The Applicant's most recent Federal income tax return; and
- (3) Any other information or documents the Department may require.
- (c) Prior to receiving a loan or grant, the Applicant shall submit to the Department for its review and approval a copy of the contract for the retrofit improvement work.
- (d) The Department may charge fees to cover the costs of processing applications, servicing loans, or other costs incurred by the County in connection with a loan or grant.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.510. - Documents.

- (a) A loan shall be evidenced by a promissory note from the qualified tenant to Howard County, Maryland, in a form prescribed by the Department. Loan disbursements shall be governed by a loan agreement by and between the qualified tenant and Howard County, Maryland, in a form prescribed by the Department.
- (b) A grant shall be evidenced by a grant agreement by and between the qualified tenant and Howard County, Maryland. The grant agreement shall provide:
 - (1) For disbursements of the grant; and
 - (2) That if the qualified tenant fails to comply with the terms and conditions of the grant, the qualified tenant shall repay the grant to the County with interest at the prevailing legal rate of interest.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.511. - Powers of department.

- (a) Subject to the approval of the County Executive, and notwithstanding any other provision of this Code, the Department may enforce the terms of a loan or grant by:
 - (1) Obtaining and enforcing judgments;
 - (2) Foreclosing on or repossessing secured property;
 - (3) Acquiring title to property foreclosed upon or repossessed, or accepting conveyances in lieu of foreclosure or repossession, and conveying, selling or leasing property so acquired;
 - (4) Assigning debts for value; and
 - (5) Releasing security interests when paid.
- (b) The Department, with the prior approval of the County Executive, may at any time modify the terms and conditions of a loan, including the rate of interest, the time of payment, or the amount of payment, in order to ensure repayment of the loan or to achieve the purposes of this subtitle.
- (c) Subject to the approval of the County Executive, the Department may enter into contracts with third parties to make or service loans on behalf of the Department.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.512. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 61, 1991; C.B. 59, 2001)

SUBTITLE 6. - HOUSING INITIATIVES LOAN PROGRAM

Sec. 13.600. - Definitions.

In this subtitle, the following words have the meanings indicated:

- (a) *Group home* means:
 - (1) A housing facility:
 - (i) Offering supportive services or supervisory personnel to individuals with special housing needs; and
 - (ii) Providing common, shared, or independent living, dining, kitchen, sanitary, and sleeping facilities.
 - (2) A group home need not include all the facilities described in (1) above if it provides emergency and temporary housing facilities for homeless individuals.
- (b) *Group home sponsor* means a borrower under the program who owns and operates a group home and who is:
 - (1) A nonprofit organization;
 - (2) An individual;
 - (3) A limited partnership in which each of the general partners qualifies as a nonprofit organization; or
 - (4) A limited partnership which is a wholly owned subsidiary of a nonprofit organization and:
 - (i) Was formed for the purpose of undertaking a group home project that is eligible in whole or in part for Federal programs or incentives, including low-income housing tax credits; and
 - (ii) Where a nonprofit organization is managing the project or will be the recipient of net cash flow or the residual sale proceeds upon sale of the group home.
- (c) *Individual of low income* means an individual whose annual income is less than 50 percent of the area median annual income, as determined by the Department.
- (d) *Individual of moderate income* means an individual whose annual income is less than 80 percent of the area median annual income, as determined by the Department.
- (e) *Loan* means a loan of money made by the Department pursuant to this subtitle.
- (f) *Modifications* means improvement, repair, renovation, or rehabilitation of an existing building to make it suitable for use as a group home or to eliminate any housing, building, fire, safety, health, or other code violations.
- (g) *Nonprofit organization* means a corporation, foundation, or other legal entity, no part of the net earnings of which inures to the benefit of any private shareholder or individual holding any interest in the entity.
- (h) *Department* means the Department of Housing and Community Development.
- (i) *Operating costs* means costs incurred for the maintenance or operation of a completed group home, including capital reserves or payments of principal and interest on any prior mortgage loan secured by the group home.
- (j) *Program* means the housing initiatives loan program.

(C.B. 21, 1992; C.B. 31, 1994; C.B. 59, 2001)

Sec. 13.601. - Establishment.

There is a housing initiatives loan program administered by the Department of Housing and Community Development.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.602. - Purpose.

The purpose of the program is to provide loans to group home sponsors to finance the costs of acquiring, constructing, and modifying buildings which will provide group homes for low-income elderly, and persons with disabilities, and other citizens of the County with special housing needs.

(C.B. 21, 1992; C.B. 59, 2001; C.B. 14, 2014, § 1)

Sec. 13.603. - Loans; source of funds.

The Department may make loans to group home sponsors in accordance with the provisions of this subtitle from monies appropriated to the program in the County budget.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.604. - Eligible group home sponsors.

- (a) A group home sponsor shall be in good standing and qualified to do business in Maryland and shall have the capacity and all necessary legal authorization to incur the obligations of the loan.
- (b) A group home sponsor shall demonstrate:
 - (1) Financial credibility and stability;
 - (2) The capability to successfully complete the acquisition, construction, or modifications of the group home in a timely and satisfactory manner; and
 - (3) The ability to manage the group home.
- (c) A group home sponsor shall provide evidence that:
 - (1) The sponsor is unable to obtain the financing necessary for the group home on reasonable terms through normal lending channels; and
 - (2) Any financing being obtained outside the program is assured and acceptable to the County.
- (d) A sponsor shall agree in writing to comply with the requirements of this subtitle.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.605. - Eligible group homes.

A group home shall:

- (a) Be located within Howard County, Maryland;
- (b) Be owned by the group home sponsor in fee simple or leasehold estate with title and term of the leasehold estate acceptable to the County;

- (c) Be in compliance with all applicable zoning and building codes and other legal requirements;
- (d) Be economically feasible so that it is reasonable to anticipate that the loan can be repaid under loan terms that are acceptable to the County.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.606. - Use of loan funds.

A loan may be used to finance, in whole or in part, any of the following:

- (a) The site acquisition and construction costs as well as a permanent mortgage for the group home;
- (b) The purchase of an existing building to provide a group home;
- (c) Modifications to a group home;
- (d) Closing costs associated with the construction or purchase of a group home;
- (e) Engineering, legal, title, survey or architectural fees associated with financing real property development;
- (f) Other development costs deemed reasonable by the County; and
- (g) Operating costs of a group home.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.607. - Loan provisions.

- (a) *Terms of Loan—In General.* Except as provided in subsection (b) below, a loan shall be repaid with interest at a rate equivalent to the County's cost of funds as determined from time to time by the Director of Finance, for a term of no more than 30 years when the County is the primary lender and not more than ten years when the County is not the primary lender. Payments shall be made monthly and applied to escrows, if applicable, interest and principal, in that order.
- (b) *Terms of Loan Exceptions to General Terms.* The Department may agree to a lower interest rate, longer term, or deferred payments of principal or interest if the County Executive determines that such terms are necessary in order to make the group home affordable for use by individuals of low or moderate income.
- (c) *Mortgage Lien Secures Loan.* Except as provided in subsection (d) below, a loan shall be secured by a mortgage lien, which may be subordinate to other mortgage liens.
- (d) *Loan for Operating Costs.* A loan for operating costs shall be secured by a loan and security agreement, and the loan proceeds shall be deposited in an interest-bearing account subject to the control of the County.
- (e) *Repayment of Loan.* A loan shall be repaid in full no later than the first to occur of:
 - (1) The maturity date of the loan;
 - (2) The date of any sale or transfer of the group home or a controlling interest in a group home; or
 - (3) The discontinuance of use as a group home.
- (f) *Insurance.* The group home sponsor shall maintain fire and extended coverage insurance, comprehensive general liability insurance, and such other insurance upon such terms and conditions as the department may require.

- (g) *Other Terms and Conditions.* The Department shall set such other terms and conditions of a loan as are reasonable or necessary and consistent with the intent of this subtitle.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.608. - Limitations on income.

- (a) A group home sponsor may be subject to a limitation on the amount of income that the group home sponsor may retain from the project.
- (b) The limitation, at the Department's discretion, may take the form of:
- (1) A requirement that a portion of the group home sponsor's return on equity shall be paid to the County;
 - (2) A requirement that the group home sponsor shall pay the County a portion of the sales receipts on the group home at the time of sale; or
 - (3) Other arrangements acceptable to the Department.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.609. - Loan applications and fees.

- (a) Loan applications shall be made upon forms prescribed by the Department and shall include sufficient information and documentation to enable the Department to evaluate the eligibility of the group home sponsor and the group home.
- (b) The Department may charge fees to cover the costs of processing applications, originating and servicing loans, or other costs incurred by the County in connections with an application or loan.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.610. - Loan approval.

- (a) An eligible loan application shall be submitted by the Department to the Housing and Community Development Board for review and recommendation to the County Executive for approval or disapproval of the loan and the terms of the loan. If the Board fails to act upon an application within 45 days of its submission to the Board, the application shall be forwarded to the County Executive for approval or disapproval, without any recommendation from the Board.
- (b) The County Executive shall approve or disapprove a loan and its terms, taking into consideration the following factors:
- (1) The number, income, and special needs of individuals who ultimately will benefit from the assistance provided under the program;
 - (2) The economic feasibility of the group home;
 - (3) The geographic distribution of group homes assisted under the program;
 - (4) The availability of funds appropriated for the program; and
 - (5) Other factors that may be relevant.
- (c) Approval of a loan shall be evidenced by a commitment letter from the County to the group home sponsor, which commitment letter shall become effective when the group home sponsor accepts the terms of the commitment letter by executing it and returning it to the Department.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.611. - Documents and closing.

- (a) The Department shall provide the group home sponsor with copies of relevant loan documents prepared by the Office of Law.
- (b) The loan shall be closed at a time and place acceptable to the Department and to the Office of Law.
- (c) The County Executive may designate the Chief Administrative Officer, the Deputy Chief Administrative Officer, or the Director of Housing and Community Development to execute the loan documents and take such other action on behalf of the County Executive as is required or permitted to be taken by the County Executive pursuant to this subtitle.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.612. - Powers and duties of department.

- (a) Subject to the approval of the County Executive, the Department shall:
 - (1) Manage, supervise and administer the program; and
 - (2) Propose rules, policies and procedures to implement the program in conformance with this subtitle, including:
 - (i) Application and loan processing procedures; and
 - (ii) Monitoring and enforcement procedures.
- (b) Any rules proposed pursuant to this subtitle shall be submitted to the County Council for approval by resolution.
- (c) Subject to the approval of the County Executive, and notwithstanding any other provisions of this Code, the Department may enforce the term of a loan by:
 - (1) Foreclosing on or repossessing secured property;
 - (2) Obtaining and enforcing judgments;
 - (3) Acquiring title to property foreclosed upon or repossessed, or accepting conveyances in lieu of foreclosure, and conveying, selling or leasing property after acquisition;
 - (4) Assigning loans or mortgages for value; and
 - (5) Releasing mortgages when paid.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.613. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 21, 1992; C.B. 59, 2001)

SUBTITLE 7. - RENTAL HOUSING EXPENSE ASSISTANCE PROGRAM

Sec. 13.700. - Purpose.

The purposes of the program are to:

- (a) Increase the supply of decent, safe and sanitary rental housing for occupancy by households of low or moderate income; and
- (b) Provide financial assistance for certain costs of constructing or rehabilitating rental housing so that it is affordable by households of low or moderate income.

(C.B. 82, 1989; C.B. 59, 2001)

Sec. 13.701. - Establishment.

There is a rental housing expense assistance program administered by the Department of Housing and Community Development.

(C.B. 82, 1989; C.B. 59, 2001)

Sec. 13.702. - Definitions.

In this subtitle the following words have the meaning indicated.

- (a) *Financial assistance* means a grant.
- (b) *Grant* means a grant of money made by the Department under this subtitle.
- (c) *Household* means an individual or a group of individuals who permanently reside in the same dwelling unit.
- (d) *Household of low income* means a household whose annual income is less than 50 percent of the median income as of the date of initial occupancy of the unit.
- (e) *Household of moderate income* means a household whose annual income:
 - (1) Is less than 80 percent of the median income as of the date of initial occupancy of a unit; and
 - (2) During occupancy of the same unit, is less than the amount the Department determines will allow the household to pay the lowest rent charged for a market rate unit of the same size and amenities in the project.
- (f) *Median income* means the area median income, as determined by the Department, with adjustments for household size.
- (g) *Department* means the Department of Housing and Community Development.
- (h) *Rental housing project or project* means any project or undertaking for the construction or rehabilitation of buildings and improvements, or any portion thereof, to be rented for residential purposes.
- (i) *Sponsor* means any person, partnership, corporation, association, or other legal entity that applies for financial assistance under this subtitle.

(C.B. 82, 1989; C.B. 59, 2001)

Sec. 13.703. - Financial assistance; source of funds.

- (a) The Department may provide financial assistance to sponsors of rental housing projects, a portion of which are to be occupied by households of low or moderate income in accordance with the provisions of this subtitle.
- (b) The Department may provide financial assistance from monies appropriated to the program in the budget.

- (c) The financial assistance shall be in the form of a grant in an amount up to \$4,000.00 for each unit in the project which the sponsor agrees to rent to households of low or moderate income. The amount of the grant shall not exceed the amount the County Executive determines is necessary to make the rental housing affordable to households of low or moderate income.
- (d) The County Executive is authorized and empowered to appropriate funds to enable the provision of financial assistance under this subtitle in the current and in subsequent fiscal years.

(C.B. 82, 1989; C.B. 9, 1992; C.B. 59, 2001)

Sec. 13.704. - Use of funds.

The financial assistance may be used by the sponsor to pay any of the following costs of a project:

- (a) Building permit fees imposed under subsection 3.100.II.22.114.2 of this Code;
- (b) Electrical inspection fees imposed under subsections 3.215(h) and (i) of this Code;
- (c) Plumbing, gasfitting and on-site utility permit fees imposed under subsection 3.305(k) of this Code;
- (d) Grading permit fees imposed under subsection 3.404(c) of this Code;
- (e) Water and sewer connection charges imposed under section 20.308 of this Code;
- (f) Water and sewer in-aid-of construction charges imposed under section 20.311 of this Code; and
- (g) The building excise tax imposed under subtitle 11 of title 20 of the Howard County Code.

(C.B. 82, 1989; C.B. 9, 1992; C.B. 59, 2001)

Sec. 13.705. - Rental of units.

- (a) As a condition of the financial assistance, the sponsor and subsequent owners of the project shall agree to rent not less than 20 percent of the units in the project at below market rents, as determined by the Department, to households of low and moderate income for the period specified in subsection (b) as follows:
 - (1) For apartment projects:
 - (i) Not less than ten percent of the units of the project shall be rented to households of low income; and
 - (ii) Not less than ten percent of the units of the project shall be rented to households of moderate income; or
 - (2) For single-family attached projects:
 - (i) Not less than five percent of the units of the project shall be rented to households of low income; and
 - (ii) Not less than 15 percent of the units of the project shall be rented to households of moderate income.
- (b) The owner shall rent units in accordance with subsection (a) until:
 - (1) Not less than 20 years has elapsed after the date of which 50 percent of the units in the project are initially occupied; or

- (2) The County Executive consents in writing to terminate the restrictions, in whole or in part, provided that the County Executive finds that the application of the rental requirement to the particular project would be contrary to the intent of this subtitle.
- (c) The owner of a project shall submit to the Department:
 - (1) Annually, or at any time requested by the Department, evidence of the eligibility of all tenants occupying units for low or moderate income; and
 - (2) Such other information relating to the financial assistance as the Department may specify.
- (d) If the Department reasonably suspects that the owner has violated any of the terms or conditions of the financial assistance or of this subtitle, the owner of a project shall permit the Department or any of its employees or agents to inspect the regulated units in the project and to audit the owner's records at any reasonable time.
- (e) If the owner of a project rents a unit to a household of low income and during the household's occupancy of the unit the household's annual income exceeds the income limits for a household of low income but does not exceed the income limits for a household of moderate income, the owner shall:
 - (1) Deem the household a household of moderate income; and
 - (2) Rent the next unit vacated by a household of moderate income to a household of low income as necessary to meet the rental requirement of subsection (a) of this section.
- (f) If the owner of a project rents a unit to a household of moderate income, and during the household's occupancy of the unit the household's annual income exceeds the income limits for a household of moderate income, the owner shall rent the next available unit in the project to a household of moderate income as necessary to meet the rental requirement of subsection (a) of this section.

(C.B. 82, 1989; C.B. 59, 2001)

Sec. 13.706. - Grant terms and conditions.

- (a) The Department, subject to the approval of the County Executive, shall set such other terms and conditions of a grant as are reasonable or necessary consistent with the intent of this subtitle.
- (b) If a sponsor fails to comply with any of the terms or conditions of a grant, it shall repay the grant to the County with interest. The interest shall be calculated at the legal rate of interest as set forth in subsection 11-107(a) of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland.

(C.B. 82, 1989; C.B. 59, 2001)

Sec. 13.707. - Approval of applications.

- (a) The Department shall submit each eligible application to the Housing and Community Development Board for review. The Board shall recommend to the County Executive approval or disapproval of the grant and the terms of the grant. If the Board fails to act upon an application within 45 days of its submission to the Board, the application shall be forwarded to the County Executive for approval or disapproval.
- (b) The County Executive shall consider the following factors in deciding whether to approve or disapprove an application for financial assistance:
 - (1) The number, size, and income of households of low or moderate income who ultimately will benefit from the assistance provided under the program;
 - (2) The economic feasibility of the project;

- (3) The geographic distribution of projects assisted under the program;
- (4) The availability of funds appropriated for the program; and
- (5) Other factors that are consistent with the intent of this subtitle.

(C.B. 82, 1989; C.B. 59, 2001)

Sec. 13.708. - Powers and duties of Department.

- (a) The Department shall:
 - (1) Manage, supervise and administer the program; and
 - (2) Subject to the approval of the County Executive, adopt rules, policies and procedures to implement the program in conformance with this subtitle, including:
 - (i) Application and financial assistance processing procedures;
 - (ii) Formula for determining rents to be charged to families of low or moderate income; and
 - (iii) Monitoring and enforcement procedures to ensure that the rental units produced under the program are occupied by families of low or moderate income in accordance with this subtitle.
- (b) Any rules or amendments to rules adopted pursuant to this subtitle shall be promulgated in accordance with the Administrative Procedure Act, title 2, subtitle 1 of this Code and, in addition, shall be subject to the following procedures:
 - (1) Public notice of the availability of rules or amendments to rules shall be advertised once in two newspapers of general circulation in the County;
 - (2) Any rules or amendments to rules must be available for review and comment by interested citizens for a period of not less than 30 days from the date of the publication of the public notice;
 - (3) Any rules or amendments to rules must be delivered to the Executive Secretary of the County Council before the close of business on the date of publication of the public notice;
 - (4) Not less than 15 days following the date of the publication of the public notice, the Department of Housing and Community Development shall hold a public hearing on any rules or amendments to rules.

(C.B. 82, 1989; C.B. 59, 2001)

SUBTITLE 8. - RENTAL HOUSING DEVELOPMENT PROGRAM

Sec. 13.800. - Definitions.

In this subtitle the following words have the meanings indicated:

- (a) *Annual income* means gross income received during the previous 12 months from all sources less:
 - (1) Unusual or temporary income items; and
 - (2) Unusual expenses of a long-term nature, such as extraordinary medical, physical or mental rehabilitation expenses or special education expenses.
- (b) *Closing costs* means:

- (1) Financing costs such as a credit report fee, title examination fee, loan origination fee, title insurance fee, application fee, survey fee, recording fees, State and local transfer taxes, and documentary stamps; and
 - (2) Prepaid expenses such as property taxes, ground rent, hazard insurance, and any mortgage insurance premiums to be paid at closing.
- (c) *Development costs* means costs incurred for the acquisition, construction or rehabilitation of a rental housing project, including costs of:
- (1) Necessary studies, surveys, plans, and specifications;
 - (2) Architectural, engineering, or other special services;
 - (3) Acquisition of land and improvements;
 - (4) Site preparation and development;
 - (5) Construction, reconstruction, and rehabilitation;
 - (6) Acquisition of necessary machinery, equipment, and furnishings;
 - (7) Initial occupancy expenses of the project;
 - (8) Indemnity and surety bonds and premiums on insurance; and
 - (9) Other fees and relocation expenses.
- (d) *Gross rent* means the annual rent payable by a tenant to the sponsor for the occupancy of a unit in a rental housing project. Gross rent does not include:
- (1) Reasonable charges for utilities or other services provided by the sponsor to the household; or
 - (2) Any payment under section 8 of the United States Housing Act of 1937 or any comparable rental assistance program.
- (e) *Household* means an individual or a group of individuals who permanently reside in the same dwelling unit.
- (f) *Household of low income* means a household whose annual income is less than 50 percent of the median income as of the date of initial occupancy of a unit. For any project qualifying for low income housing tax credits under section 42 of the Internal Revenue Code, a household of low income shall mean a household whose annual income meets the income limitations set forth in 26 U.S.C. 42(g), as amended.
- (g) *Household of moderate income* means a household whose annual income:
- (1) Is less than 80 percent of the median income as of the date of initial occupancy of a unit; and
 - (2) During occupancy of the same unit is less, when multiplied by 30 percent, than the lowest annual market rate rent in the project for a unit of the same size and amenities.
- (h) *Imputed income limitation* means the income limitation that would apply under subsection 13.807(a) to a household of low or moderate income if the number of individuals in the household were as follows:
- (1) In case of a unit that does not have a separate bedroom, one individual; or
 - (2) In the case of a unit that has one or more separate bedrooms, 1.5 individuals for each separate bedroom.
- (i) *Loan* means a loan of money made by the Department under this subtitle.
- (j) *Median income* means the area median annual income, as determined by the Department, with adjustments for household size.

- (k) *Monthly income* means one-twelfth of annual income.
- (l) *Department* means the Department of Housing and Community Development.
- (m) *Operating costs* means costs incurred for the maintenance or operation of a completed project, including payments of principal and interest on any prior mortgage loan selected by the project.
- (n) *Program* means the rental housing development plan.
- (o) *Rental housing project* or *project* means a project or undertaking for the construction or rehabilitation of buildings and improvements, or any portion thereof, to be rented for residential purposes.
- (p) *Sponsor* means a person, partnership, corporation, association, or other legal entity that applies for a loan under this subtitle. "Sponsor" includes any subsequent owner of the project.
- (q) *Unit* means any rental accommodation containing facilities for sleeping separate and distinct from other rental units. A unit may share living, dining, sanitation, and cooking facilities.

(C.B. 115, 1989; C.B. 14, 1995; C.B. 59, 2001)

Sec. 13.801. - Establishment.

There is a rental housing development program administered by the Department of Housing and Community Development.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.802. - Purpose.

The purposes of the program are to:

- (a) Increase the supply of decent, safe and sanitary rental housing for occupancy by households of low and moderate income; and
- (b) Provide financial assistance for certain costs of acquiring, constructing, rehabilitating or operating rental housing so that it is affordable by households of low and moderate income.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.803. - Loans; source of funds.

- (a) The Department may make loans to sponsors of rental housing projects, a portion of which are to be occupied by households of low or moderate income in accordance with the provisions of this subtitle.
- (b) The Department may make loans from monies appropriated to the program in the budget.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.804. - Eligible sponsors.

- (a) A sponsor shall be in good standing and qualified to do business in Maryland and shall have the legal capacity and all necessary legal authorization to incur the obligations of the loan.
- (b) A sponsor shall demonstrate:

- (1) Financial credibility and stability;
 - (2) The capability of achieving successful completion of the project in a timely and satisfactory manner;
 - (3) The ability to manage the project.
- (c) A sponsor shall provide evidence that any financing being obtained outside the program is assured and acceptable to the County.
- (d) A sponsor shall agree in writing to comply with the requirements of this subtitle.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.805. - Eligible projects.

A project shall:

- (a) Be located within Howard County, Maryland;
- (b) Be owned by the sponsor in fee simple or leasehold estate with title and term of the leasehold estate acceptable to the County;
- (c) Be in compliance with all applicable zoning and building codes and other legal requirements;
- (d) Be economically feasible so that it is reasonable to anticipate that the loan can be repaid under loan terms that are acceptable to the County.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.806. - Use of loan funds.

A loan may be used:

- (a) For capital assistance to finance all or a portion of the development costs of a rental housing project; or
- (b) For operating assistance to pay the portion of the operating costs of a rental housing project that the Department determines cannot be paid out of project revenues; or
- (c) For settlement expense assistance to pay closing costs for the acquisition, rehabilitation, or construction of a rental housing project if the sponsor demonstrates that there are no other funding sources available to the sponsor to pay the closing costs.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.807. - Rental of units.

- (a) As a condition of the loan, the sponsor shall agree to rent a portion of the units in the project to households of low or moderate income for the period specified in subsection (c), including:
- (1) For apartment projects:
 - (i) Not less than ten percent of the units of the project shall be rented to households of low income; and
 - (ii) Not less than ten percent of the units of the project shall be rented to households of moderate income; or
 - (2) For single-family attached projects:

- (i) Not less than five percent of the units of the project shall be rented to households of low income; and
 - (ii) Not less than 15 percent of the units of the project shall be rented to households of moderate income.
- (b) The gross rent charged to a household of low or moderate income may not exceed the lesser of:
 - (1) 30 percent of the imputed income limitation applicable to the unit; or
 - (2) The lowest gross rent charged for a market rate unit of the same size and amenities in the project.
- (c) The rental requirements of subsections (a) and (b) shall expire:
 - (1) Not less than 20 years after the date on which 50 percent of the units of the project are initially occupied; or
 - (2) Upon the written consent of the County Executive, provided that the County Executive finds that the application of the rental requirement to the particular project would be contrary to the public interest.
- (d) The sponsor shall submit to the Department:
 - (1) Annually, or at any time requested by the Department, evidence of the annual incomes of all households of low or moderate income; and
 - (2) Such other information relating to the project or the loan as the Department may specify.
- (e) The sponsor shall permit the Department or any of its employees or agents to inspect the project and to audit the owner's records at any reasonable time.
- (f) If a sponsor rents a unit to a household of low income, and during the household's occupancy of the unit the household's annual income exceeds the income limits for a household of low income but does not exceed the income limits for a household of moderate income, the sponsor shall:
 - (1) Deem the household a household of moderate income; and
 - (2) Rent the next available unit in the project to a household of low income as necessary to meet the rental requirements of subsection (a) of this section.
- (g) If the sponsor rents a unit to a household of moderate income, and during the household's occupancy of the unit the household's annual income exceeds the income limits for a household of moderate income, the sponsor shall rent the next available unit to a household of moderate income as necessary to meet the rental requirement of subsection (a) of this section.

(C.B. 115, 1989; C.B. 14, 1995; C.B. 59, 2001)

Sec. 13.808. - Loan terms and conditions.

- (a) Except as provided in subsection (b), a loan shall be repaid with interest at a rate and for a term determined by the Department based on the underwriting of the project, and payments shall be made monthly and applied to escrows, when applicable, interest and principal, in that order.
- (b) The Department may agree to deferred payments of principal and interest if the County Executive determines that such terms are necessary in order to make the rental housing affordable to households of low or moderate income.
- (c)
 - (1) A capital assistance loan and a settlement expense assistance loan shall be secured by a mortgage lien, which may be subordinate to other mortgage liens.
 - (2) An operating assistance loan shall be secured by a loan and security agreement, and the loan proceeds shall be deposited in an interest-bearing account subject to the control of the County.

- (d) Both during construction and upon occupancy of a project, the sponsor shall maintain fire and extended coverage insurance, comprehensive general liability insurance, and such other insurance upon such terms and conditions as the Department may require.
- (e) In order to assure completion of the construction or rehabilitation of a project, or repayment of a loan, the Department may require additional security or collateral, including but not limited to personal guarantees, performance and payment bonds, letters of credit, cash escrows, or payment of syndication proceeds.
- (f) A sponsor may not sell, transfer, assign, or otherwise dispose of any interest in the project during the loan term without the written consent of the County Executive.
- (g) The Department shall set such other terms and conditions of a loan as are reasonable or necessary.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.809. - Limitations on income.

- (a) A sponsor may be subject to a limitation on the amount of income that the sponsor may retain from the project.
- (b) The limitation, at the Department's discretion, may take the form of:
 - (1) A requirement that a portion of the sponsor's return on equity shall be paid to the County;
 - (2) A requirement that the sponsor shall pay the County a portion of the sales receipts on the project at the time of sale; or
 - (3) Other arrangements acceptable to the Department.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.810. - Loan applications and fees.

- (a) Loan applications shall be made upon forms prescribed by the Department, and shall include sufficient information and documentation to enable the Department to evaluate the eligibility of the sponsor and the project.
- (b) The Department may charge fees to cover the costs of processing applications, servicing loans, or other costs incurred by the County in connection with an application or loan.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.811. - Loan approval.

- (a) An eligible loan application shall be submitted by the Department to the Housing and Community Development Board for review and recommendation to the County Executive for approval or disapproval of the loan and the terms of the loan. If the Board fails to act upon an application within 45 days of its submission to the Board, the application shall be forwarded to the County Executive for approval or disapproval.
- (b) The County Executive shall approve or disapprove a loan and its terms, taking into consideration the following factors:
 - (1) The number, size, and income of households of low and moderate income who ultimately will benefit from the assistance provided under the program;
 - (2) The economic feasibility of the project;

- (3) The geographic distribution of projects assisted under the program;
 - (4) The availability of funds appropriated for the program; and
 - (5) Other factors that may be relevant.
- (c) Approval of a loan shall be evidenced by a commitment letter from the County to the sponsor, which commitment letter shall become effective when the sponsor accepts the terms of the commitment letter by executing it and returning it to the Department.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.812. - Loan documents and closing.

- (a) The Department shall provide the sponsor with copies of relevant loan documents prepared by the Office of Law.
- (b) The loan shall be closed at a time and place acceptable to the Department and the Office of Law.
- (c) The County Executive may designate the Chief Administrative Officer, the Deputy Chief Administrative Officer, or the Director of Housing and Community Development execute the load documents and take such other action on behalf of the County Executive as is required or permitted to be taken by the County Executive pursuant to this subtitle.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.813. - Modification of terms.

The Department, with the approval of the County Executive, may at any time modify the terms and conditions of a loan, including the rate of interest, the time of payment, or the amount of payment, in order to ensure repayment of the loan or to achieve the purposes of this subtitle.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.814. - Powers and duties of department.

- (a) Subject to the approval of the County Executive, the Department shall:
 - (1) Manage, supervise and administer the program; and
 - (2) Propose rules, policies and procedures to implement the program in conformance with this subtitle, including:
 - (i) Application and loan processing procedures;
 - (ii) Formulae for determining rents to be charged to families of low or moderate income; and
 - (iii) Monitoring and enforcement procedures to ensure that the units produced under the program are occupied by families of low and moderate income in accordance with this subtitle.
- (b) Any rules, amendments to rules, policies and procedures proposed pursuant to this subtitle shall be submitted to the County Council for approval by resolution.
- (c) Subject to the approval of the County Executive, and notwithstanding any other provision of this Code, the Department may enforce the terms of a loan by:
 - (1) Foreclosing on or repossessing secured property;
 - (2) Obtaining and enforcing judgments;

- (3) Acquiring title to property foreclosed upon or repossessed, or accepting conveyances in lieu of foreclosure, and conveying, selling or leasing property after acquisition;
- (4) Assigning loans or mortgages for value; and
- (5) Releasing mortgages when paid.

(C.B. 115, 1989; C.B. 52, 1999; C.B. 59, 2001)

Sec. 13.815. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 115, 1989; C.B. 59, 2001)

SUBTITLE 9. - HOMEOWNERSHIP ASSISTANCE PROGRAM

Sec. 13.900. - Definitions.

In this subtitle the following words have the meanings indicated:

- (a) *Applicant* means an individual or individuals applying for a loan. If the property to be financed will be owned by more than one individual, each of those individuals shall apply. An Applicant includes an individual or individuals who purchase a home from a nonprofit organization that receives a loan pursuant to this subtitle.
- (b) *Down payment* means that portion of the purchase price of the property that is not financed by a mortgage loan other than the loan.
- (c) *Loan* means a loan of money made by the Department under this subtitle.
- (d) *Modifications* means improvement, repair, renovation or rehabilitation of an existing property to make it suitable for use as a personal residence or to eliminate any housing, building, fire, safety, health or other code violations.
- (e) *Nonprofit organization* means a corporation, foundation, or other legal entity, no part of the net earnings of which inures to the benefit of any private shareholder or individual holding any interest in the entity.
- (f) *Department* means the Department of Housing and Community Development.
- (g) *Program* means the Homeownership Assistance Program.
- (h) *Qualified homebuyer* means an Applicant who meets the eligibility requirements established under this subtitle.
- (i) *Settlement expenses* means money that must be paid by the Applicant or nonprofit organization at the time of the purchase of the property, including:
 - (1) Fees or premiums for title examination, title insurance, or similar expenses;
 - (2) Fees for preparation of a deed, settlement statement, or other documents;
 - (3) Payments owed at the time of settlement for property taxes or hazard insurance coverage;
 - (4) Escrows for future payments of taxes and hazard insurance;
 - (5) Fees for notarizing deeds and other documents;
 - (6) Appraisal fees;
 - (7) Fees for credit reports;

- (8) Transfer and recordation taxes and fees;
- (9) Fees or premiums for mortgage insurance; and
- (10) Loan discount points and origination fees.

(C.B. 116, 1989; C.B. 23, 1993; C.B. 30, 1994; C.B. 57, 1999; C.B. 59, 2001)

Sec. 13.901. - Establishment.

There is a Homeownership Assistance Program administered by the Department of Housing and Community Development. The County Council shall approve by resolution any rules, programs and policies adopted to implement the program in conformance with this subtitle.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

Sec. 13.902. - Purpose.

The purposes of the Homeownership Assistance Program are to:

- (a) Provide financial assistance to qualified homebuyers who cannot otherwise finance the purchase of a home; and
- (b) Provide financial assistance to nonprofit organizations which agree to purchase and make modifications to residential properties for resale to qualified homebuyers; and
- (c) Increase the supply of adequate affordable housing in Howard County.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

Sec. 13.903. - Loans; source of funds.

- (a) The Department may make loans to eligible Applicants and nonprofit organizations in accordance with the provisions of this subtitle.
- (b) The Department may make loans from monies appropriated to the program in the budget.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

Sec. 13.904. - Eligibility.

Subject to the approval of the County Executive, the Department shall adopt loan eligibility requirements that:

- (a) Ensure that loans are made only to or for the benefit of qualified homebuyers who cannot otherwise finance the purchase of a home;
- (b) Establish income eligibility criteria, provided that an Applicant's annual income may not exceed 110 percent of the area median income;
- (c) Establish the maximum purchase price for a home financed with a loan; and
- (d) Establish reasonable minimum requirements for credit worthiness.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

Sec. 13.905. - Use of loan funds.

- (a) *Applicant.* A loan may be used to pay any of the following costs to enable an Applicant to purchase a personal residence located in Howard County:
 - (1) Interest on a mortgage loan that is used by the Applicant to purchase the property;
 - (2) Settlement expenses; and
 - (3) Down payment.
- (b) *Nonprofit Organization.* A loan may be used to pay any of the following costs to enable a nonprofit organization to purchase and modify a property located in Howard County for resale to a qualified homebuyer for use as a personal residence:
 - (1) Settlement expenses;
 - (2) Down payment; and
 - (3) Modification costs.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

Sec. 13.906. - Loan terms and conditions.

- (a) Except as provided in subsection (b), a loan shall be repaid with interest at a rate and for a term determined by the Department based on the underwriting of the loan.
- (b) A loan may include terms that the Department deems necessary to make the housing purchase affordable to the eligible homebuyer, including deferred payment of principal and interest.
- (c)
 - (1) A loan relating to the purchase of real property shall be secured by a mortgage lien, which may be subordinate to other mortgage liens.
 - (2) A loan relating to the purchase of a mobile home shall be secured by a security interest in the mobile home.
- (d) The Department may require that a loan shall become due and payable upon the sale or transfer of the property securing the loan.
- (e) As a condition of a loan to a nonprofit organization, the nonprofit organization shall agree to resell the property to a qualified homebuyer within one year of the loan.
- (f) The Department shall set such other terms and conditions of a loan as are reasonable or necessary.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 9, 1998; C.B. 59, 2001)

Sec. 13.907. - Loan applications and fees.

- (a) Loan applications shall be made upon forms prescribed by the Department and shall include sufficient information and documentation to enable the Department to evaluate the eligibility of the Applicant or nonprofit organization.
- (b) The Department may charge fees to cover the costs of processing applications, servicing loans, or other costs incurred by the County in connection with an application or loan.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

Sec. 13.908. - Changes to loan terms.

The Department, with the prior approval of the County Executive, may at any time modify the terms and conditions of a loan, including the rate of interest, the time of payment, or the amount of payment, in order to ensure repayment of the loan or to achieve the purposes of this subtitle.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

Sec. 13.909. - Powers and duties of department.

- (a) Subject to the approval of the County Executive, the Department shall:
- (1) Manage, supervise and administer the program; and
 - (2) Propose rules, policies and procedures to implement the program in conformance with this subtitle.
- (b) Any rules, amendments to rules, policies and procedures proposed pursuant to this subtitle shall be submitted to the County Council for approval by resolution.
- (c) Subject to the approval of the County Executive, and notwithstanding any other provision of this Code, the Department may enforce the terms of a loan by:
- (1) Foreclosing on or repossessing secured property;
 - (2) Obtaining and enforcing judgments;
 - (3) Acquiring title to property foreclosed upon or repossessed, or accepting conveyances in lieu of foreclosure, and conveying, selling or leasing property after acquisition;
 - (4) Assigning loans or mortgages for value; and
 - (5) Releasing mortgages when paid.
- (d) Subject to the approval of the County Executive, the Department may enter into contracts with third parties to make or service loans on behalf of the County.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 52, 1999; C.B. 59, 2001)

Sec. 13.910. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

SUBTITLE 10. - DISPLACEMENT ASSISTANCE PROGRAM

Sec. 13.1000. - Definitions.

In this subtitle the following words having the meanings indicated:

- (a) *Annual income* means gross income based on current rates of annual income received by all household members who intend to reside at the property from all sources less:
- (1) Unusual or temporary income items; and
 - (2) Unusual expenses of a long-term nature, such as extraordinary medical, physical or mental rehabilitation expense or special education expenses.
- (b) *Applicant* means an individual or family applying for displacement assistance.
- (c) *Comparable replacement dwelling* means a dwelling that is:

- (1) A decent, safe and sanitary dwelling; and
- (2) Functionally equivalent to the original dwelling.
- (d) *Decent, safe and sanitary dwelling* means a dwelling that:
 - (1) Meets applicable housing and occupancy codes; and
 - (2) Meets the housing quality standards for section 8 housing assistance programs.
- (e) *Displaced household* means a low income household that moves from real property permanently, or permanently moves personal property from real property, as a direct result of:
 - (1) Damage or destruction of a dwelling unit due to storm, flood, or other natural disaster;
 - (2) The acquisition, conversion, rehabilitation, redevelopment, or demolition of a dwelling unit in connection with a project assisted with Federal, State, or County funds; or
 - (3) The change in status or use of a rental facility or mobile home park, including the establishment of a condominium regime, a cooperative housing project, or a commercial use of the facility, or a partial or complete demolition.
- (f) *Family* means two or more persons who intend to reside at the same residence.
- (g) *Low income household* means an individual or family whose annual income is less than 50 percent of the area median income, as determined by the United States "Department of Housing and Urban Development for section 8 housing programs.
- (h) *Department* means the Department of Housing and Community Development.
- (i) *Program* means the displacement assistance program.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1001. - Establishment.

There is a displacement assistance program administered by the Department.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1002. - Purpose.

The purposes of the program are to:

- (a) Provide financial assistance to individuals and families who are involuntarily displaced from housing and who cannot otherwise afford the expenses of relocation; and
- (b) Increase the supply of adequate affordable housing in Howard County.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1003. - Grants; source of funds.

- (a) The Department may make displacement assistance grants to eligible Applicants in accordance with the provisions of this subtitle.
- (b) The Department shall make the grants from funds appropriated to the program in the operating budget.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1004. - Eligibility.

- (a) To be eligible to receive a grant, an Applicant shall be a displaced household that meets the requirements of this subtitle.
- (b) The Applicant shall provide evidence, satisfactory to the Department, that the Applicant is otherwise unable to afford the costs of relocation.
- (c) An Applicant is not eligible for assistance if the Department determines that the Applicant:
 - (1) Unlawfully occupied the original dwelling; or
 - (2) Was lawfully evicted for cause.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1005. - Use of grant funds.

- (a) A grant may be used to pay any of the following costs to enable a displaced household to relocate to a personal residence located in Howard County:
 - (1) Moving related expenses, such as transportation, packing, and storage costs;
 - (2) The costs of relocating a mobile home, including transportation of the mobile home, disassembling and reassembling attached appurtenances, utility hookups, move related repairs, and mobile home park entrance fees;
 - (3) If the Department determines that a mobile home cannot be relocated without substantial damage or unreasonable cost, or because a comparable replacement site is not available, the acquisition cost of the mobile home, calculated as the greater of the trade-in or salvage value of the mobile home;
 - (4) Settlement expenses related to the purchase of a comparable replacement dwelling, such as title insurance premiums, loan origination fees, and transfer and recordation taxes;
 - (5) The deposit or down payment on the purchase of a comparable replacement dwelling; and
 - (6) Rent differential assistance calculated as the monthly difference in rent and utilities between the original dwelling and a comparable replacement dwelling multiplied by 24 months.
- (b) Before making a payment for replacement housing, the Department shall inspect the replacement dwelling and determine whether it is a decent, safe and sanitary dwelling.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1006. - Grant amount; disbursement.

- (a) A grant may not exceed the lesser of:
 - (1) The actual and reasonable relocation costs incurred by the displaced household; or
 - (2) Five thousand dollars.
- (b) A grant shall be disbursed as costs are incurred. Rent differential assistance shall be disbursed in monthly installments.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1007. - Application procedures.

- (a) A grant application shall be made to the Department on a form prescribed by the Department.
- (b) Together with the application, an Applicant shall submit to the Department:
 - (1) Bills, invoices, contracts, appraisals, or other documentation evidencing the Applicant's relocation expenses;
 - (2) The Applicant's most recent Federal income tax return; and
 - (3) Any other information or documents the Department may require to enable the Department to evaluate the eligibility of the Applicant for displacement assistance.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1008. - Grant agreement.

A grant shall be evidenced by a grant agreement between the Applicant and Howard County, Maryland. The grant agreement shall be on a form prescribed by the Department and shall provide that if the Applicant is not an eligible displaced household, fails to use the displacement assistance payments for eligible purposes, or otherwise fails to comply with terms and conditions of the grant agreement, the Applicant shall repay the grant to the County with interest at the prevailing legal rate.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1009. - Powers and duties of Department.

- (a) Subject to the approval of the County Executive, the Department shall:
 - (1) Manage, supervise and administer the program; and
 - (2) Adopt rules to implement the program in conformance with this subtitle.
- (b) Any rules or amendments to rules adopted pursuant to this subtitle shall be promulgated in accordance with the Administrative Procedure Act, title 2, subtitle 1 of this Code.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

SUBTITLE 11. - URBAN RENEWAL

Sec. 13.1100. - Short title.

This subtitle shall be known and may be cited as the Urban Renewal Law.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1101. - Scope.

It is hereby found and declared that there exist in Howard County blighted areas, or slum conditions which require rehabilitation with the aid and assistance of Howard County; that the existence of such areas contributes to the spread of crime and disease, constitutes an economic and moral liability, decreases the tax base, reduces tax revenues, increases juvenile delinquency, aggravates traffic conditions and causes numerous traffic problems due to poor street design and layout; that the prevention and elimination of slum and blighted areas is a matter of public policy of the State of Maryland and Howard County. It is further found and declared that the existence of these conditions makes it necessary to acquire private property for urban renewal development and redevelopment and such acquisition is hereby declared to be for a public purpose.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1102. - Definitions.

The following terms, wherever used or referred to in this subtitle shall have the following meanings, unless a different meaning is clearly indicated by the context:

- (a) *Federal Government* shall include the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America.
- (b) *Slum area* shall mean any area where dwellings predominate, which, by reason of depreciation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to the public safety, health or morals.
- (c) *Blighted area* shall mean an area in which a majority of buildings have declined in productivity by reason of obsolescence, depreciation or other causes to an extent they no longer justify fundamental repairs and adequate maintenance.
- (d) *Urban renewal project* shall mean undertakings and activities of Howard County in an urban renewal area for the elimination and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation, conservation or code enforcement in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan. Such undertakings and activities may include:
 - (1) Acquisition of a slum or blighted area or portion thereof.
 - (2) Demolition and removal of buildings and improvements.
 - (3) Installation, construction or reconstruction of streets, utilities, parks, playground and other improvements necessary for carrying out, in the urban renewal area, the urban renewal objectives of this subtitle in accordance with the Urban Renewal Plan.
 - (4) Disposition of any property acquired in the urban renewal area (including sale, leasing or retention by the County itself) at its fair value for uses in accordance with the Urban Renewal Plan.
 - (5) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the Urban Renewal Plan.
 - (6) Acquisition of any other real property in the urban renewal area where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to removed or prevent the spread of blight or deterioration, or to provide land for needed public facilities.
- (e) *Urban renewal area* shall mean a slum area or blighted area or both, which the County Council for Howard County designates as appropriate for an urban renewal project.
- (f) *Urban Renewal Plan* shall mean a plan, as it exists from time to time, for an urban renewal project, which plan shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum density and building requirements.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1103. - Powers, Authority [of County Executive].

The County Executive for Howard County is hereby authorized and empowered to carry out and effectuate the purposes and provisions of this subtitle.

- (a) To carry out urban renewal projects, which shall be limited to slum clearance in slum or blighted areas and redevelopment thereof; or the rehabilitation of slum or blighted areas.
- (b) To acquire in connection with such projects, within Howard County, Maryland, land and property of every kind and any right, title, interest, franchise, easement or privilege therein, including land or property or any right therein already devoted to public use by purchase, lease, gift, option, condemnation or any other legal means, for development or redevelopment purposes, including, but not limited to, the demolition, comprehensive renovation or rehabilitation thereof, provided, however, that any land or property owned by the State of Maryland shall not be acquired without the prior consent of the State.
- (c) To mortgage, pledge or otherwise encumber or dispose of any real property, provided that statutory provision with respect to the acquisition, clearance, demolition or disposition of property by public bodies shall not apply to an urban renewal project and related activities unless the legislature shall specifically so state.
- (d) To develop or redevelop, including, but not limited to, the comprehensive renovation or rehabilitation of any and all land or property acquired by any of the methods hereinbefore mentioned.
- (e) To apply for and accept from the United States of America, the State of Maryland, or any department or agency thereof, or any other source, any loan, grant, gift, contribution or aid of any kind.
- (f) To make and execute all contracts, agreements, deeds, leases, franchises or other legal instruments, for such term and under such conditions as may be necessary or convenient to exercise and carry out the provisions of this subtitle, notwithstanding any limitations as to the term of years imposed by other laws on said contracts, agreements, deeds, leases or franchises.
- (g) To plan, replan, install, construct, reconstruct, repair, open, close, abandon or vacate streets, roads, side walks, public utilities, parks, playgrounds and other public improvements, in connection with an urban renewal project.
- (h) To enter into any building or property in any urban renewal area in order to make inspections, surveys, appraisals, soundings or test borings.
- (i) To hold, improve, clear or prepare for redevelopment any property acquired in connection with urban renewal projects; to insure or provide for the insurance of any real or personal property or operations of the County against any risks or hazards, including the authority to pay premiums on any such insurance.
- (j) To make or have made all surveys and plans necessary to the carrying out of the purposes of this subtitle and to adopt or approve, modify and amend such plans, which plans may include, but are not limited to:
 - (1) Plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements;
 - (2) Plans for the enforcement of codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition or removal of buildings and improvements; and
 - (3) Appraisals, title searches, surveys, studies and other plans and work necessary to prepare for the undertaking of urban renewal projects and related activities; and to apply for, accept and utilize grants of funds from the Federal Government for such purposes.
- (k) To prepare plans for the relocation of persons (including families, business concerns and others) displaced from an urban renewal area, and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the Federal Government.

- (l) Generally to organize, coordinate and direct the administration of the provisions of this subtitle in order that the objective of remedying slum or blighted areas and preventing the causes thereof within Howard County may be most effectively promoted and achieved.
- (m) To formulate a "workable program" for utilizing the powers and authority authorized by the Constitution of Maryland, and public general laws, in order to promote development and redevelopment in an urban renewal area.
- (n) To expend such funds as may be available for the payment of any and all costs and expenses incurred in connection with, or incidental to, the demolition, removal, relocation, renovation, construction, reconstruction or alteration of lands, buildings, streets, highways, sidewalks, alleys, public utilities or services, parks, playgrounds, and other structures or improvements; to invest any urban renewal funds held in reserve or sinking funds or any such funds not required for immediate disbursement, in property or securities.
- (o) To create, appoint, and vest jurisdiction or authority to exercise or perform all or any part of the powers contained in this subtitle in, a suitable Board, Agency or Commission; to designate the number, term, compensation and duties of said Commission; to require that no officer, official or employee of Howard County, or member of such Commission, shall become financially interested in any way in any land or property which may be acquired for an urban renewal project.
- (p) To authorize and empower the Office of Planning and Zoning, as the agent of said County, to do and perform anything or all things which may be necessary and desirable in connection with the proper and efficient administration of any project authorized under this subtitle, including, but not limited to, the making of surveys, studies and other plans, the preparation of and submission to the County Executive of reports and recommendations based upon such work and the initiating of any urban renewal project.
- (q) To condemn land or property, including improvements, and all other right, title and interest therein, in the name of Howard County for said urban renewal project, pursuant to article 33A, Maryland Code, 1957 Edition, as amended.
- (r) To operate, manage and maintain temporarily any property acquired by Howard County in an urban renewal area, or for an urban renewal project, pending disposition of said property as authorized by this subtitle, as may be deemed desirable even though not in conformity with the urban renewal plan.
- (s) To sell, lease, convey, transfer or otherwise dispose of or retain any of said land or property, regardless of whether or not it has been developed, redeveloped, altered or improved and irrespective of the manner or means in or by which it may have been acquired, to any private, public or quasi public corporation, partnership, association, person or other legal entity. Any lease or rental agreement entered into pursuant to this subtitle, for any of the purposes or objectives contemplated by this subtitle, is hereby declared to be exclusively for business or commercial purposes and the fee, interest, rent or charge reserved to be paid shall not be subject to redemption by the lessee, tenant or their successors in title, except to the extent and in the manner set forth in such lease agreement. Such property shall be subject to such covenants, conditions and restrictions, including covenants running with the land, as the County Executive may deem to be necessary or desirable to assist in preventing the development or spread of future slums or blighted areas or to otherwise carry out the purposes of this subtitle. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to comply with such other requirements as the County Executive may determine to be in the public interest, including the obligation to begin, within a reasonable time, any improvements on such real property required by the urban renewal plan. Such real property or interest therein shall be retained, sold, leased or otherwise transferred at not less than its fair value for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the Urban Renewal Plan, consideration shall be given to the uses provided in such plan; the restrictions upon, and the covenants, conditions and obligations assumed by the

purchaser or lessee or by the County Executive retaining property; and the objectives of such plan for the prevention of the recurrence of slum or blighted areas. The conveyance to a private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, or encumber, or lease, or otherwise transfer the real property without the prior written consent of the County Executive.

- (t) To exercise all or any part or combination of powers granted herein.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1104. - Powers of County Council.

The County Council is authorized and empowered to appropriate such funds as may be necessary to carry out the purposes of this subtitle; to levy taxes and assessments for such purposes; to borrow money and to give such security as may be required therefor.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1105. - Initiation of project.

The County Council, in initiating an urban renewal project, shall adopt a resolution which:

- (a) Finds that one or more slum or blighted areas exist in the County.
- (b) Finds that the rehabilitation, redevelopment or a combination thereof, of such area or areas, is necessary in the interest of the public health, safety, morals or welfare of the residents of the County.
- (c) Defines the area or areas within which the Urban Renewal Project is to proceed.
- (d) Authorizes preparation of all necessary plans, drawings, designs and the employment of necessary engineers, architects, consultants or other personnel in order to properly prepare the detail plans and data for said urban renewal project or projects.

(1961, Ch. 877, §1; C.B. 59, 2001)

Sec. 13.1106. - Public hearing; approval of project.

Prior to final approval of an urban renewal project, the County Council shall:

- (a) Submit the plans to the Office of Planning and Zoning, for its review and recommendations only. The Office of Planning and Zoning's recommendations shall be submitted within 60 days after receipt of the plans.
- (b) Hold a public hearing on the proposed urban renewal project after 15 days' notice by publication in a newspaper having general circulation in the County, giving the time, place and date of the hearing, and an opportunity for the public to review the plans.
- (c) Make such change or modification as it deems desirable in the urban renewal project.
- (d) Approve the project by resolution. Upon approval by resolution of such urban renewal project, such plan shall be deemed to be in full force and effect.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1107. - Bonds; general obligation.

For the purpose of financing and carrying out an urban renewal project and related activities, the County Council is hereby granted the power and authority to do the following:

- (a) *Borrow money.* To borrow money and incur indebtedness and to evidence such borrowing or indebtedness by the issuance, at any time, and from time to time, its general obligation serial maturity bonds, upon the full faith and credit of Howard County, and the County is authorized to contribute and deliver, in whole or in part, the net cash proceeds of such bond issue, or issues, to a Commission, Board or Agency created and appointed to administer the provisions of this subtitle.
- (b) *Levy taxes.* The County Council is hereby authorized and directed in and for each and every fiscal year during which any of the said bonds are outstanding, to levy and collect an ad valorem tax, upon all the assessable property in Howard County, in an amount sufficient to provide for the payment when due of the principal and interest on all such bonds becoming due in such fiscal year, and in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for the purposes cited in this subtitle, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal and interest on such bonds as when the same respectively mature. The County may apply, to the payment of principal and interest of any bonds issued under this subtitle, any funds received from the State of Maryland or United States of America or any agency or instrumentality thereof.
- (c) *Negotiable instruments.* All such bonds shall have, and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments laws of the State to the extent provided in section 8 of article 31, Annotated Code of Maryland, 1957 Edition, as amended.
- (d) *Tax exempt.* Any and all such bonds and the interest thereon and the income derived therefrom, in the hands of the holders thereof from time to time, shall be and are hereby declared to be exempt from State, County, city and municipal taxation of every kind and nature whatsoever in the State.
- (e) *Bonds cumulative.* All bonds issued under this subtitle are additional and cumulative and the bonds authorized by this subtitle may be issued notwithstanding that other bond acts may provide for the issuance of other bonds or the borrowing of money for the same or similar purposes on the same or other terms and conditions.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1108. - Bonds; revenue bonds.

In the alternative, the County Council for Howard County may issue revenue bonds which shall be fully negotiable and payable, as to both principal and interest, solely from, and secured solely by, a pledge of and lien upon either or both, of the following subsections (a) or (b).

- (a) Any and all of the income, receipts, proceeds, revenues and funds derived from, or available or to be made available, for any undertakings for the accomplishment of the purposes and objects mentioned in or contemplated by this subtitle.
- (b) Any contract, or right thereunder, existing between the United States of America, or any department or agency thereof, and Howard County with respect to any undertaking for the accomplishment of the purposes and objects of this subtitle.

Any and all such bonds, notes or obligations, issued as revenue bonds, shall not be general obligations of Howard County and shall not be a pledge of or involve the full faith and credit or taxing power of Howard County, and shall not pledge, convey or mortgage any real property owned by Howard County, and shall not constitute a debt of Howard County, within the meaning of the Constitution of Maryland, or within the

meaning of any other constitutional, statutory or Charter provisions, limiting or restricting the sale or issuance of bonds, notes or other obligations of Howard County.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1109. - Revenue bonds; tax exempt; security.

Revenue bonds issued under the provisions of this subtitle are declared to be issued for an essential public and governmental purpose and the principal and interest thereon, and income therefrom, shall be exempt from all taxes as provided in this subtitle. Such revenue bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues and funds of Howard County derived from or held in connection with its undertaking and carrying out of urban renewal projects under this subtitle; provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the Federal Government or other source, in aid of any urban renewal projects of Howard County under this subtitle, and by a mortgage on any such urban renewal projects or any part thereof, title to which is in Howard County.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1110. - Bonds; how issued.

Both the revenue bonds and general obligation serial bonds issued under this subtitle shall be authorized by resolution of the County Council for Howard County and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either with or without coupon or registered, carry on such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto. Such bonds shall not be subject to the provisions of sections 9, 10 and 11 of article 31, Maryland Code, 1957 Edition, as amended.

(1961, Ch. 877, § 1; C.B. 120, 1980; C.B. 59, 2001)

Sec. 13.1111. - Bonds; how sold.

Both the revenue bonds and general obligation serial bonds may be sold at not less than par at public sales, held after notice published prior to such sales in a newspaper having a general circulation in the County and in such other medium of publication as the Executive may determine, or may be exchanged for other bonds on the basis of par; provided, that such bonds may be sold to the Federal Government at private sale at not less than par and, in the event less than all of the authorized principal amount of such bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the County not to exceed the interest of the portion of the bonds sold to the Federal Government.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1112. - Bonds; signature.

In case any of the public officials of Howard County whose signatures appear on any bonds or coupons issued under this subtitle shall cease to be such officials before the delivery of such bonds, such

signatures, shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1113. - Bonds; validity.

In any suit, action or proceeding involving the validity or enforceability of any bond issued under this subtitle or the security therefor, any such bond reciting in substance that it has been issued by Howard County in connection with an urban renewal project, as herein defined, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of this subtitle.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1114. - Bonds; investments.

All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business; all insurance companies, insurance associations and other persons carrying on an insurance business; and all executors, administrators, curators, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them, or within their control, in any bonds or other obligations issued by the County pursuant to this subtitle; provided that, as to revenue bonds or notes issued pursuant to section 13.208 of this subtitle, such bonds and other obligations shall be secured by an agreement between the issuer and the Federal Government, in which the issuer agrees to borrow from the Federal Government and the Federal Government agrees to lend to the issuer, prior to the maturity of such bonds or other obligations, moneys in an amount which (together with any other moneys irrevocably committed to the payment of principal and interest on such bonds and other obligations) will suffice to pay the principal of such bonds or other obligations, with interest to maturity thereon, which moneys under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such bonds or other obligations at their maturity. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

(1967, Ch. 625; C.B. 59, 2001)

SUBTITLE 12. - LEASE EXTENSIONS—CONVERSION OF RENTAL HOUSING TO A CONDOMINIUM REGIME

Sec. 13.1200. - Authority and purpose.

This subtitle is created pursuant to subsection 11-140(b) of title 11 of the Real Property Article of the Annotated Code of Maryland and resolution 128-1982 of the Howard County Council declaring a rental housing emergency. The purpose of this subtitle is to protect the tenancies of certain households in rental housing converted to a condominium regime. Nothing in the provisions of this act shall be deemed to apply to any condominium or to the conversion of residential rental property to a condominium if, under the provisions of subsection 11-142(f) of the Maryland Condominium Act such condominium or conversion is specifically exempted therefrom.

(C.B. 42, 1982; C.B. 59, 2001)

Sec. 13.1201. - Definitions.

- (a) *Annual income* means total income from all sources for the income tax year immediately preceding the year in which notice of intent to convert is given, whether or not the sources are included in the definition of gross income for Federal or State tax purposes. Total income does not include any income tax refund received from the State or Federal Government. A loss from business, rental or other endeavor may not be used in the determination of total income. Total income includes:
- (1) Benefits under the Social Security Act or Railroad Retirement Act as these acts may be amended from time to time;
 - (2) The aggregate of gifts in excess of \$300.00;
 - (3) Alimony and support money;
 - (4) Nontaxable strike benefits;
 - (5) Public assistance received in cash grants;
 - (6) Pensions and annuities;
 - (7) Unemployment insurance benefits and workmen's compensation benefits; and
 - (8) Net income received from business, rental or other endeavors.
- (b) *Conversion/convert* means the subjecting of property to a condominium regime by recording among the Howard County land records a declaration, bylaws and condominium plat that comply with the requirements specified in title 11 of the Real Property Article of the Annotated Code of Maryland.
- (c) *Department* means the Department of Housing and Community Development.
- (d) *Person with a disability* means a person with:
- (1) A physical or mental impairment which substantially limits one or more of the individual's major life activities;
 - (2) A record of having such an impairment; or
 - (3) Being regarded as having such an impairment.
- (e) *Household* means those persons domiciled in the unit at the time the notice of intent to convert is given.
- (f) *Median area income* means the median income for Howard County as determined by the U.S. Census Bureau.
- (g) *Notice of intent to convert* means notice given by the owner of a rental facility to each tenant giving 180 days' notice of intent to convert the facility to a condominium, pursuant to section 11-102.1, "Notice Prior to Conversion of Residential Property to Condominium," of title 11 of the Real Property Article of the Annotated Code of Maryland.
- (h) *Owner* means any individual or entity holding title to a rental facility who subjects his/her property to a condominium regime.
- (i) *Rental facility* means property containing ten or more dwelling units intended to be leased to persons who occupy the dwellings as their residences.
- (j) *Senior citizen* means a person who is at least 62 years old on the date the owner gives 180 days' notice of intention to convert.
- (k) *Tenant* means any person having a leasehold right to occupy a dwelling unit in a rental facility.

(C.B. 42, 1982; C.B. 59, 2001; C.B. 68, 2007, § 1; C.B. 14, 2014, § 1)

Sec. 13.1202. - Lease extensions.

- (a) *Set-Aside of 20 Percent of Units for Lease Extension.* In converting a rental facility to a condominium, the owner shall set aside up to 20 percent of the total units for lease extension to certain households residing in those units if the households are current in their rent payment and have not violated any other material term of the lease.
- (b) *Six-Year Lease Extensions.* The owner shall offer an extended lease of six years to a household which:
 - (1) Has a total income which does not exceed 80 percent of the median income for Howard County; and
 - (2) Has included a senior citizen or person with a disability, as defined in section 11-137 of the Real Property Article of the Annotated Code of Maryland, as a member for at least 12 months preceding the 180 days' notice of intention to convert.
- (c) *Three-Year Lease Extensions.* The owner shall offer an extended lease of three years to any household which:
 - (1) Has a total annual income which does not exceed 80 percent of the median annual income for Howard County; or
 - (2) Includes a senior citizen or person with a disability as a household member for at least 12 months preceding the notice of intent to convert.
- (d) *Nonapplicability.* This section does not apply to any household whose lease term expires during the 180-day period after notice of intent to convert and which has given notice of intent not to renew the lease prior to the giving of notice of intent to convert.
- (e) *Priority.* If more than 20 percent of the units are occupied by households eligible for lease extension, priority for lease extension shall be as follows:
 - (1) The owner shall first give priority to households eligible for six-year lease extensions. If more than 20 percent of the units are occupied by households eligible for six-year lease extensions, the owner shall assign priority on the basis of length of residence in the facility, with priority going to households with longest residence in the facility.
 - (2) The owner shall give next priority to households whose total annual income does not exceed 80 percent of the median annual income for Howard County and which have included a senior citizen or a person with a disability as a household member for less than 12 months preceding the notice of intent to convert.
 - (3) The owner shall give next priority to households whose total income does not exceed 80 percent of the median annual income for Howard County.
 - (4) The owner shall give next priority to households which include a senior citizen or person with a disability as a household member.
- (f) *Offering of Lease Extension:*
 - (1) Lease extension; owner's notice to tenants: Simultaneously with giving the notice of intent to convert and in addition to the requirements of State law, the owner shall send to all tenants, except those excluded by subsection (d) of this section:
 - a. An application on which shall be included all of the information required by subsection (f)(2) of this section;
 - b. A lease containing the terms required by this section and clearly indicating that the lease will be effective only if:
 - (i) The tenant executes and returns the lease not later than 60 days after the giving of notice of intent to convert; and
 - (ii) The household is allocated one of the units required to be made available to qualified households.

c. The following notice:

Right To Lease Extensions

For Certain Households

Under Howard County Law

A developer who converts this rental facility to a condominium must offer extended leases to qualified households for up to 20 percent of the units in the rental facility. Certain households which receive extended leases will have the right to continue renting their residences for at least six years from the date of this notice. Certain other households which receive extended leases will have the right to continue renting their residences for at least 3 years from the date of this notice. Rents under these extended leases may only be increased once a year and are limited by increases in the cost-of-living index.

To qualify for a six-year extended lease, you must be current in your rental payments and otherwise in good standing under your existing lease, and meet all of the following criteria:

- (1) A member of the household must be [a] person with a disability or a senior citizen who is at least 62 years of age and must be living in your unit as of the date of this notice and must have been a member of your household for at least 12 months preceding the date of this notice; and
- (2) Annual income for the present members of your household must not have exceeded 80 percent of the median annual income for Howard County.

To qualify for a three-year extended lease, you must be current in your rental payments and otherwise in good standing under your existing lease, and meet at least one of the following criteria:

- (1) The annual income for the present members of your household must not have exceeded 80 percent of the median annual income for Howard County; or
- (2) A member of the household must be a person with a disability or a senior citizen who is at least 62 years of age and must be living in your unit as of the date of this notice.

If your household meets the qualifications, is current in its rental payments and otherwise in good standing under its current lease and desires an extended lease, then you must complete the enclosed application, have it notarized, sign the lease and return them to (address of owner or developer) within 60 days of the date of this notice. If your completed, notarized form and signed lease are not received within that time, you will not be entitled to an extended lease.

If the number of qualified households requesting extended leases exceeds 20 percent of the units in this facility, priority shall be given as follows:

- (1) First priority shall go to households qualified for six-year lease extensions.
- (2) Next priority shall go to households whose annual income is less than 80 percent of the median annual income for Howard County.
- (3) Last priority shall go to households which include a senior citizen or a person with a disability.

Due to the 20 percent limitation, your application for an extended lease must be processed prior to your lease becoming final. Your lease will become final if it is determined that your household is qualified and falls within the limitations.

If you return the enclosed form and lease by _____ (60th day from the date of this notice) you will be notified within 75 days of the date of this notice, or in other words, by

_____ (75th day from the date of this notice) whether you are qualified and whether your household falls within the limitations.

If you receive an extended lease, you may cancel it by giving three months' written notice if more than a year remains on the lease, or by giving one month's written notice if less than a year remains on the lease. The developer may cancel the extended lease, giving you 60 days' written notice, if the senior citizen or person with a disability no longer resides in the household or the household no longer meets the income qualifications.

You may apply for an extended lease and, at the same time, choose to purchase your unit. If you apply for and receive an extended lease, your purchase contract will be void. If you do not receive an extended lease, your purchase contract will be effective and you will be obligated to buy your unit.

- (2) *Application for lease extension by tenants to owner.* Within 60 days of the owner's giving notice of intent to convert and of the sending of the notice of right to a lease extension, application for lease extension and a copy of the lease, any household desiring a lease extension pursuant to this subtitle shall complete the application supplied by the landlord providing the owner with the following:
 - a. The completed notarized application:
 - (i) Stating that the household is applying for an extended lease under this subtitle; and
 - (ii) Setting forth the household's annual income for the calendar year preceding the giving of notice of intent to convert, together with reasonable supporting documentation; and
 - (iii) Setting forth facts showing that a member of the household is a senior citizen or a person with a disability and setting forth facts indicating the length of time that the senior citizen or a person with a disability has been a member of the household (if the qualification for lease extension is based in whole or in part upon the inclusion of a senior citizen or a person with a disability in the household).
 - b. A signed extended lease.
- (3) *Notification to households who have applied for lease extension.* Within 75 days after giving of notice of intent to convert, the owner shall notify each household which submits the documents required by subsection (f)(2) above with the following:
 - a. Whether the household meets the criteria for lease extension and, if not, an explanation of which criteria have not been met.
 - b. Whether a lease extension has become effective.
- (4) *Notification to Howard County Office of Consumer Protection .* Within 75 days after giving of notice of intent to convert, the owner shall provide the Howard County Office of Consumer Protection with the following:
 - a. A notice indicating the number of units in the rental facility being made available to qualified households pursuant to subsections (b) and (c) of this section; and
 - b. A list of all households meeting the criteria of subsections (b) and (c) indicating the priority of each in relation to the total number of units being made available; and
 - c. A list of households submitting notarized applications who do not meet the criteria for lease extensions; and
 - d. A list of all households as to whom an extended lease has become effective, specifying the criteria under which each household qualified.

(g) *Terms of Lease and Rent:*

- (1) The six-year extended lease shall commence on acceptance of the lease and shall terminate not less than six years from the giving of notice of intent to convert.
 - (2) The three-year extended lease shall provide for a term commencing on acceptance of the lease and terminating not less than three years from the giving of notice of intent to convert.
 - (3) The rental fee for the unit may be increased annually on the date of commencement of the lease.
 - (4) The annual increase in the rental fee may not exceed an amount determined by multiplying the annual rent for the preceding year by the percentage increase for the rent component of the U.S. Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI—W) (1967—100) as published by the U.S. Department of Labor, for the most recent 12-month period.
 - (5) Except as otherwise permitted by this subtitle, the extended lease shall contain the same terms and conditions as the lease in effect on the day preceding the giving of notice of intent to convert.
- (h) *Periodic Reporting of Income and Household Status.* Each April 15, households granted extended leases pursuant to this subtitle shall report to the owner:
- (1) Indicating the age and physical mobility status of each household member if the lease extension was granted in whole or in part on the basis of age or disability; and
 - (2) Giving documented evidence of the household's annual income if the lease extension was granted in whole or in part on the basis of income.
- (i) *Termination of Extended Lease by Tenant.* Households granted lease extensions under this subtitle may terminate their leases at any time giving:
- (1) At least one month's written notice when less than a year remains on the lease; or
 - (2) At least three months' written notice when a year or more remains on the lease.
- (j) *Termination of Extended Lease by Owner:*
- (1) The owner may terminate the lease, giving 60 days' written notice, whenever the household fails to meet the qualifications under which the extended lease was granted.
 - (2) The owner may terminate the lease upon:
 - a. Eviction for failure to pay rent due in a timely fashion;
 - b. Eviction for violation of any material term of the lease.

(C.B. 42, 1982; C.B. 59, 2001; C.B. 68, 2007, § 2; C.B. 14, 2014, § 1; C.B. 12, 2016, § 1)

Sec. 13.1203. - County's right of refusal.

- (a) *Purchase or Lease by the Department or Commission.* If the owner is unable to find enough existing tenants who qualify for lease extensions to fill 20 percent of the units, the owner shall offer the remainder of the required 20 percent of the units to the Department and Commission for purchase or lease on substantially the same terms and conditions offered by the owner to the tenant.
- (b) *Use in MIHU program.* Any units that are purchased or leased by the Department or Commission shall be a part of the moderate income housing unit program and meet all laws and regulations applicable to units in that program.
- (c) *Regulations.* The Department may adopt rules and regulations to implement this subsection.

(C.B. 68, 2007, § 4)

Sec. 13.1204. - Administration, violations, enforcement, penalties.

- (a) *Administration.* The Office of Consumer Protection shall administer this subtitle. It shall develop and issue written regulations for the administration of this subtitle in accordance with Howard County Administrative Procedures Act.
- (b) *Violations.* Any violation of section 13.1202 shall be considered a deceptive or unfair trade practice under section 17.403 of the Howard County Code.
- (c) *Enforcement.* The Office of Consumer Protection shall enforce the provisions of this subtitle pursuant to its duties, powers, authority and the procedures set forth in subtitle 4, "Consumer Protection" of title 17 "Public Protection Services," of the Howard County Code.
- (d) *Right of Private Action:*
 - (1) Any tenant who has suffered injury or loss by any violation of this law may bring an action to recover actual damages under the rules of civil procedure in any court of appropriate jurisdiction. The court may, in its discretion, award punitive damages and provide such equitable relief as it deems necessary and proper.
 - (2) In any action brought by a tenant under this law, the court may award, in addition to the relief provided in this section, reasonable attorney's fees and costs.
 - (3) Nothing in this subtitle shall prevent persons from exercising any right or seeking any remedy to which they might otherwise be entitled or from filing any complaint with any other agencies or court of law or equity.

(C.B. 42, 1982; C.B. 59, 2001; C.B. 68, 2007, § 3; C.B. 12, 2016, § 1)

Note— Formerly numbered as § 13.1203.

SUBTITLE 13. - HOWARD COUNTY HOUSING COMMISSION ARTICLES OF ORGANIZATION^[2]

Footnotes:

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Editor's note— Subtitle 10, §§ 13.1001—13.1022, was added by C.B. 51, 1990, contingent upon the taking effect of ch. 330 of the Acts of the General Assembly of 1990. The County has advised that ch. 330 has taken effect. The section numbering has been retained even though slightly at variance with established style. Subsequently, pursuant to C.B. 59, 2001, this subtitle has been renumbered as subtitle 13.

Sec. 13.1301. - Articles adopted.

These articles of organization are adopted pursuant to the Housing Authorities Law, article 44A of the Annotated Code of Maryland.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1302. - Declarations and findings.

- (a) It is the policy of Howard County to ensure the availability of safe, sanitary and decent housing for the citizens of the County.

- (b) There is a shortage in Howard County of safe and sanitary housing available at rents which persons of low and moderate income can afford. Consequently, many of these persons live in unsanitary, unsafe, or overcrowded housing.
- (c) Unsanitary, unsafe, or overcrowded housing conditions lower the value of surrounding property, constitute a menace to the health, safety, and welfare of the County's residents, and require spending of considerably more than average amounts for public services such as police, fire, health, courts, and prisons.
- (d) Since the private housing market does not assist economically depressed or physically deteriorated areas in the County nor relieve the shortage of safe and sanitary housing for persons of low and moderate income, the construction of housing developments for persons of low and moderate income would not be competitive with private enterprise.
- (e) The clearance, replanning and reconstruction of areas containing unsanitary or unsafe housing and the providing of safe and sanitary housing at rents affordable to persons of low and moderate income are public uses and purposes and essential government functions for which public money may be spent and private property acquired.
- (f) Therefore, there is a need for a housing authority to function in Howard County.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1303. - Definitions.

The terms used in this subtitle shall have the meanings indicated in this section.

- (a) *Bonds* means any bonds, notes, interim certificates, debentures, or other obligations issued by the Commission.
- (b) *Commission* means the Howard County Housing Commission established under this subtitle.
- (c) *County* means Howard County, Maryland.
- (d) *Economically depressed or physically deteriorated area* means any areas where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light, or sanitary facilities, or any combination of these factors are detrimental to safety, health, and morals.
- (e) *Federal Government* includes the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.
- (f) *Housing authorities law* means article 44A of the Annotated Code of Maryland, as amended.
- (g) *Housing development* means any work or undertaking:
 - (1) To demolish, clear, or remove buildings from any economically depressed or physically deteriorated area; such work or undertaking may embrace the adaptation of such area to public purposes, including parks or other recreational or community purposes;
 - (2) To provide decent, safe, and sanitary living accommodations for persons of eligible income and, to the extent authorized in accordance with subsection 13.1012(p) of this subtitle, for other persons; such work or undertaking, or portion thereof, may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare, or other purposes; or
 - (3) To accomplish a combination of the foregoing, the term "housing development" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements, and all other work in connection therewith.

It is the intent of this subtitle that "housing development" shall have the same meaning as the term "housing project" as defined in the housing authority's law.

- (h) *Obligee of the Commission or obligee* includes any bondholder, trustee, or trustee for any bondholder, noteholder, or a lessor demising to the Commission property used in connection with a housing development, or any assignee or assignees of such lessor's interest or any part thereof, and the State or Federal Government when it is a party to any contract with the Commission.
- (i) *Persons of eligible income* means:
 - (1) As to developments that are State or Federally funded, individuals or families who meet the income requirements of the State or Federal program involved; and
 - (2) As to other developments, individuals or families who lack sufficient income or assets (as determined by the County Executive or the County Executive's designee, which designee may include, without limitation, either the Executive Director or the Commissioners) to enable them, without financial assistance, to purchase or rent decent, safe, and sanitary dwellings without overcrowding.

The determination of income levels may vary with respect to the elderly, persons with disabilities, or particular developments or programs.

- (j) *Real property* includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

(C.B. 51, 1990; C.B. 59, 2001; C.B. 14, 2014, § 1)

Sec. 13.1304. - Establishment of Housing Commission.

There is a public body corporate and politic known as the Howard County Housing Commission, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out the provisions and purposes of this subtitle.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1305. - Composition; appointments; terms.

- (a) *Appointment:*
 - (1) *Voting Commissioners.* The Commission has seven voting Commissioners, at least five of whom shall be residents of Howard County. The Commissioners shall be appointed by the County Executive with the approval of the County Council.
 - (2) *Nonvoting Commissioner:*
 - (i) The Commission shall have an additional nonvoting Commissioner who shall be a member of the Housing and Community Development Board selected in accordance with subsection 13.501(d) of this Code.
 - (ii) The Commission may have an additional nonvoting Commissioner who shall be an employee of the County who is not an elected official of the County. This nonvoting Commissioner shall be appointed by the County Executive and approved by the County Council.
 - (3) *Evidence of due and proper appointment.* A certificate of the appointment or reappointment of a Commissioner shall be filed with the custodian of records, and the certificate shall be conclusive evidence of the due and proper appointment of a Commissioner.

(b) *Qualifications:*

- (1) Of the seven voting Commissioners, at the time of appointment at least one shall be a person of eligible income;
- (2) Of the remaining six voting Commissioners, each shall have experience in one or more of the following areas:
 - (i) Affordable housing development;
 - (ii) Affordable housing finance;
 - (iii) Multi-family residential property management;
 - (iv) Multi-family residential construction or design;
 - (v) Federal, State, or local housing finance programs;
 - (vi) Business management, including budget, finance, or human resources; or
 - (vii) Other relevant expertise.

As new appointments are considered, special attention shall be given to ensure that a diversity of expertise is maintained on the Commission.

(c) *Ineligibility to Serve as Commissioners.* The following individuals are not eligible to serve as voting Commissioners:

- (1) An employee of the housing Commission;
- (2) An elected official of the County;
- (3) An employee of the County.

(d) *Terms of Office:*

- (1) A Commissioner shall serve for a term of five years, except that a nonvoting Commissioner shall serve at the pleasure of the County Executive.
- (2) The terms of the Commissioners shall be staggered as required by law.
- (3) No Commissioner shall be reappointed after having served eight or more consecutive years immediately before reappointment.
- (4) All vacancies shall be filled for the balance of the unexpired term only. A Commissioner shall hold office until the Commissioner's successor has been appointed.
- (5) A Commissioner who is absent from three consecutive regular meetings of the Commission, unless excused by resolution of the Commission, may be removed from office.

(C.B. 51, 1990; C.B. 55, 1993; C.B. 59, 2001; C.B. 12, 2016, § 1)

Sec. 13.1306. - Custodian of records.

The Chief Administrative Officer of the County shall be the custodian of records for the purposes of the Housing Authorities Law.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1307. - Chairperson; liaison to the Housing and Community Development Board; staff; legal services.

- (a) *Chairperson; Vice-Chairperson.* The County Executive shall designate which of the Commissioners appointed at the time of initial activation of the Commission shall be the first Chairperson, who shall serve as Chairperson for a one-year term. By majority vote of all Commissioners, the Commission shall select from among its Commissioners the first Vice-Chairperson, who shall serve as Vice-Chairperson for a one-year term. The Commission shall thereafter annually select, by majority vote of all Commissioners, a Chairperson and Vice-Chairperson from among its Commissioners.
- (b) *Liaison to the Housing and Community Development Board.* By majority vote of all Commissioners, the Commission shall annually select from among its Commissioners a liaison to the Housing and Community Development Board who shall serve as a nonvoting ex officio member of the Housing and Community Development Board in accordance with subsection 13.501(c)(2) of this Code.
- (c) *Employment of Staff.* Subject to section 13.1017 of this subtitle, the Commission may employ an Executive Director, technical experts and other officers, agents and employees, permanent and temporary, and shall determine their qualifications, duties and compensation.
- (d) *Legal Services .* For the legal services it may require, the Commission may use the services of the County Solicitor or may employ its own legal counsel.
- (e) *Delegation of Duties to Employees.* The Commission may delegate to one or more of its employees the powers or duties it may deem proper.

(C.B. 51, 1990; C.B. 55, 1993; C.B. 59, 2001; C.B. 12, 2016, § 1)

Sec. 13.1308. - Voting; meetings.

- (a) *Quorum; Voting.* The powers of the Commission shall be vested in the Commissioners in office from time to time. For the purpose of conducting its business and exercising its powers and for all other purposes, four Commissioners shall constitute a quorum of the Commission. Action may be taken by the Commission upon vote of a majority of the Commissioners present at a meeting at which there is a quorum, unless the bylaws of the Commission require a larger number for a particular matter.
- (b) *Open Meetings.* The Commission shall meet in open session as required by the Open Meetings Law, section 10-501 et seq. of the State Government Article of the Annotated Code of Maryland, as amended. Agendas shall be made available at least five business days prior to the meeting in an electronic medium readily available to the public. Minutes of open meetings shall be made available as soon as practicable in at least one electronic medium readily available to the public.

(C.B. 51, 1990; C.B. 59, 2001; C.B. 13, 2014, § 1)

Sec. 13.1309. - Compensation; expenses.

Commissioners shall receive no compensation for their services except reasonable and necessary expenses, including traveling expenses incurred in the discharge of the Commissioner's duties, as may be provided in the Commission's budget.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1310. - Liabilities; conflicts of interest.

- (a) *Statute of Commissioners, Executive Director and Employees.* All Commissioners, the Executive Director of the Commission, and all employees of the Commission are:
 - (1) County officials for the purposes of section 22.200 et seq. of this Code, and therefore are subject to the Howard County Public Ethics Law; and

- (2) Local government employees for the purposes of title 5, subtitle 4 of the Courts and Judicial Proceedings Article, and therefore are entitled to the protections of the Local Government Tort Claims Act.
- (b) *Good-Faith Exercise of Powers.* No claim of any nature whatsoever shall arise against, and no liability shall be imposed upon, any Commissioner for any statement made or actions taken in good-faith exercise of the powers granted and duties imposed under this subtitle.
- (c) *No Interest in Any Project:*
 - (1) A Commissioner or employee of the Commission may not acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, except for bonds purchased prior to the Commissioner's or employee's appointment and interests in mutual funds.
 - (2) A Commissioner or employee of the Commission shall not have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project.
 - (3) If any Commissioner or employee of the Commission owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, the Commissioner or employee immediately shall disclose the interest in writing to the Commission and this disclosure shall be entered upon the minutes of the Commission. Failure to disclose such interest shall constitute misconduct in office.
 - (4) A Commissioner or employee of the Commission shall comply in all respects with the provisions of the Howard County Public Ethics Law, including the provisions prohibiting a Commissioner or employee from:
 - (i) Participating in any matter which would have a direct financial impact on the Commissioner or employee, a spouse, parent, child, sibling or any business interest with which they are affiliated; and
 - (ii) Holding or acquiring an interest in a business entity that has or is negotiating a contract with the Commission or is regulated by the Commissioner or employee.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1311. - Removal of Commissioner.

- (a) *Removal Procedures:*
 - (1) A Commissioner may be removed by the County Executive for neglect of duty or misconduct in office, including violations of County ethics laws, in the following manner:
 - (i) The County Executive shall file charges with the Office of the Custodian of Records and promptly deliver a copy of the charges to the Commissioner and the Secretary of the Commission;
 - (ii) Written notice of the date, time, and place of a hearing shall be given to the Commissioner at least 14 days prior to the hearing;
 - (iii) Unless the Commissioner has resigned from office, the County Executive shall conduct the hearing at which the Commissioner shall have an opportunity to be represented by counsel and to be heard in person; and
 - (iv) Upon completion of the hearing, the County Executive shall make written findings.
 - (2) If a Commissioner is removed, a record of the proceedings, together with the charges and findings thereon, shall be filed in the Office of the Custodian of Records.

- (b) *Suspension from Office.* If charges are filed pursuant to this section, the County Executive may suspend temporarily a Commissioner, provided that:
- (1) The County Executive shall immediately reinstate the Commissioner in office if the County Executive finds the charges have not been substantiated; and
 - (2) The Commissioner shall be automatically reinstated unless a hearing has been held and a decision made by the County Executive on removal within 45 days of the filing of charges.

The County Executive may not temporarily appoint a person to perform the duties of a suspended member.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1312. - Powers.

- (a) *Powers May Displace or Limit Economic Competition.* The Commission may exercise its powers as granted by this subtitle, despite the fact that its activities, may displace or limit economic competition.
- (b) *Limit on Powers.* The powers granted to the Commission pursuant to subsection (a) of this section may not be construed:
- (1) To grant to the Commission powers in any substantive area not otherwise granted to it by other public general or public local law;
 - (2) To restrict the Commission from exercising any power granted to it by other public general or public local law or otherwise;
 - (3) To authorize the Commission or its officers to engage in any activity which is beyond their power under other public general law, public local law, or otherwise; or
 - (4) To preempt or supersede the regulatory authority of any State Department or agency under any public general law.
- (c) *General Powers.* The Housing Commission may:
- (1) Sue and be sued.
 - (2) Have a seal and alter the seal at its pleasure.
 - (3) Have perpetual succession.
 - (4) Make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the Commission.
 - (5) Make and from time to time amend and repeal bylaws, rules and regulations not inconsistent with this subtitle. When making rules, the Commission shall comply with the provisions of the Howard County Administrative Procedure Act.
 - (6) Carry into effect the powers and purposes of the Commission.
- (d) *Housing Developments.* Within Howard County the Housing Commission may:
- (1) Prepare, carry out, acquire, own, lease, and operate housing developments.
 - (2) Provide for the construction, reconstruction, improvement, alteration, or repair of any housing development or any part of a housing development.
- (e) *Services or Facility Related to a Housing Development or its Occupants.* The Housing Commission may provide directly or arrange or contract for the furnishing by any person or agency, public or private, of services or facilities for, or in connection with, a housing development or its occupants, including drug rehabilitation, elderly or child day care, or other social services.
- (f) *Wages and Hours Requirements.* Notwithstanding anything to the contrary contained in this subtitle or in any other provision of law, the Housing Commission may include in any contract let in

connection with a development, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the State or Federal Government may have.

- (g) *Rent Subsidy Payments.* The Housing Commission may make rent subsidy payments to or on behalf of persons of eligible income.
- (g-1) *Mortgage Subsidy Payments.* The Commission may make mortgage subsidy payments to or for the benefit of persons of eligible income.
- (g-2) *Mortgage and Construction Loans.* The Commission may:
 - (1) Make mortgage loans to or for the benefit of persons of eligible income; and
 - (2) Make construction loans and long-term mortgage loans from proceeds of its bonds to any person, firm, partnership, association, joint venture, or corporation, public or private, in order to produce housing for persons of eligible income.
- (h) *Leasing and Renting.* The Housing Commission may lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing development and, subject to the limitations contained in this subtitle may establish and revise the rents or charges therefor.
- (i) *Property Interests.* The Housing Commission may:
 - (1) Own, hold, and improve real or personal property.
 - (2) Purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or interest in real or personal property.
 - (3) Sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest in real or personal property.
 - (4) Insure or provide for the insurance of any real or personal property or operations of the Commission against any risks or hazards.
 - (5) Procure insurance or guarantees from the State or Federal Government of the payment of any debts or parts thereof (whether or not incurred by the Commission) secured by mortgages on any property included in any of its housing projects.
- (j) *Investments:*
 - (1) When exercising the power to invest funds granted in this subsection the Commission shall comply with the provisions of subtitle 2 of title 11 of this Code concerning investments in South Africa. [Now repealed.]
 - (2) The Commission may invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control.
 - (3) The Commission may purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled.
- (k) *Bond Issuance.* The Commission may issue bonds in accordance with the provisions of subtitle 5 of the Housing Authorities Law.
- (l) *Investigation.* Within Howard County, the Commission may:
 - (1) Investigate into living, dwelling, and housing conditions, and into the means and methods of improving such conditions.
 - (2) Determine where economically depressed or physically deteriorated areas exist or where there is a shortage of decent, safe, and sanitary dwelling accommodations for persons of eligible income.

- (3) Make studies and recommendations, relating to the problem of clearing, replanning, and reconstructing of economically depressed or physically deteriorated areas, and the problem of providing dwelling accommodations for persons of eligible income, and cooperate with the County, the State, or any political subdivision thereof in action taken in connection with such problems.
 - (4) Engage in research, studies, and experimentation on the subject of housing.
- (m) *Conduct of Examinations; Availability of its Findings:* Acting through one or more Commissioners or other person or persons designated by the Commission, the Commission may:
- (1) Conduct examinations and investigations and hear testimony and take proof at public or private hearings on any matter material for its information.
 - (2) Make available to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or unsanitary structures within the County) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, safety, or welfare.
- (n) *Eminent Domain.* Subject to the approval of the County Council and the County Executive:
- (1) The Commission may acquire by the exercise of the power of eminent domain any real property which it deems necessary for its purposes under this subtitle after the Commission adopts a resolution declaring that the acquisition of the real property described therein is necessary for those purposes.
 - (2) The Commission may exercise the power of eminent domain in the manner provided in title 12 of the Real Property Article of the Annotated Code of Maryland or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain.
 - (3) Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to the County, the State, or any political subdivision thereof may be acquired without its consent.
- (o) *Relationship with County, State, or Federal Government.* It is the purpose and intent of this subtitle to authorize the Commission to do any and all things necessary or desirable to secure the financial aid or cooperation of the County, State, or Federal Government in the undertaking, construction, maintenance, or operation of any housing development by the Commission. The Housing Commission may:
- (1) Borrow money or accept grants or other financial assistance from the County, State, or Federal Government and accept grants from nongovernmental sources for or in aid of any housing project within Howard County.
 - (2) Take over or lease or manage any housing development or undertaking constructed, financed, or owned by the County, State, or Federal Government, and to these ends, comply with such conditions and enter into such mortgages, trust indentures, leases, or agreements as may be necessary, convenient, or desirable.
- (p) *Income Mix in Housing Developments.* Subject to any restrictions contained in any applicable agreement with the State or Federal Government or any other party, the Housing Commission may permit up to 80 percent of the residents of any housing development or any portion thereof financed by the Commission to have incomes above the levels established for persons of eligible income.
- (q) *Partnership.* The Housing Commission may act and invest as a general partner and as a limited partner in housing developments.
- (r) *Commercial Facility Intended for Use of Tenants.* The Commission may acquire, develop, construct, rehabilitate, own, operate, and lease, either as lessor or lessee, a commercial facility on the site of a housing project that makes an economic or social contribution to the housing project if:

- (1) The commercial facility is intended substantially for the use and benefit of the tenants of the housing project; and
 - (2) The intended use by other persons is incidental.
- (s) *Commercial Facility not Intended for Use of Tenants.* Subject to approval of the County Executive and the County Council, the Commission may acquire, develop, construct, rehabilitate, own, operate, and lease, either as lessor or lessee, a commercial facility that is adjacent to the site of a housing project.

(C.B. 51, 1990; C.B. 36, 2001, § 1; C.B. 59, 2001; C.B. 53, 2003, § 1; C.B. 70, 2005, § 1)

Sec. 13.1313. - Commission to operate as a nonprofit organization.

- (a) *Not for Profit or Revenue.* The Commission shall not operate for profit, or as a source of revenue to the County Government.
- (b) *Lowest Possible Rents.* The Commission shall manage and operate its housing developments in an efficient manner so as to enable it to fix the rent for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe, and sanitary dwelling accommodations and meeting the financial needs described in subsection (c) of this section.
- (c) *Sufficient Revenue.* The Commission shall fix the rents for dwellings in its housing developments at no higher rates than it shall find to be necessary in order to produce revenues which together with all other available moneys, revenues, income, and receipts of the Commission from whatever sources derived will be sufficient to do the following:
 - (1) To pay, as the same become due, the principal and interest on the bonds and other obligations of the Commission;
 - (2) To meet the cost of and to provide for, maintaining and operating the housing developments (including the cost of any insurance) and the administrative expenses of the Commission;
 - (3) To create (during not less than the six years immediately succeeding its issuance of any bonds) a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve;
 - (4) To create reserves for operations, emergencies, renovations, replacements, or the repayment of indebtedness; and
 - (5) To otherwise create funds necessary or desirable for subsidizing rents, developing or operating housing developments, or operating or providing services located in or which benefit the residents of housing projects.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1314. - Rental and tenant selection.

- (a) *Income of Tenants.* In the operation or management of housing developments:
 - (1) Dwelling accommodations in a housing development may be rented only to persons of eligible income, except for a reasonable number of units which may be occupied by management and security personnel.
 - (2) Dwelling accommodations may be rented only at rental rates within the financial reach of persons of eligible income.
 - (3) A person may not be accepted as a tenant in any housing development if the person or persons who would occupy the dwelling accommodations have an aggregate annual income in excess of the maximum income levels established for persons of eligible income.

- (4) Subletting by tenants shall be prohibited.
- (b) *Exception Regarding Income of Tenants.* The requirements of subsection (a) of this section may not apply to those rental units not required to be occupied by persons of eligible income under subsection 13.1012(p) of this subtitle.
- (c) *Possession Free from Restrictions.* Nothing contained in this section shall be construed as limiting the power of the Commission to vest in an obligee the right, in the event of a default by the Commission, to take possession of a housing development or cause the appointment of a receiver thereof or acquire title thereto, through foreclosure proceedings or otherwise, free from all the restrictions imposed by this section.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1315. - Planning, zoning, sanitary, and building laws.

All housing developments of the Commission shall be subject to the planning, zoning, sanitary, health, fire, housing, subdivision, and building laws, or, ordinances, codes, rules, and regulations applicable in Howard County, unless otherwise provided by law.

(C.B. 51, 1990; C.B. 59, 2001; C.B. 73, 2007, § 1)

Sec. 13.1316. - Books, records and reports.

- (a) *Annual Financial Report.* At least once a year, the Commission shall file with the custodian of records an annual financial report of its activities for the preceding year, and shall make recommendations for any additional action by the County Government which it deems necessary or useful in order to carry out the purposes of this subtitle.
- (b) *Submission of Budget.* By January 1 of each year, the Commission shall submit to the custodian of records an operating budget for the next County fiscal year in a form approved by the custodian of records.
- (c) *Quarterly Activity Reports.* The Commission shall submit to the custodian of records quarterly activity reports and such other program reports as the custodian of records may designate.
- (d) *Right to Examine Records.* The County or its designee shall have the right to examine any books or records of and to conduct a financial or management audit of the Commission at any time.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1317. - Purchasing and personnel procedures.

Subject to approval by the County Council and the County Executive, the Commission shall adopt procedures for:

- (a) The purchasing of services and goods that, except where otherwise required by Federal or State law, promote the purchasing policies established under article VIII of the Howard County Charter; and
- (b) The appointment, compensation, and separation of employees of the Commission.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1318. - Appropriations by the County.

- (a) *Appropriation of Funds by County.* When the Commission is authorized to transact business and exercise its powers, the County shall immediately make an estimate of the amount of money necessary for the administrative expenses and overhead of the Commission during the first year of its operation, and shall appropriate that amount to the Commission out of any moneys in the County's treasury not appropriated to some other purposes. The moneys so appropriated shall be paid to the Commission as a donation.
- (b) *Funding Necessary to Comply with Requirements Imposed by This Subtitle.* If funding is necessary in order for the Commission to comply with any requirement imposed on it by this subtitle; and if funding adequate for the Commission to comply therewith is not available from State, Federal, or other sources, the County shall appropriate to the Commission the funding necessary for it to comply, provided that the County shall have no duty to provide any funding to the Commission in order for the Commission to satisfy any judgment, liability, debt, or other financial obligation to any third party.
- (c) *Loans and Donations.* The County shall have the power from time to time to lend or donate money to the Commission or to agree to take such action. The Commission, when it has money available therefor, shall make reimbursements for all such loans made to it.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1319. - Purchase of County property.

The County Executive is hereby authorized to waive the advertising and bidding requirements of section 4.201 of this Code for any individual conveyance of real property from the County to the Commission.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1320. - Property of Commission tax-exempt; exemption of property from levy and execution.

- (a) *Exempt from Taxes and Special Assessments; Payment in Lieu of Taxes:*
 - (1) The property of the Commission is declared to be used for essential public and governmental purposes and the Commission and its property are exempt from all taxes and special assessments of the County or the State.
 - (2) In lieu of County taxes and special assessments, the Commission shall make payments to the County in an amount set by mutual agreement between the Commission and the County; provided, however, that the sum to be paid to the County shall not exceed an amount equal to the regular taxes levied upon similar property.
- (b) *Exempt from Levy and Sale, or Lien upon Real Property:*
 - (1) Except as set forth in paragraph (2) or (3) of this subsection, all real property of the Commission shall be exempt from levy and sale by virtue of an execution; and no execution or other judicial process shall issue against the same, nor shall any judgment against the Commission be a charge or lien upon its real property.
 - (2) The provisions of paragraph (1) of this subsection shall not limit a right to foreclose or otherwise enforce:
 - (i) Any mortgage or deed of trust recorded against any property of the Commission; or
 - (ii) Any pledge or lien given by the Commission on its rents, fees, or revenues.
 - (3) The provisions of paragraphs (1) and (2) of this subsection may not deprive the County of its right to collect any service charge agreed upon in lieu of taxes in the same manner as all such taxes are now, or may hereafter be, collectible under the laws of this State and of the County.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1321. - Nondiscrimination.

The Commission shall not discriminate on the basis of race, color, creed, religion, national origin, sex, marital status, disability, occupation, political opinion, sexual orientation, personal appearance or age (except with respect to a project intended in whole or in part for elderly persons) in leasing or otherwise providing dwelling accommodations or in any other aspect of the development, administration, or operation of any housing development or undertaking of the Commission, or in any aspect of employment by the Commission or any sponsor, developer, or contractor involved in the construction, repair or maintenance of any property or program of the Commission.

(C.B. 51, 1990; C.B. 59, 2001; C.B. 14, 2014, § 1)

Sec. 13.1322. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 51, 1990; C.B. 59, 2001)

SUBTITLE 14. - NOTICE-SALE OF MULTIFAMILY DWELLING UNITS

Sec. 13.1400. - Definitions.

- (a) *Commission* means the Howard County Housing Commission.
- (b) *Department* means the Department of Housing and Community Development.
- (c) *Owner* means an individual or entity holding title to rental housing.
- (d) *Rental Housing* means a multiple-family dwelling, or a group of multiple-family dwellings operated as one entity, with a total of five or more rental units.
- (e) *Sale, sell or selling* means:
 - (1) Transfer of title to rental housing;
 - (2) Transfer in a 12-month period of a majority interest in ownership of the rental housing; or
 - (3) Lease of rental housing for more than seven years.
- (f) *Tenant* means an individual who lives in a rental housing unit with the owner's consent and is responsible for paying rent to the owner.
- (g) *Tenant organization* means an association of tenants of rental housing that represents tenants of at least 30 percent of the occupied units in the rental housing.
- (h) *Title* means:
 - (1) A legal or equitable ownership interest in rental housing; or
 - (2) A legal, equitable, or beneficial interest in a partnership, limited partnership, corporation, trust, or other person who is not an individual, that has a legal or equitable interest in rental housing.

(C.B. 67, 2007, § 1)

Sec. 13.1401. - Purpose.

The purpose of this subtitle is to increase opportunities for the Department and the Commission to expand the number of affordable dwelling units available in the County by requiring an owner of rental housing to provide notice to the Department, the Commission, and a tenant organization when the owner offers the rental housing for sale either in whole or in part.

(C.B. 67, 2007, § 1)

Sec. 13.1402. - Notice required.

- (a) *Notice of Intent to Sell.* Unless otherwise provided by law, no later than three days after offering the rental housing for sale, the owner must provide written notice of the owner's intent to sell to the Department and the Commission by first-class mail.
- (b) *Notice upon Sale.* Unless otherwise provided by law, no later than ten days after the sale of rental housing, the owner must provide written notice of the sale:
 - (1) To each tenant and tenant organization, if any, in the rental housing by first-class mail;
 - (2) By conspicuously posting the notice in public areas of the rental housing; and
 - (3) To the Department of Inspections, Licenses and Permits by first-class mail; and
 - (4) To the Department and the Commission by first class mail with a list identifying each tenant and the tenant's address.

(C.B. 67, 2007, § 1; C.B. 10, 2008, § 1)

Sec. 13.1403. - Purchase.

- (a) *Purchase.* The Department, Commission, or the tenant organization, if any, may negotiate with the owner to purchase the rental housing.
- (b) *Information and Inspection.* Upon entering into negotiations and on request the owner shall give the Department, the Commission, and any tenant organization:
 - (1) Any information about the rental housing relevant to purchasing the rental housing, such as architectural and engineering plans and specifications, and operating data; or
 - (2) Access to the rental housing to inspect the property and conduct reasonable tests at reasonable times after reasonable notice.
- (c) *The Department or Commission.* The Department or Commission may make an offer to purchase the rental housing in accordance with section 13.407. At least 20 percent of the units of any rental housing purchased by the Department or Commission shall be maintained as affordable to persons of moderate income as defined in subtitle 4 of this title.

(C.B. 67, 2007, § 1)

Sec. 13.1404. - Regulations.

The Department may adopt regulations to implement this section.

(C.B. 67, 2007, § 1)

Sec. 13.1405. - Annual reports to the Council.

Subject to section 22.1000 of the County Code, by February 1 of each year, the Department shall report to the Council on activities under this subtitle for the prior calendar year, including:

- (a) Any notice of offer to sell received by the Department or Commission; and
- (b) The number of rental units the Department or Commission acquired.

(C.B. 67, 2007, § 1; C.B. 43, 2018, § 1)

SUBTITLE 15. - HOWARD COUNTY PARTICIPATION IN HOUSING PROJECTS

Sec. 13.1500. - Prohibited participation.

Neither the County nor the Housing Commission may construct or provide financing or financial assistance for a housing project that would:

- (a) Increase the poverty level in a census tract block group if the poverty level in the census tract block group is ten percent or greater; or
- (b) Increase the poverty level in a census tract block group to ten percent or greater.

(C.B. 18, 2014, § 1; C.B. 12, 2016, § 1)

TITLE 14 - LICENSES, PERMITS AND INSPECTIONS

SUBTITLE 1. - TAXICAB CODE¹¹

Footnotes:

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Editor's note— C.B. 36, 1986, repealed former sub. 1, §§ 14.100—14.110, and enacted in lieu thereof a new sub. 1, §§ 14.100—14.110. The subtitle was formerly entitled "Taxicabs" and was derived from the following Council bills: 39, 1969; 15, 1970; 13, 1972; 49, 1974; 116, 1981; 32, 1985.

Sec. 14.100. - Short title, purpose, applicability.

- I. *Short Title.* This subtitle shall be known as the "Taxicab Code" of Howard County.
- II. *Purpose.* The purpose of the taxicab code is to protect the health, safety and welfare of persons using taxicabs in Howard County.
- III. *Applicability.* The provisions of this subtitle govern the operation of taxicabs in Howard County excluding vehicles licensed by the Maryland Public Service Commission and vehicles licensed by other jurisdictions.

(C.B. 36, 1986)

Sec. 14.101. - Definitions.

Words and phrases used in this subtitle shall have their usual meanings except as indicated below:

- I. *Criminal conviction* means:

- a. (1) A final criminal conviction, even if the penalty is refunded, suspended, or probated;
 - (2) An unvacated forfeiture of collateral deposited to secure a defendant's appearance in court;
 - (3) A plea of *nolo contendere* accepted by the court; or
 - (4) The payment of a fine.
 - b. *Conviction* does not include a finding of probation on a stay of entering judgment.
- II. *Certificate; certificate holder* means a certificate issued by the Department of Inspections, Licenses and Permits permitting a person to operate a taxicab service in Howard County; a person to whom a certificate has been issued.
 - III. *Department* means the Howard County Department of Inspections, Licenses and Permits.
 - IV. *License; licensee* means a license issued to an individual by the Department of Inspections, Licenses and Permits permitting the individual to drive a taxicab in Howard County; the person to whom a license is issued.
 - V. *Permit* means a card issued by the Department of Inspections, Licenses and Permits and displayed in a taxicab indicating that the vehicle has met all requirements of local law for operation as a taxicab and is operating under a current valid certificate.
 - VI. *Person* means an individual, corporation, firm, association, group, or public corporation.
 - VII. *Taxicab* means a motor vehicle for hire used to transport passengers between points along public streets at the direction of the passengers.
 - VIII. *Taximeter* means an illuminated instrument by which the charge for hire of a taxicab is calculated, which conforms to the specifications, tolerance and regulations for taximeters as set by the National Bureau of Standards and which proves correct over a measured mile as tested by the Department of Inspections, Licenses and Permits using an engineers' wheel.
 - IX. *Waiting time* means delays, at the request or direction of the passenger(s) after the passenger has hired the taxicab.

(C.B. 36, 1986; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 14.102. - Administration.

- I. *Rules and Regulations.* The Director of Inspections, Licenses and Permits shall administer and enforce the taxicab code. The Director shall prepare and promulgate rules and regulations concerning the administration and enforcement of the taxicab code and the registration of persons and vehicles engaged in the business.
- II. *Right of Entry; Inspections.* At any time, after first displaying identification, members of the Department of Inspections, Licenses and Permits may enter a taxicab to ascertain whether or not the provisions of this subtitle have been violated. All inspections are performed for the protection and promotion of public safety, health and welfare. The inspections, which are purely governmental in nature, are not to be construed as providing any warranty to individual members of the public.

(C.B. 36, 1986; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 14.103. - Fees.

- I. *Recommended Schedules.* The County Executive, upon the recommendation of the Director of Inspections, Licenses and Permits, shall prepare a schedule of fees to be charged for the issuance and renewal of certificates, licenses and taxicab permits. The County Executive, upon the recommendation of the Director of Inspections, Licenses and Permits, shall prepare a schedule of rates to be charged by taxicabs for transporting passengers and luggage.
- II. *Approval of Fee Schedules by County Council.* The County Council shall approve by resolution the schedule of fees to be charged for the issuance and renewal of certificates, licenses and taxicab permits and the schedule of rates to be charged by taxicabs for transporting passengers and luggage.

(C.B. 36, 1986; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 14.104. - Taxicab certificate.

- I. *Certificate Required.* No person shall operate a taxicab service in Howard County unless the person has a valid certificate for the operation of a taxicab service issued pursuant to the provisions of this subtitle.
- II. *Form of Application; Submission; Fee.* The application for a certificate shall be submitted to the Department of Inspections, Licenses and Permits upon a form provided by the Department and accompanied by the required certificate fee.
- III. *Contents of Application.* The application shall contain the following information:
 - a. The full name and address of the Applicant. If the Applicant is a partnership, the full name and address of each partner. If the Applicant is a corporation or association, the full name and address of the officers.
 - b. The trade name of the Applicant, business address and business telephone numbers.
 - c. Evidence of the Applicant's financial status and responsibility.
 - d. The number of vehicles to be operated as taxicabs.
 - e. The full names and addresses of the owners of the vehicles (if they are owned by other than the Applicant).
 - f. The design, color scheme, cruising light design and seating capacity of the vehicle(s).
 - g. The character and location of garages and/or taxicab stands.
 - h. A description of the communications systems to be used.
 - i. A description of the services to be rendered including a description of the geographic area to be covered and the hours of operation.
 - j. A list of each conviction of the Applicant. If the Applicant is a partnership, a list is required for each partner. If the Applicant is a corporation or an association, a list is required for each officer.
 - k. The specific experience of the Applicant in the transportation of passengers for hire.
 - l. Additional information that will support the granting of a certificate.
- IV. *Consideration and Granting of Certificate.* The Director of Inspections, Licenses and Permits shall grant a certificate provided that:
 - a. The Applicant does not meet any of the criteria for refusing to grant or renew a certificate as listed in this section; and

- b. The Department approves the design, color scheme and cruising light design for the taxicabs; and
 - c. The required certificate fee has been paid.
- V. *Duration of Certificate; Renewals.* A certificate required by this subtitle is valid for two calendar years from the date of issuance which shall be July 1 and may be renewed upon payment of a license fee and compliance with the requirements of this subtitle and regulations issued pursuant to this subtitle.
- VI. *Refusing to Grant a Certificate; Refusing to Renew a Certificate; Revoking a Certificate.* The Director of Inspections, Licenses and Permits may refuse to grant a certificate, renew a certificate or may revoke a certificate, basing the decision on the following criteria. The Director shall give a certificate holder five days' written notice of an intended revocation.
- a. The Applicant or certificate holder has a criminal record which may include convictions for violations of the gaming, narcotic or alcoholic beverage laws or convictions for crimes involving violence or sex offenses.
 - b. The Applicant or certificate holder has a poor record in the taxicab business. The pool record may include revocations or suspensions of certificates, license or permits.
 - c. The Applicant or certificate holder is indebted to the State or the County other than for taxes for the current taxable year.
 - d. The Applicant or certificate holder has used fraud, misrepresentation, false or misleading statements, evasions or suppressions of material facts in procuring or attempting to procure the certificate.
 - e. The Applicant or certificate holder has used fraud, misrepresentation or false statement in the course of carrying on business.
 - f. The Applicant or certificate holder's record of violations of this subtitle or other ordinances or licensing laws or regulations of the County, State or other jurisdictions indicates that the granting or renewal of a certificate should be refused or that a certificate should be revoked in order to protect the public safety, morals or welfare.
- VII. *Information to Be Kept Up-to-Date.* The certificate holder shall supply the following information to the Department and shall supply updated information within 48 hours of any change:
- a. The name, home address and telephone number of the certificate holder. If the certificate holder is a partnership or corporation, the name, home address and telephone number of each partner or officer.
 - b. The trade name of the certificate holder, the address of the garage and all business telephone numbers.
 - c. The name, address and home telephone number of each licensee driving for the certificate holder.
 - d. The number of taxicabs operated, the make and model and serial number of each taxicab, the make and meter number of each taximeter.
- VIII. *Transference of Certificate.* Certificates are not transferable.
- IX. *Appeal.* An individual aggrieved by a decision of the Director of Inspections, Licenses and Permits to refuse to grant or renew a taxicab certificate or an individual aggrieved by a decision of the Director of Inspections, Licenses and Permits to revoke a certificate may, within ten days of the decision, appeal the decision to the Board of Appeals, which shall hear the appeal according to its rules of procedure.

(C.B. 36, 1986; C.B. 62, 1988; C.B. 16, 2012, § 1)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 14.105. - The taxicab.

- I. *Permit Required.* No vehicle may be operated as a taxicab unless it has a current valid permit for such use.
- II. *Application for Permit; Evidence of Insurance.* A certificate holder shall apply for a permit for each vehicle he/she owns that is to be used as a taxicab. The certificate holder and the licensee shall apply jointly for a permit for each vehicle owned by the licensee that is to be used as a taxicab under the certificate. The application shall be submitted to the Department of Inspections, Licenses and Permits on a form provided by the Department, accompanied by the required permit fee. The owner of the vehicle shall provide evidence of the insurance on the vehicle as required by this subtitle.
- III. *Issuance of Permit; Duration; Renewal; Transferability; Age of Vehicle:*
 - a. The Department of Inspections, Licenses and Permits shall issue a permit for a vehicle owned by a certificate holder or for a vehicle owned by a licensee and operated under a certificate, provided that the vehicle meets the requirements of this subtitle and the requirements of the transportation article of the Annotated Code of Maryland.
 - b. The permit shall expire on July 1 following the date of issuance and shall be renewed each July 1 provided that the requirements continue to be met.
 - c. The permit may not be transferred to another vehicle.
 - d. The Department may not issue or renew a permit for a vehicle if the vehicle is more than ten years old, measured as of the date of manufacture.
- IV. *Revocation of Permit.* The Department of Inspections, Licenses and Permits may revoke a permit whenever the vehicle fails to meet the requirements of this subtitle and the requirements of the transportation article of the Annotated Code of Maryland. Upon revocation of the permit, the certificate holder shall remove the permit from the vehicle and deliver it to the Department. The Department shall return the permit to the certificate holder as soon as the vehicle meets the requirements.
- V. *Display of Permit.* The permit shall be displayed in the taxicab at all times. It shall not be removed, defaced or tampered with.
- VI. *Required Equipment.* The following equipment and conditions shall be required for a vehicle to operate as a taxicab:
 - a. The owner of the vehicle and the operator shall be insured against liability to passengers or members of public for property damage or personal injury (including death) resulting from an accident in which the taxicab is involved. The minimum amount of insurance for each vehicle shall be as specified in title 17 of the transportation article of the Annotated Code of Maryland, and the policy shall provide that Howard County be given (with no qualifications) at least five days' written notice prior to cancellation or intention not to renew.
 - b. The vehicle shall be inspected at a licensed State inspection station pursuant to the requirements of the transportation article of the Annotated Code of Maryland and has been certified as safe.
 - c. The vehicle shall be a four-door sedan, a four-door vehicle built as a taxicab, or a vehicle approved for use as a taxicab by the Department and shall meet the requirements of the transportation article of the Annotated Code of Maryland as to equipment.
 - d. The vehicle shall have doors which will remain securely fastened during normal operation, but which may be readily opened by a passenger in case of emergency.
 - e. The vehicle shall be equipped with a heater sufficient to heat the interior of the taxicab adequately in cold weather.
 - f. Individual seatbelts shall be available for the use of each passenger.

- g. A child safety seat shall be available.
 - h. The vehicle shall be equipped with approved safety, nonshatterable transparent glass or plastic in the center partition, if any, between the driver's compartment and the passengers.
 - i. The vehicle shall have a cruising light, i.e. an electrically operated sign mounted on the top to identify the vehicle as a taxicab, and a working interior light, commonly known as a dome light.
 - j. The vehicle shall be equipped with a speedometer, fully visible to the passenger(s).
 - k. The vehicle shall be equipped with signal device, sign, or flag and light to indicate whether or not the vehicle is in service and available for hire.
 - l. The vehicle shall be equipped with a properly installed, accurate taximeter, plainly visible to the passenger(s). The taximeter shall register and visibly display:
 - 1. Total miles;
 - 2. Paid miles;
 - 3. Number of units;
 - 4. Number of trips; and
 - 5. Number of extras.
 - m. Current maps of Howard County and the surrounding area shall be kept in the vehicle at all times for the use of driver and passengers.
 - n. The vehicle shall be equipped with a first aid kit.
 - o. The word "taxicab" shall appear conspicuously on the vehicle.
 - p. The name of the certificate holder shall be permanently painted on one door on each side of the taxicab in letters at least 2½ inches high.
 - q. The permit number shall be prominently displayed inside and outside the taxicab in numerals at least four inches high.
 - r. The taxicab may carry commercial advertising up to a maximum of ten square feet, provided that the advertising displays are mounted to preclude safety hazards.
 - s. A schedule of fares shall be conspicuously posted in the vehicle.
- VII. *Vehicle's Taken Out of Service.* If a vehicle for which a permit has been issued is taken out of service, the owner shall remove the permit from the vehicle and return it immediately to the Department. The owner of the vehicle shall obliterate all markings identifying the vehicle as a taxicab.
- VIII. *Appeal.* A certificate holder or licensee aggrieved by a decision of the Department to refuse to grant or renew a taxicab permit or a certificate holder or licensee aggrieved by a decision of the Director of Inspections, Licenses and Permits to revoke a taxicab permit may, within ten days of the decision, appeal the decision to the Board of Appeals, which shall hear the appeal according to its rules of procedure.

(C.B. 36, 1986; C.B. 62, 1988; C.B. 12, 1999)

Editor's note— Section 2 of C.B. 12, 1999, declared the bill effective June 5, 1999.

Sec. 14.106. - Taxicab drivers; licensing.

- I. *License Required; Display Required.* An individual may not drive a taxicab with a Howard County permit unless the person has a valid taxicab driver's license issued by the County and which is visibly displayed by the licensee when operating the taxicab.

- II. *Qualifications for Taxicab Driver's License.* Each Applicant for a Howard County taxicab driver's license shall:
- a. Be at least 18 years old;
 - b. Possess a valid Maryland Class D driver's license;
 - c. Have at least one year's driving experience;
 - d. Have a good driving record;
 - e. Be in good general health;
 - f. Be of good moral character;
 - g. Have reasonable fluency in written and spoken English;
 - h. Be familiar with the provisions of this subtitle regarding the duties and responsibilities of taxicab drivers;
 - i. Be familiar with the network of principal roadways in the County and its environs.
- III. *Submitting an Application for Taxicab Driver's License.* In order to obtain a Howard County taxicab driver's license, an individual shall submit to the Department of Inspections, Licenses and Permits:
- a. A completed application form, signed under oath, indicating:
 - (1) The full name of the Applicant, including maiden name, aliases, and names under which the Applicant has previously been known; and
 - (2) The Applicant's date of birth, residence address, Social Security Number, and residence phone number at the time of application and for the three-year period preceding the date of application; and
 - b. A photocopy of his/her driver's license;
 - c. Certification by a physician as to the Applicant's physical condition;
 - d. The names and addresses of at least two persons to whom the County may refer for information regarding the good character of the Applicant; the names of certificate holders or of family members will not be accepted;
 - e. Five recent photographs, two-inch by two-inch, with a one-inch head;
 - f. The application fee as set forth in this section;
 - g. His/her fingerprints, which shall be taken by the Howard County Police Department at the expense of the Applicant;
 - h. A copy of the Applicant's driving record from the Maryland Department of Motor Vehicles;
 - i. Documentation supporting the Applicant's legal authority to work in the United States; and
 - j. The Applicant's criminal record, other than misdemeanor traffic violations.
- IV. *Processing of Applications for Taxicab Driver's License:*
- a. *Testing.* Upon receipt of all items for application, as set forth in this section, the Department of Inspections, Licenses and Permits shall test the Applicant for his/her:
 1. Fluency in written and spoken English;
 2. Familiarity with the duties and responsibilities of taxicab drivers;
 3. Familiarity with the roads of Howard County and its environs.
 - b. *Police Check.* The Department of Inspections, Licenses and Permits shall submit a form to the Maryland State Police Criminal Records Central Repository, which shall screen the Applicant and report on his/her driving record and any criminal record.

- c. *Granting.* Upon finding that the Applicant meets all the qualifications for a taxicab driver's license, the Department of Inspections, Licenses and Permits shall issue the license.
- V. *Grounds for Refusal to Issue or Renew a Taxicab Driver's License.* The Department of Inspections, Licenses and Permits may refuse to issue or renew a taxicab driver's license, considering the following factors:
 - a. Accumulation of more than five current points on the Applicant's driving record, pursuant to title 16, subtitle 4 of the transportation article of the Annotated Code of Maryland;
 - b. Conviction, plea of guilty or plea of nolo contendere for any crime against a person or any crime involving alcohol or controlled dangerous substances;
 - c. Addiction of the Applicant to alcohol and/or a controlled dangerous substance;
 - d. Failure of the Applicant to meet the qualifications for a taxicab driver's license listed this section;
 - e. The Applicant's making a false statement under oath on his/her application.
- VI. *Revocation or Suspension of a Taxicab Driver's License.* The Director of Inspections, Licenses and Permits may suspend a license or may revoke a license upon the listed below grounds after a hearing for which the licensee has been given five days' written notice. If the Director revokes a license, the order of revocation shall State the earliest date that the driver may reapply for a license, if at all.
 - a. Any violation of this subtitle;
 - b. Arrest, conviction, plea of guilty or plea of nolo contendere for any crime involving alcohol or controlled dangerous substance;
 - c. Accumulation of more than eight current points on the licensee's driving record, pursuant to title 16, subtitle 4 of the transportation article of the Annotated Code of Maryland;
 - d. Having knowingly made a false statement of material and relevant facts on the application for a taxicab driver's license;
 - e. A physical or mental disability which might render him/her unfit for the safe operation of a taxicab;
 - f. Unreasonably refusing to submit to a chemical test upon the request of a law enforcement officer.
- VII. *Duration of Taxicab Driver's License:*
 - a. A license shall be valid for two years from the date of issuance which shall be July 1.
 - b. A license may be renewed upon certification by a physician of the continued good health of the driver and upon payment of the renewal fee.
 - c. Any taxicab driver who has allowed their license to lapse for more than one year beyond its expiration shall not be permitted to renew the license and shall go through the application process to obtain a license.
 - d. The individual may not drive a taxicab while their taxicab driver's license or Maryland driver's license is suspended, revoked or lapsed.
- VIII. *Appeal.* An individual aggrieved by a decision of the Director of Inspections, Licenses and Permits to refuse to grant or renew a taxicab driver's license, or an individual aggrieved by a decision of the Director of Inspections, Licenses and Permits to revoke or suspend a taxicab driver's license may, within ten days of the decision, appeal the decision to the Board of Appeals, which shall hear the appeal according to its rules of procedure.

(C.B. 36, 1986; C.B. 62, 1988; C.B. 12, 1999; C.B. 16, 2012, § 1)

Editor's note— Section 2 of C.B. 12, 1999, declared the bill effective June 5, 1999.

Sec. 14.107. - Responsibilities and duties of licensee.

- I. *Hours of Work.* A licensee shall not operate more than 12 hours in a consecutive 24-hour period. A licensee who is gainfully employed in another occupation shall not operate more than eight hours in a consecutive 24-hour period.
- II. *Stay with Vehicle.* When soliciting or transporting passengers the licensee shall remain with the vehicle except to load or unload the vehicle or answer the telephone in connection with the taxicab business.
- III. *License Required; Others Not Permitted to Drive on License:*
 - a. The licensee shall not permit a nonlicensee to drive the taxicab.
 - b. The licensee shall not permit another person to use his/her taxicab driver's license.
 - c. The licensee shall not leave his/her taxicab driver's license in an unattended taxicab at any time.
 - d. The licensee may work only in a vehicle with a Howard County permit.
 - e. The licensee may not solicit fares in another jurisdiction unless licensed in that jurisdiction.
- IV. *Trip Record.* The licensee shall keep a neat and legible current written record in ink of each trip, to be completed upon reaching the passenger's destination. The trip record, to be kept according to a format provided by the Department of Inspections, Licenses and Permits, shall contain:
 - a. The exact address or nearest intersection for the origin and destination of each trip;
 - b. The time each trip began and ended;
 - c. The number of passengers on each trip;
 - d. The amount of the fare for each trip, corresponding to the meter reading.
- V. *Report Accidents, Arrests, Changes of Addresses, Lost Property:*
 - a. Within three days of an accident involving the taxicab, the licensee shall report the event to the Department of Inspections, Licenses and Permits on a form provided by the Department.
 - b. Within 48 hours of being arrested, a licensee shall report the arrest to the Department.
 - c. Within 48 hours of changing his/her address, the licensee shall report the new address to the Department.
 - d. Within 24 hours of finding property left in the taxicab, the licensee shall notify the Police Department and the Department of Inspections, Licenses and Permits, describing the property, the time it was left in the vehicle, and the circumstances.
- VI. *Respond to Requests from Department of Inspections, Licenses and Permits and Police Department.* The licensee shall answer promptly all communications received from the Police Department and the Department of Inspections, Licenses and Permits concerning the operation of the vehicle.
- VII. *Accept Passengers; Take Directly to Destination; Speed; Route:*
 - a. The licensee shall accept any orderly person as a passenger.
 - b. The licensee shall take the passenger to his/her destination by the shortest practical route unless requested otherwise by the passenger. The licensee shall not convey the passenger to any other place except the passenger's destination.
 - c. The licensee shall comply with the passenger's request regarding the route to the destination.

- d. The licensee shall comply with the passenger's request regarding the speed of travel, provided that the requested speed does not violate legal speed limits and does not create a safety problem.
- VIII. *Fare.* The licensee shall not deceive or attempt to deceive a passenger or prospective passenger as to the rate of fare or the total cost. The licensee shall, upon request, give a receipt for the fare.
- IX. *Safe Pickup and Discharge of Passengers.* A licensee shall not permit a passenger to enter or leave a taxicab from the left side except at the left curb of a one-way street or when legally parked at an angle to the curb or in a marked space in a parking lot. The licensee shall not pick up or discharge passengers or load/unload the vehicle in any way that will impede or interfere with the orderly flow of traffic.
- X. *Nonpaying Passengers.* The licensee shall transport nonpaying passengers only when in training or when the vehicle is not on duty and the "off-duty" sign is displayed.
- XI. *Assistance to Police.* If a Police Officer requests the use of a taxicab in the performance of his/her official duty, the licensee shall transport the officer and assist him/her in any way possible.
- XII. *Additional Passengers.* The licensee shall not permit another passenger to ride in the taxicab if the original passenger objects.
- XIII. *Capacity of Vehicle Not to Be Exceeded.* The licensee shall not permit more persons to be carried in the taxicab than the seating capacity specified on the taxicab permit. No more than one person in addition to the licensee shall ride on the front seat.
- XIV. *Use of Alcohol, Narcotics and Other Drugs.* A licensee shall not drive a taxicab when the licensee is under the influence of any drug or alcohol or any combination of drugs and alcohol.
- XV. *Driver Conduct:*
- a. The sounding of the horn or other mechanical devices for purposes other than lawful traffic signals is prohibited.
 - b. While on duty, the licensee shall be clean and neat in dress and in person.
 - c. In accordance with the Howard County Indoor Clean Air Act (title 12, subtitle 6 of the County Code) smoking is prohibited in taxicabs in Howard County.
 - d. No licensee shall engage in chewing tobacco while a passenger is being carried in the cab.

(C.B. 36, 1986; C.B. 17, 1995; C.B. 12, 1999)

Note— Section 2 of C.B. 12, 1999, declared this bill effective June 5, 1999.

Sec. 14.108. - Taxicab stands.

- I. *Designation of Taxicab Stands.* Stands at public places, including hotels, theaters, shopping centers, restaurants and medical offices, shall be public stands to be used at no charge by the taxicabs of all certificate holders. A stand adjacent to the certificate holder's business office may be designated as a private stand to be used by the taxicabs of that certificate holder.
- II. *Taxicabs to Remain at Stand When Not Carrying Passengers.* Except when carrying passengers, taxicabs shall remain at designated taxi stands. Vehicles shall approach taxi stands from the rear and shall move forward as space becomes available.

(C.B. 36, 1985)

Sec. 14.109. - Penalties.

- I. *Criminal Penalties.* A certificate holder, licensee, holder of a taxicab permit, or any other person who violates the provisions of this subtitle shall be guilty of a misdemeanor and, upon conviction, be subject to a fine of not less than \$250.00 nor more than \$500.00 for a first offense, nor more than \$1,000.00 for each additional offense.
- II. *Civil Penalties.* The Department of Inspections, Licenses and Permits may enforce the provisions of this subtitle with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A first violation shall be a Class D offense. Subsequent violations shall be Class B offenses.
- III. *No Substitution for Other Redress.* The imposition of civil and criminal penalties shall not substitute for other remedial procedures or methods of legal redress.

(C.B. 36, 1985; C.B. 62, 1988; C.B. 48, 1989)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 14.110. - Severability.

The provisions of this subtitle are separable. If a provision, sentence, clause, section, subsection of any part is held invalid, illegal or unconstitutional or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality or inapplicability shall not affect nor impair the remainder of the subtitle or its application to other persons or circumstances.

(C.B. 36, 1985)

SUBTITLE 2. - STOCK CAR RACING

Sec. 14.200. - Licenses required; fees.

Each person, firm or corporation, resident or nonresident, operating in Howard County an establishment for the racing of motor vehicles known as stock cars and charging an admission fee to spectators at such races shall pay for the privilege of conducting such establishment an annual license fee of \$250.00. Such licenses shall be issued by the Department of Inspections, Licenses and Permits of Howard County upon the payment of the annual license fee, the entire proceeds of which shall be paid into the general funds of Howard County.

(1953, Ch. 520; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

SUBTITLE 4. - HOWARD COUNTY CABLE TELEVISION SYSTEMS FRANCHISE ACT⁽³⁾

Footnotes:

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Editor's note— Section 1 of C.B. 29, 1988, repealed subtitle 4, §§ 14.400—14.432; and § 2 added a new subtitle, §§ 14.400—14.433. The subtitle was formerly derived from C.B.'s 42, 1973; 47, 1979; 63, 1979; 32, 1980; 52, 1980; 119, 1980; 2, 1981; 38, 1984; 80, 1984; 7, 1986.

Sec. 14.400. - Short title.

This subtitle shall be known and may be cited as the "Howard County Cable Television Systems Franchise Act."

(C.B. 29, 1988)

Sec. 14.401. - Intent and purposes.

It is the intent of the County to promote the public health, safety and general welfare by providing for the grant of one or more franchises for the construction and operation of a cable system; to provide for the regulation of each cable system by the County; to provide for the payment of fees and other valuable consideration by a franchisee to the County for the privilege of using the public rights-of-way for constructing and operating a cable system; to promote the widespread availability of cable service to County residents wherever economically feasible, including to those who reside in multifamily buildings and in rural communities; to encourage the development of cable as a means of communication between and among the members of the public and public institutions; and to encourage the provision of diverse information to the community over cable.

(C.B. 29, 1988)

Sec. 14.402. - Definitions.

For the purpose of this subtitle, the following words and their derivations have the meanings defined below. Words not defined are given their meaning in section 602 of the Cable Act, 47 U.S.C. section 522, and, if none, their common and ordinary meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory, and the word "may" is permissive.

- (a) *Access channel* means any channel set aside for public use, educational use or governmental use without a charge by the franchisee for channel usage.
- (b) *Affiliate* means with respect to any person, any (a) Director, Officer or shareholder holding five percent or more of the capital stock (on a fully-diluted basis) of such person, (b) spouse, parent, sibling or descendant of such person (or a spouse, parent, sibling or descendant of a Director, Officer, or partner of such person) and (c) other person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. The term control includes, without limitation, the possession, directly or indirectly, of the power to direct the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise. Any person who beneficially owns, directly or indirectly, ten percent or more of the voting securities of another person or any person that designates one or more members of the Board of Directors of another person shall be deemed to control such other person.
- (c) *Application* means a proposal to construct and operate a cable system within the County, transfer a franchise, renew a franchise or modify a franchise. An application includes the initial proposal plus all subsequent amendments or supplements to the proposal and relevant correspondence.
- (d) *Cable Act* means the Cable Communications Policy Act of 1984, 47 U.S.C. sections 521 et seq.
- (e) *Cable Administrator* means the person appointed by the County Executive and confirmed by the Council to have day-to-day responsibility for administration of cable communication operations within the County as governed by this subtitle and by applicable franchise agreements. The Cable Administrator has the responsibility for the administration of the access channels which are set aside for government use. The Cable Administrator is appointed by the Executive and confirmed by the Council. The Cable Administrator may be removed from office by the Executive with the consent of a majority of Council.

- (f) *Cable system* means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the County. Such term does not include:
- (1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;
 - (2) A facility that services only subscribers in one or more multiple-unit dwellings under common ownership, control, or management, unless such facility uses any public right-of-way;
 - (3) A facility of a common carrier that is subject, in whole or in part, to the provisions of title II of the Communications Act of 1934, 47 U.S.C. section 201 et seq., except that such facility will be considered a cable system to the extent it is used in the transmission of video programming directly to subscribers; or
 - (4) Any facilities of any electric utility used solely for operating its electric utility systems.
- (g) *Cable service* means the one-way transmission of video or other programming service to subscribers together with any subscriber interaction provided in connection with such service.
- (h) *Control of a franchisee or Applicant* means the legal or practical ability to direct the affairs of the franchisee or Applicant either directly or indirectly, whether by contractual agreement or majority ownership of an economic interest.
- (i) *County* means Howard County, Maryland, in its present Chartered form, or in any form which may subsequently be adopted.
- (j) *Council* means the County Council that is the legislative body of the County.
- (k) *County Executive* or *Executive* means the Chief Executive Officer of the County or designee.
- (l) *District* means the geographic area within the County designated by the franchise agreement in which the franchisee is authorized to construct and operate a cable system.
- (m) *Fair market value* means the price that a willing buyer would pay to a willing seller for a going concern based on the system valuation prevailing in the industry at the time but with no value allocated to the franchise itself.
- (n) *FCC* means the Federal Communications Commission.
- (o) *Franchise* means the right granted by the County to a franchisee to construct, maintain and operate a cable system over, on or under streets, roads and all other public ways, easements and rights-of-way within all or specified areas of the County. The term does not include any license or permit that may be required by this subtitle or other laws, ordinances or regulations of the County for the privilege of transacting and carrying on a business within the County or for disturbing the surface of any street or public thoroughfare.
- (p) *Franchise agreement* means a contract entered into in accordance with the provisions of this subtitle between the County and a franchisee that sets forth the terms and conditions under which the franchise will be exercised.
- (q) *Franchisee* means any person granted a franchise pursuant to this subtitle.
- (r) *Gross revenues* means all revenues derived by a franchisee from the operation of its cable system within the County, including, but not limited to, revenues derived from cable service, home shopping channels, institutional services, rental or lease of equipment, or installation fees.
- Gross revenues* does not include revenues derived from the provision of telephone services or telephone-related services (including personal computing and other on-line services) unless the inclusion is expressly allowed or required by Federal law.
- (s) *Leased access channel* means a channel designated in accordance with section 612 of the Cable Act, 47 U.S.C. section 532, for commercial use by persons unaffiliated with the franchisee.

- (t) *Overbuild* means a cable system constructed to serve subscribers in a district or part of a district served by an existing cable system, including those parts of an existing system that will be constructed within six months pursuant to plans filed with the County.
- (u) *Person* means any individual, corporation, partnership, association, joint venture or organization of any kind and the lawful trustee, successor, assignee, transferee or personal representative thereof.
- (v) *Public rights-of-way crossing* means any utility crossing under a road which is both dedicated to and accepted by the County or a prescriptive road.
- (w) *Rate* means a single monetary figure which reflects the cost to the subscriber and includes within the figure all costs, franchise fees, and other overhead costs, excluding sales taxes.
- (x) *Secondary franchise* means a franchise granted to any person who, directly or indirectly through an affiliate, is primarily engaged in the business of real estate development and seeks the franchise for the primary purpose of providing cable television service to a single real estate development developed, financed by or through or constructed by such person.
- (y) *Subscriber* means any person who legally receives any one of the services provided by the cable system.
- (z) *System malfunction* means an equipment or facility failure that results in the loss of satisfactory service on one or more channels. A malfunction is major if it affects 30 or more subscribers.
- (aa) *Transfer of a franchise* means any transaction in which:
 - (1) An ownership or other interest in a franchisee is transferred from one person or group of persons to another person or group of persons so that control of the franchisee is transferred; or
 - (2) The rights held by the franchisee under a franchise agreement are transferred or assigned to another person or group of persons.

(C.B. 29, 1988; C.B. 38, 1989; C.B. 42, 1992; C.B. 80, 1995; C.B. 69, 2006, § 1)

Sec. 14.403. - Grant of authority; franchise required.

The County may grant one or more franchises in accordance with this subtitle. No person may construct or operate a cable system in the County without a franchise granted by the County.

(C.B. 29, 1988)

Sec. 14.404. - Franchise characteristics.

- (a) A franchise authorizes use of the public rights-of-way for installing cables, wires, lines and other facilities to operate a cable system within a specified district, but does not expressly or implicitly authorize the franchisee to provide service to, or install cables, wires, lines or any other equipment or facilities upon private property without owner consent (except for use of compatible easements pursuant to 47 U.S.C. section 541(a)(2)), or to use publicly or privately owned utility poles or conduits without a separate agreement with the owners.
- (b) A secondary franchise shall authorize the franchisee to serve no more than 1,600 subscribers, shall be limited to a single real estate development (which may include multiple parcels of adjacent land which may be developed in stages and which may include public roads and/or private roads), within the County, and shall include no more than five public rights-of-way crossings in the area at the time the franchise application is filed.
- (c) A separate secondary franchise is required for each real estate development area in which a franchisee wishes to offer franchised cable service. Under no circumstances shall a franchisee,

collectively with any affiliates, provide franchised cable service to more than 2,800 paid subscribers in the County.

- (d) A secondary franchisee may not execute a contract with a developer, homeowner's association or council of unit owners of a condominium regime or otherwise cause a covenant to be put into effect that requires or has the effect of requiring a purchaser of a lot or a unit in the development within the secondary franchise area to pay a cable fee as part of a covenanted homeowner's or unit owner's mandatory assessment. Any such covenanted assessment existing prior to a County Council hearing on a secondary franchise application shall be revoked prior to County Council consideration of the secondary franchise application.

All secondary franchise areas shall be open to competing cable operators without charge except for compensation for damages. Individual subscribers within a secondary franchise area may directly contract with any cable operator.

- (e) A secondary franchisee shall, on a quarterly basis, provide to the County, in writing, the total number of paid subscribers served by all its franchise(s) in the County. Once the franchisee's cable system passes all of the dwellings within all of its franchised district(s), the franchisee shall provide this report to the County annually on December 31.
- (f) A secondary franchisee shall not restrict access to roads that are dedicated to but not yet accepted by the County or private roads at any time to any franchised cable operator seeking to offer service within the franchised district.
- (g) A secondary franchise shall comply with all requirements and provisions of subtitle 4 that apply to a cable franchise except to the extent that these requirements are modified for a secondary franchise by subsection 14.402(x), subsections 14.404(b)—(e), subsections 14.407(e)(5) and 14.408(i), in which case the secondary franchise shall comply with these provisions governing a secondary franchise.
- (h) A franchise is nonexclusive, and will not expressly or implicitly preclude the issuance of other franchises to operate cable systems within the County or affect the County's right to authorize use of public rights-of-way to other persons as it determines appropriate.
- (i) A franchise conveys no property right to the franchisee or right to renewal other than as may be required by State or Federal law.
- (j) A franchise agreement constitutes a contract between the franchisee and the County once it is accepted by the franchisee. A franchisee contractually commits itself to comply with the terms, conditions and provisions of the franchise agreement and with all applicable laws, ordinances, codes, rules, regulations and orders.

(C.B. 29, 1988; C.B. 69, 2006, § III)

Sec. 14.405. - Franchisee subject to other laws, police power.

- (a) A franchisee is subject to and shall comply with all applicable local, County, State and Federal laws, ordinances, codes, rules, regulations and orders. A franchisee is also subject to the County's police power in accordance with article 25A subsection 5(s) of the Annotated Code of Maryland.
- (b) Any other provision in the Howard County Code concerning the grant of franchises does not apply to the grant of franchises for the construction and operation of cable systems.
- (c) A franchisee or other person may not be excused from complying with any of the terms and conditions of this subtitle or a franchise agreement by any failure of the County, upon one or more occasions, to require compliance or performance.

(C.B. 29, 1988)

Sec. 14.406. - Interpretation of franchise terms.

- (a) Except as provided in subsections (d) and (e) of this section, the provisions of this subtitle shall apply to a franchise agreement. The express terms of this subtitle shall prevail over conflicting or inconsistent provisions in a franchise agreement unless:
 - (1) The franchise agreement specifically states otherwise; and
 - (2) When approving the agreement, the County Council finds that the conflicting or inconsistent provisions accomplish the intent and purpose of this subtitle.
- (b) The provisions of a franchise agreement shall be liberally construed in order to effectuate its purposes and objectives consistent with this subtitle and the public interest.
- (c) A franchise agreement shall be governed by and construed in accordance with the laws of the State of Maryland.
- (d) The following provisions of this subtitle shall not apply to the telecommunications facilities of a common carrier, as defined in subsection 14.402(e)(3) of this subtitle, when the common carrier also provides cable services through the telecommunications facility:
 - (1) Subsection 14.414(h);
 - (2) Subsections 14.416(a)—(e), (g), and (h);
 - (3) Subsections 14.420(j) and (k);
 - (4) Subsections 14.422(f) and (g);
 - (5) The portion of subsection 14.423(a) that states "If the County exercises its right to purchase a cable system pursuant to this subtitle or a franchise agreement and the County and franchisee are unable to agree on a price for the purchase of the system, the price may be determined by arbitration"; and
 - (6) Subsections 14.424(b) and (c).
- (e) Subsections 14.416(d) and (f) of this subtitle shall not apply to the telecommunications facilities of a common carrier, as defined in subsection 14.402(e)(3) of this subtitle, when the common carrier also provides cable services through the telecommunications facility if the requirements of these sections are otherwise satisfied by applicable utility agreement or another provision of Howard County law.

(C.B. 29, 1988; C.B. 74, 2005)

Sec. 14.407. - Applications for grant, renewal, modification or transfer of franchises.

- (a) An application shall be filed with the Cable Administrator for grant of a new franchise, renewal of a franchise under either the formal or informal procedures in accordance with section 626 of the Cable Act, 47 U.S.C. section 546, modification of a franchise agreement or a transfer of a franchise. An Applicant has the burden to demonstrate compliance with all requirements of this subtitle and of Federal law.
- (b) To be acceptable for filing, an application shall be submitted:
 - (1) In the number of copies required by the Cable Administrator;
 - (2) Be accompanied by the application filing fee where required;
 - (3) Conform to any applicable request for proposals; and
 - (4) Contain all required information.

All applications shall include the names and addresses of persons authorized to act on behalf of the Applicant with respect to the application.

- (c) All applications accepted for filing shall be made available by the Cable Administrator for public inspection. The Cable Administrator shall advertise the receipt of all accepted applications for two successive weeks in a newspaper of general circulation in the County, which advertisement shall identify the location at which such applications may be viewed.
- (d) An application for the grant of a new franchise may be filed pursuant to a request for proposals issued by the County or on an unsolicited basis. The County, upon receipt of an unsolicited application, may issue a request for proposals. If the County elects to issue a request for proposals upon receipt of an unsolicited application, the Applicant may submit an amended application in response to the request for proposals, may inform the Cable Administrator that its unsolicited application should be considered in response to the request for proposals, or may withdraw its unsolicited application. An application which does not conform to the requirements of a request for proposals may be considered nonresponsive.
- (e) An application for the grant of a new franchise shall contain, at minimum, the following information:
 - (1) Name and address of the Applicant and identification of the ownership and control of the Applicant, including: The names and addresses of the ten largest holders of an ownership interest in the Applicant and all persons with five percent or more ownership interest; the persons who control the Applicant; all Officers and Directors of the Applicant; and any other business affiliation and cable system ownership interest of each named person;
 - (2) An indication of whether the Applicant, any person controlling the Applicant, or any officer or major stockholder of the Applicant has been adjudged bankrupt, had a cable franchise revoked, or been found guilty by any court or administrative agency of a violation of a security or antitrust law, a felony, or any crime involving moral turpitude; and, if so, identification of any such person or entity and a full explanation of the circumstances;
 - (3) A demonstration of the Applicant's technical, legal and financial ability to construct and operate the proposed cable facility, including identification of key personnel;
 - (4) A description of the Applicant's prior experience in cable operations and identification of communities in which the Applicant or its principals have, or had, a cable franchise or an interest therein, including the identification of any disciplinary actions or litigation involving any such franchisees and their franchising authorities;
 - (5) State whether the application is for a secondary franchise. If applying for a secondary franchise, then the Applicant must state whether it, or any of its affiliates, hold or have applied for any other secondary franchises in the County. An Applicant for a secondary franchise must certify in the application that such franchise will not exceed 1,600 paid subscribers in the district and will not have more than five public rights-of-way crossings in the district at the time the initial franchise application is filed. The Applicant must certify in the application that it, collectively with any affiliates holding a franchise, will not have more than 2,800 paid subscribers in the County. All Applicants must identify the district(s) to be served by the cable system, including a description or a map of each district's boundaries;
 - (6) A detailed description of the physical facility proposed, including channel capacity, technical design, performance characteristics, headend and access facilities to be provided to satisfy the requirements of section 14.427;
 - (7) A description of the construction of the proposed system, including an estimate of above-ground and below-ground mileage and its location, the proposed construction schedule, a description, where appropriate, of how services will be converted from existing facilities to new facilities, and information on the availability of space on poles and conduits, including, where appropriate, an estimate of the cost of rearrangement of facilities to accommodate such use;
 - (8) A description of the services to be provided initially, including all broadcast and non-broadcast signals to be carried and all non-television services; and, if services will be offered by tiers, identification of the signals and/or services to be included on each tier;

- (9) The proposed rate structure, including charges for each service tier, installation, converters and other equipment or services;
 - (10) A demonstration of how the proposal will reasonably meet the future cable related needs and interests of the community, including a description of how the proposal will meet the needs described in any recent community needs assessment conducted for the County;
 - (11) *Pro forma* financial projections for the first five years of the franchise term, including statement of income, balance sheet, sources and uses of funds, and schedule of capital additions, with all significant assumptions explained in notes or supporting schedules;
 - (12) An affidavit of the Applicant or authorized Officer certifying the truth and accuracy of the information in the application, acknowledging the enforceability of application commitments, and certifying that the proposal meets all Federal and State requirements;
 - (13) If an Applicant proposes to provide cable service to an area already served by an existing cable franchisee, the identification of the area where the overbuild would occur, the potential subscriber density in the area which would encompass the overbuild, and other information as necessary for the County to make its determination pursuant to subsection 14.408(c); and
 - (14) Any other information necessary to demonstrate compliance with the requirements of this subtitle and information that the County may request of the Applicant.
- (f) An application for modification of a franchise shall include, at minimum, the following information:
- (1) The specific modification requested;
 - (2) The justification for the requested modification, including the impact of the requested modification on subscribers and others, and the impact on the Applicant if the modification is not approved;
 - (3) A statement whether the modification is sought pursuant to section 625 of the Cable Act, 47 U.S.C. section 545, and, if so, a demonstration that the requested modification meets the legal standards of 47 U.S.C. section 545; and
 - (4) Any other information necessary for the County to make a determination.
- (g) An application for renewal of a franchise shall comply with the requirements of section 14.420.
- (h) An application for approval of a transfer of a franchise shall comply with the requirements of section 14.421.
- (i) To be acceptable for filing, an application shall be accompanied by a filing fee in the following amount, as appropriate:
- For a new franchise \$10,000.00
 - For renewal of a franchise 5,000.00
 - For a transfer of a franchise 3,000.00
 - For a modification of a franchise (except expansion of a district) 5,000.00

(C.B. 29, 1988; C.B. 88, 1993; C.B. 69, 2006, § IV)

Sec. 14.408. - Grant of franchises.

- (a) A franchise may be granted for a period not to exceed 15 years to serve a specified district of the County.
- (b) The grant of a franchise may be conditioned upon the completion of construction within a prescribed time or upon the performance of other specific obligations, specifying that failure to timely comply with the condition will cause the franchise to become null and void without further action by the

County, unless the County, at its discretion and for good cause shown, grants an extension of time. In such an event the revocation procedures specified in section 14.422 shall not be applicable.

- (c) In evaluating an application for a new franchise, the County shall consider the Applicant's character; the Applicant's technical, financial and legal qualifications to construct and operate the proposed system; the nature of the proposed facilities, equipment and services; the Applicant's record in other communities, if any; and whether the proposal will meet anticipated community needs and serve the public interest. Where an Applicant proposes an overbuild of an existing cable system, the County may also consider the economic feasibility of multiple cable operators, the impact on the existing franchisee, including whether the operations of the existing cable franchisee will be interfered with or disrupted, and whether any adverse consequences to the public interest will result if the application is granted.
- (d) Based upon the application, the written and oral testimony and other material presented at a public hearing before the Council, and any other information relevant to the application, the Council shall decide whether to grant or deny a franchise application.
- (e) If the Council grants a franchise application, the County Executive and the Applicant shall agree on the terms of a franchise agreement within 90 calendar days from the date of the resolution making the grant. This period may be extended for good cause by the Council. If agreement is not reached with the County Executive within 90 calendar days or if the period is not extended by the Council, the franchise grant will be null and void without further action by the County.
- (f) The Cable Administrator shall make the text of a proposed franchise agreement available to the public and shall advertise it once a week for three successive weeks in a newspaper of general circulation in the County. Such advertisement shall state the general terms of the agreement, giving the date and time of a public hearing or other opportunity for comments and objections to the proposed agreement.
- (g) After complying with the requirements of subsections (c)—(f) above, the Council shall, following a public hearing, approve or disapprove the proposed franchise agreement by resolution.
- (h) The grant of an initial franchise or a renewed franchise may be subject to a franchise acceptance fee in an amount not to exceed the County's out-of-pocket costs in considering the application, less the amount of the filing fee. Within 30 calendar days of the date of the Council resolution approving the franchise agreement, the County shall notify the approved Applicant of the amount of any franchise acceptance fee and its method of calculation. If the franchise acceptance fee is not paid within 60 calendar days of the date of the Council resolution approving the franchise agreement, the grant will be null and void. Prior to the franchise becoming effective, the approved Applicant shall demonstrate compliance with the surety, insurance and similar provisions of the franchise agreement.
- (i) If at any point a secondary franchise fails to comply with the restrictions set forth in section 14.404, Then the franchisee of a secondary franchise shall either take such action as is necessary to come into compliance within 90 days of written notice or the secondary franchise shall be amended to contain the same or similar cable and communications build out requirements as are required of other franchise holders within the County.

(C.B. 29, 1988; C.B. 69, 2006, § V)

Sec. 14.409. - Insurance; surety; indemnification.

- (a) A franchise agreement shall require the following insurance coverage to be in force at all times during the franchise period: Workmen's compensation insurance to meet all State requirements; and general comprehensive liability insurance with respect to the construction, operation and maintenance of a cable system, including the operation of motor vehicles, in the following minimum amounts:

- (1) For bodily injury, including death, \$500,000.00 for any one person, and \$2,000,000.00 for any one accident;
 - (2) For property damage \$3,000,000.00; and
 - (3) For damages resulting from any liability of any nature that may arise from or be occasioned by operation of the cable system, including any communication over the cable system, excepting programming on government channels, \$2,500,000.00.
- (b) All insurance policies shall be with sureties qualified to do business in Maryland and in a form approved by the County Solicitor. The County Executive may require in a franchise agreement coverage and amounts in excess of the above minimums.
 - (c) A franchisee shall, at its sole cost and expense, indemnify, hold harmless and defend the County, its officials, Boards, Commissions, agents and employees, against any and all claims, suits, causes of action, proceedings and judgments for damages or equitable relief arising out of the construction, maintenance or operation of its cable system regardless of whether the act or omission complained of is authorized, allowed or prohibited by the franchise. This provision includes, but is not limited to, claims arising out of copyright infringements or a failure by the franchisee to secure consent from the owners, authorized distributors or licensees of programs to be delivered by the cable system.
 - (d) The franchise agreement shall require the franchise to have in force at all times a performance bond or an irrevocable letter of credit in an amount specified in the franchise agreement as necessary to ensure the faithful performance by the franchisee of its obligation under the franchise agreement. Such surety instruments shall be provided by an entity qualified to do business in the State of Maryland and in a form approved by the County Solicitor.

(C.B. 29, 1988)

Sec. 14.410. - Security fund.

- (a) Prior to the franchise becoming effective, the franchisee shall post with the County Director of Finance a cash security deposit in the minimum amount of \$10,000.00 or such other amount as specified in the franchise agreement to be used as a security fund to ensure the faithful performance of all provisions of law and the franchise agreement and compliance with all orders, permits and directions of the County, and the payment by the franchisee of any claims, liens or taxes due the County which arise by reason of the construction, operation or maintenance of the system.
- (b) The Director of Finance shall place the security deposit in an interest-bearing account. The interest will accrue to the benefit of the franchisee but may not be withdrawn; all interest will be added to and become part of the original security fund during the term of the franchise.
- (c) If a franchisee fails to pay the County any fees or taxes due, liquidated damages, damages, or costs or expenses incurred by the County by reason of any act or default of the franchisee, or if the franchisee fails to comply with any provision of the franchise agreement that the County reasonably determines can be remedied by an expenditure of the security fund, the Director of Finance may, after ten calendar days' notice to the franchisee, withdraw that amount with any interest or penalties from the security fund. Upon such withdrawal, the Cable Administrator shall notify the franchisee of the amount and date of the withdrawal.
- (d) Within 30 calendar days after notice to it that an amount has been withdrawn by the Director of Finance from the security fund, the franchisee shall deposit a sum of money sufficient to restore the security fund to the original amount. If the franchisee fails to restore the security fund to the original amount within 30 calendar days, the entire security fund remaining may be forfeited; and/or such failure may be considered a material breach of this subtitle and may be used as grounds for revocation of the franchise.
- (e) The security fund will become the property of the County in the event the franchise is revoked. The franchisee is entitled to the return of the security fund that remains following termination of the

franchise, provided that there is no outstanding default or unpaid amounts owed to the County by the franchisee.

- (f) The rights reserved to the County with respect to the security fund are in addition to all other rights of the County whether reserved by this subtitle or authorized by other law; and no action, proceeding or exercise of a right with respect to such security fund will affect any other right the County may have.

(C.B. 29, 1988)

Sec. 14.411. - Minimum facilities and services.

- (a) The following minimum requirements for facilities and services apply to all franchises. The County may require that a franchise exceed these minimum requirements.
 - (1) A cable system shall have a minimum capacity of 54 video channels available for immediate or potential use and have the capability for two-way communications.
 - (2) A cable system shall provide at least three access channels, which will be individually designated by the County for public, educational or governmental access, The County may require the franchisee to contribute to capital costs for access studios and related equipment and facilities.
 - (3) A cable system shall provide leased access channels as required by Federal law.
 - (4) Service to public buildings may be required without charge as set forth in the franchise agreement.
 - (5) A franchisee shall interconnect the cable system access channels with those of other cable systems in the County upon the direction of the County Executive or as otherwise provided in the franchise agreement.
 - (6) A franchisee shall design its system to allow the County to interrupt cable service in an emergency to deliver necessary information to subscribers.
 - (7) To the extent consistent with Federal law and unless provided otherwise in a franchise agreement, a franchisee shall carry at least 13 off-the-air television signals from the Baltimore-Washington area, and each of those signals shall be carried on the cable system on the same channel number as its off-the-air channel number unless otherwise approved by the County.
 - (8) A franchisee shall make available to its subscribers, on a lease or sale basis, equipment capable of decoding closed captioning information for the hearing impaired.
 - (9) At the request of a subscriber, a franchisee shall provide a "lock-out device" which shall allow the subscriber to eliminate comprehensible reception of channels other than those in the basic tier of service. The franchisee may charge the subscriber for the cost of installation and maintenance of this device.
- (b)
 - (1) Unless a franchise agreement provides otherwise, a franchisee shall make cable service available to every unserved dwelling within the franchisee's district where the dwelling is in an area with a minimum density of 30 dwellings per cable mile.
 - (2)
 - (i) If the Cable Administrator finds that an unbuilt area of the franchisee's district meets the minimum density requirement of this section or of the franchisee's franchise agreement, the Cable Administrator shall notify the franchisee of that fact.
 - (ii) A franchisee that receives a notice under subparagraph (2)(i) of this subsection shall provide cable television service to the area within one year of receipt of the notice.
 - (3) Where potential subscribers reside in an area of the district with dwelling density below the prescribed minimum, the franchisee shall extend service to such potential subscribers under the following conditions:

- (i) If they are willing to pay a one-time charge equivalent to the franchisee's construction cost per dwelling passed above the franchisee's cost at the minimum dwelling density; or
 - (ii) If 15 potential subscribers per cable mile commit themselves to taking service.
- (c) The County may waive minimum requirements of this section where such waiver is justified in the public interest.

(C.B. 29, 1988; C.B. 92, 1996)

Sec. 14.412. - Franchise fee.

- (a) A franchisee, in consideration of the privilege granted under a franchise for the use of public rights-of-way to construct and operate a cable system, shall pay to the County five percent of the franchisee's gross revenues derived from the operation of its cable system within its franchise district during the period of its franchise. A franchisee shall pay the franchise fee due to the County for the preceding quarter within 30 calendar days of the end of that quarter.
- (b) Any payment of franchise fees to adjust for a shortfall in the quarterly payments for the preceding year shall be made no later than the filing date for the annual financial statements. Adjustments for any overpayment will be credited to subsequent quarterly payments.
- (c) Unless a franchise agreement provides otherwise, a franchisee shall file with the Cable Administrator within 30 calendar days of the end of each calendar quarter a financial statement showing the gross revenues received by the franchisee during the preceding quarter and the number of subscribers served.
- (d) A franchisee shall file within three months of the end of its fiscal year the franchisee's annual financial statements for the preceding year audited by a certified public accountant. The franchisee will bear the cost of the preparation of such financial statements.
- (e) The Director of Finance may inspect and audit any and all books and records of the franchisee, and recompute any amounts determined to be payable under the franchise. The cost of the audit will be borne by the franchisee if the annual payment to the County is increased by more than five percent as a result of the audit.
- (f) In the event that a franchise payment is not received by the County on or before the due date, interest will be charged from the due date at the annual interest rate then chargeable for unpaid Federal income taxes (26 U.S.C. section 6621). In addition, the franchisee will pay a late charge of five percent of the amount of such payment. Interest and late charges will not be imposed for any payment necessary as a result of the yearly adjustment provided for in subsection (b) above, if the payment to correct for a short fall does not exceed ten percent of the total payments made during the year. In the event such payment exceeds ten percent of the total payments made during the year, the franchisee will be liable for interest and late charges for the entire amount due.
- (g) When a franchise terminates for whatever reason, the franchisee shall file with the Cable Administrator within 90 calendar days of the date its operations cease an audited financial statement showing the gross revenues received by the franchisee since the end of the previous fiscal year. Adjustments will be made at that time for franchise fees due to the date that the franchisee's operations ceased.

(C.B. 29, 1988; C.B. 40, 1991; C.B. 30, 1999)

Sec. 14.413. - Reports and records.

- (a) Subject to section 22.1000 of the County Code, within three months of the close of its fiscal year, a franchisee shall file with the Cable Administrator and with the County Council an annual report that includes the following information:

- (1) A summary of the previous calendar year's activities in development of the system, including but not limited to services begun or dropped, number of subscribers (including gains and losses), homes passed and miles of cable distribution plants in service. The summary shall also include a comparison of any construction, including system upgrades, during the year with any projections previously provided to the County.
 - (2) A financial statement, including a statement of income, a balance sheet and, where the franchisee is in a significant construction phase, a statement of sources and applications of funds. The statement shall include notes that specify all significant accounting policies and practices upon which it is based. A summary shall be provided comparing the current year with previous years since the beginning of the franchise.
 - (3) A copy of updated maps depicting the location of all trunks where there was construction in the year of the report.
 - (4) A summary of complaints identifying the number and nature of complaints and their disposition. Where complaints involve one or more recurrent system problems, the nature of each problem and what steps have been taken to correct it shall be identified. More detailed information on complaints shall be submitted upon request of the Cable Administrator.
 - (5) If the franchisee is a corporation, a list of Officers and Members of the Board and the Officers and Board Members of any parent corporation; and, where a parent corporation's stock is publicly traded, a copy of its most recent annual report.
 - (6) A list of all partners or stockholders holding five percent or more ownership interest (i) in the franchisee and (ii) any parent corporation; provided, however, when any such entity has fewer than ten persons holding five percent ownership interest, the ten largest such holders. Alternatively, the annual ownership information required by the FCC for broadcast licensees may be supplied.
 - (7) A copy of all the franchisee's rules and regulations applicable to subscribers and users of the cable system.
 - (8) A report on the number of elderly and subscribers with disabilities receiving any rate discounts and the amount of the discounts.
- (b) A franchisee shall maintain a complete set of books and records from which the information contained in the report under this section is derived, which shall be available for inspection by the County during normal business hours.
- (c) Upon written request of the franchisee and approval by the County Solicitor, information of a proprietary nature submitted to the County pursuant to this subtitle or a franchise agreement will not be made available for public inspection.

(C.B. 29, 1988; C.B. 81, 1995; C.B. 14, 2014, § 1; C.B. 43, 2018, § 1)

Sec. 14.414. - Customer service requirements.

(a) *Definitions:*

- (1) *Normal business hours* means:
 - (i) Those hours during which most similar businesses in the community are open to serve customers; plus
 - (ii) Weekday evening hours at least once a week and/or daytime weekend hours, whether or not similar businesses in the community are open to serve customers at those times.
- (2) *Normal operating conditions* means service conditions which are within the control of the franchisee operator, including, but not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the

system. *Normal operating conditions* does not mean service conditions which are not within the control of the franchisee, including, but not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe weather.

- (3) *Service interruption* means the loss of picture or sound on one or more channels.
 - (4) *Standard installation* means an installation located up to 125 feet from the existing distribution system.
- (b) *Business Office; Customer Service and Bill Payment Center.* A franchisee shall maintain in its franchise district a conveniently located business office which shall be open during normal business hours. At the same location, or elsewhere in the franchise district, the franchisee shall maintain a customer service and bill payment center which shall be open during normal business hours.
- (c) *Telephone Service:*
- (1) *Free telephone access line.* The franchisee shall maintain a local, toll-free or collect call telephone access line which will be available 24 hours a day, seven days a week.
 - (2) *During business hours.* Trained representatives of the franchisee shall be available to respond to telephone inquiries during normal business hours.
 - (3) *After normal business hours.* After normal business hours, the telephone access line may be answered by a service or an automated response system, including an answering machine. However, on the next business day, a trained representative of the franchisee shall respond to all inquiries received after normal business hours.
 - (4) *Telephone service standards.* These service standards shall apply at least 90 percent of the time during normal operating conditions:
 - (i) A trained customer representative shall answer the customer's call within 30 seconds from when the telephone connection is made.
 - (ii) Waiting time for a transfer shall not exceed 30 seconds.
 - (iii) The caller will receive a busy signal less than three percent of the time.
 - (5) *Measuring telephone service standards.* The franchisee will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards unless an historical record of complaints indicates a clear failure to comply. When measurement of telephone answering standards is required, it shall be done on a quarterly basis.
- (d) *Installations and Service Calls.* These standards apply only during normal operating conditions and shall be met at least 95 percent of the time.
- (1) The franchisee shall make a standard installation within seven business days after the customer places an installation order.
 - (2) The franchisee shall begin work on a service interruption promptly after it becomes known and, in no event, more than 24 hours after it becomes known.
 - (3) The franchisee shall begin actions to correct other service problems by the next business day after notification of the service problem.
 - (4) The franchisee shall make an appointment with the customer for installations or to perform service. The appointment may be either a specific time or during a four-hour time block during normal business hours.
 - (5) The franchisee may schedule installations and service calls outside of normal business hours for the convenience of the customer.
 - (6) A franchisee may not cancel an appointment with a customer after the close of business on the business day before the scheduled appointment.

- (7) The franchisee shall contact the customer if the franchisee's representative is running late and will not be able to keep the appointment as scheduled. The appointment will be rescheduled, as necessary, at a time convenient for the customer.
 - (8) A franchisee shall maintain a complete record of service complaints received and action taken. These records shall be open to the County for inspection during normal business hours. Such records shall be retained for not less than three years.
- (e) *Outages.* A franchisee may interrupt service on the cable system only for good cause and for the shortest time possible. And, except in emergency situations, the franchisee must give prior notice to subscribers and the office of the Cable Administrator before any anticipated service interruption of 15 minutes or more.
- (f) *Charges and billing; Information to Be Provided; Refunds and Credits:*
- (1) *General information.* At the time of installation of service, at least once annually, and at any time upon request, a franchisee shall provide each subscriber with written information on each of the following areas:
 - (i) Products and services offered;
 - (ii) Prices and options for the programming services and conditions of subscription to programming and other services;
 - (iii) Installation and service maintenance policies;
 - (iv) Instructions on how to use the cable service;
 - (v) Channel positions of programming carried on the system;
 - (vi) billing and complaint procedures, including the address and telephone number of the Howard County Cable Administrator.
 - (vii) A synopsis, prepared by the office of the Cable Administrator, of this section of the Howard County Code regarding consumer protection and customer service standards;
 - (viii) The amount of and the method used to apply late charges.
 - (2) *Information regarding changes in rates:*
 - (i) The franchisee shall notify customers of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and in writing.
 - (ii) If the change is within the control of the franchisee, the franchisee shall give notice of the change to subscribers at least 30 days before the change takes place.
 - (iii) In addition, the franchisee shall notify subscribers 30 days in advance of any significant changes in the other information required by the preceding section.
 - (iv) Whenever a customer requests a change in service level, the franchisee shall give the customer, either verbally or in writing, a detail of the new monthly charge.
 - (3) *Bills.* Bills shall be clear, concise and understandable. Each bill shall itemize at least the following:
 - (i) Basic service charges;
 - (ii) Premium service charges;
 - (iii) Equipment charges; and
 - (iv) All activity during the billing period, including optional charges, rebates and credits.
 - (4) *Billing disputes.* In case of a billing dispute, the franchisee shall respond to a written complaint from a subscriber within 30 days.

- (5) *Refunds.* The franchisee shall issue refund checks promptly, but no later than:
 - (i) The customer's next billing cycle following resolution of the request or 30 days whichever is earlier; of
 - (ii) The return of the equipment supplied by the franchisee if service is terminated.
- (6) *Credits.* If the franchisee determines that a credit is warranted, the credit will be issued no later than the customer's next billing cycle.
- (g) *Identification:*
 - (1) *Representatives.* Each representative of the franchisee, whether a cable company employee or a contractor, shall have a form of identification, preferably photographic, indicating that he or she is a representative of the franchisee. This identification shall be visible to members of the public or shall be made available upon request.
 - (2) *Vehicles.* All vehicles involved in cable business shall have signs showing the cable company's name and telephone number.
- (h) *Construction.* The franchisee shall notify the residents of an affected area before undertaking any underground construction other than emergency maintenance. This notification may be made either by mail, by the use of a "door-hanger" or by publication. The franchisee shall also send a copy of the notification to the Cable Administrator. The notification shall include:
 - (1) The reason for the construction;
 - (2) The areas where construction is to take place;
 - (3) The approximate dates for beginning and end of construction;
 - (4) The franchisee's telephone number and a contact person;
 - (5) The telephone number of the Cable Administrator.
- (i) *Enforcement.* The Cable Administrator may enforce the provisions of this section with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A notice of violation shall be sent to the franchisee detailing the nature of the violation. If the violation is not remedied within five working days or a subsequent violation of the same provision occurs within 60 days, the Cable Administrator may issue a civil citation. A citation for violation of section 14.414 of this subtitle shall be a Class D offense. The second violation of this section shall be a Class C offense. The third violation of this section shall be a Class B offense. Subsequent violations shall be Class A offenses.

(C.B. 29, 1988; C.B. 42, 1992; C.B. 79, 1993)

Sec. 14.415. - Discrimination prohibited.

- (a) Unless approved by the County and to the extent consistent with Federal law, no franchisee may in its rates or charges, or in the availability of the services or facilities of its system, or in any other respect except for system promotional activities and discount sales programs, make or grant undue preferences or advantages to any subscriber or potential subscriber to the system, or to any user or potential user of the system, nor subject any such persons to any undue prejudice or any disadvantage. A franchisee shall not deny, delay or otherwise burden service or discriminate against subscribers or users on the basis of any category listed in section 12.210 of the Howard County Code, except for discounts for elderly and disabled individuals who have an annual income of less than \$20,250.00. The term *elderly* means aged 65 or older; the term *disabled* refers to a physical or mental impairment that substantially limits one or more of an individual's major life activities.
- (b) A franchisee shall not deny cable service to any potential subscribers because of the income of the residents of the area in which the subscribers reside.

- (c) A franchisee shall not refuse to employ, nor discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of any category listed in section 12.208 of the Howard County Code.

(C.B. 29, 1988; C.B. 29, 1991)

Sec. 14.416. - Use of rights-of-way and construction and maintenance of system.

- (a) A franchisee shall utilize, with the owner's permission, existing poles, conduits or such other facilities whenever possible. Copies of agreements for use of poles, conduits or other facilities shall be filed with the Cable Administrator as required by the franchise agreement or upon request of the Cable Administrator.
- (b) All transmission lines, equipment and structures shall be installed, located, and maintained to cause minimum interference with the rights and reasonable convenience of property owners. Maintenance shall include ensuring that cabinets are properly secured and bolts are properly tightened. The County may from time to time issue such reasonable rules and regulations concerning the installation and maintenance of the cable system installed in the public rights-of-way as may be consistent with this subtitle and the franchise agreement.
- (c) Suitable safety devices and practices as required by local, County, State and Federal laws, ordinances, regulations and permits shall be used during construction, maintenance and repair of a cable system.
- (d) A franchisee shall remove, replace or modify at its own expense the installation of any of its facilities within any public right-of-way when required to do so by the County to allow it to change, maintain, repair or improve a public thoroughfare.
- (e) Subject to subsection (f) of this section, a franchise shall locate cables as follows:
 - (1) On streets and roads where electrical or telephone utility wiring is located underground, either at the time of initial construction or subsequently, the cable shall also be located underground at the franchisee's expense.
 - (2) Between a street or road and a subscriber's residence, the cable shall be located underground at the franchisee's expense if electrical and telephone utility wiring are located underground.
 - (3) Between a street or road and a subscriber's residence, if electric or telephone utility wiring is aerial, a franchisee may install aerial cable except where a property owner or resident requests underground installation and agrees to bear the difference in cost by which underground installation exceeds the cost of aerial installation.
- (f) A franchisee may not use temporary lines unless it is necessary to initially deliver service or to continue to provide service, and unless the following criteria are met:
 - (1) Unless an extension is granted pursuant to subsection (g) of this section, temporary lines shall be buried or permanently placed aerially on existing poles in a right-of-way within 15 working days of installation of the temporary line;
 - (2) When a temporary line is installed, the franchisee shall leave a written notice with the home or business owner of the property on which the temporary line is installed, indicating the need for the temporary line and clearly noting the date of installation of the temporary line; and
 - (3) A franchisee may not, under any circumstances, locate temporary lines off the ground, including, but not limited to temporary lines strung through trees, on top of equipment or shrubbery, across doors, and over structures.
- (g) If a franchisee requires more than 15 working days to permanently locate cables underground or through permanent aerial means, not less than five working days before the expiration of the 15 working day period, the franchisee shall:

- (1) Notify in writing the impacted home or business owner of the need for an extension; and
 - (2) Request an extension, which shall include a justification, from the local franchising authority which may:
 - (i) Grant an extension of up to 15 working days; or
 - (ii) If extreme weather conditions prevent the franchisee from permanently locating cables within the 15 working day period, grant an extension reasonably necessary to permanently locate cables.
- (h) A franchisee shall obtain any required permits before causing any damage or disturbance to public thoroughfares or private property as a result of its construction or operations and shall restore as nearly as possible to their former condition in accord with applicable construction industry standards such private property and public thoroughfares, the latter in a manner approved by the County. If such restoration is not satisfactorily performed within a reasonable time, the County, or the property owner in the case of private property, may, after prior notice to the franchisee, cause the repairs to be made at the expense of the franchisee.
- (i) A franchisee may trim trees within public rights-of-way at its own expense as necessary to protect its wires and facilities, subject to any direction that may be provided by the County. Trees on private property may be trimmed with the consent of the property owner.
- (j) At the request of any person holding a valid building moving permit and upon sufficient notice, the franchisee shall temporarily raise, lower or cut its wires as necessary to facilitate such move upon not less than 72 hours' advance notice. The direct expense of such temporary changes, including standby time, shall be paid by the permit holder, and the franchisee may require payment in advance.
- (k) Enforcement. When the local franchising authority determines that a violation of this section exists or has occurred, the local franchising authority may enforce the provisions of this section with civil penalties pursuant to Title 24 of this Code and may issue a citation without the prior issuance of a notice of violation, as follows:
- (1) Except for a violation of subsection (f)(3) of this section, a violation of this section shall be a Class C offense;
 - (2) A violation of subsection (f)(3) of this section shall be a Class A offense; and
 - (3) Each day that a violation continues is a separate offense.

(C.B. 29, 1988; C.B. 60, 2009, § 1)

Editor's note— County Bill No. 60-2009, § 1, adopted Dec. 8, 2009, amended § 14.416 title to read as herein set out. Former § 14.416 title pertained to similar subject matter. See the Code Comparative Table for complete derivation.

Sec. 14.417. - Subscriber privacy.

A franchisee shall protect the privacy of all subscribers pursuant to the provisions of section 631 of the Cable Act, 47 U.S.C. section 551. A franchisee shall not condition subscriber service on the subscriber's grant of permission to disclose information which, pursuant to Federal law, cannot be disclosed without the subscriber's explicit consent.

(C.B. 29, 1988)

Sec. 14.418. - Technical standards.

- (a) Any cable system constructed within the County shall meet or exceed technical standards consistent with this subtitle, the franchise agreement and the franchisee's application. The system shall be capable of delivering all National Television Systems Committee (NTSC) color and monochrome standards signals and designed to provide picture quality of TASO grade 2 or better and superior reliability. All television signals transmitted on a cable system shall include any closed captioning information for the hearing impaired. Antennas, supporting structures and outside plant used in the system shall be designed to comply with the recommendations of the Electronic Industries Association on tower structures and outside plant.
- (b) All construction, installation and maintenance shall comply with the National Electrical Safety Code, the National Electrical Code, the Bell System Code of Pole Line Construction, all State and local regulations, and good and accepted industry practices.
- (c) At the stages of construction specified in the franchise agreement, the franchisee shall perform, at its expense, proof of performance tests designed to demonstrate compliance with the requirements of this subtitle, the franchise agreement and FCC requirements. The franchisee shall provide the proof of performance test results promptly to the Cable Administrator.
- (d) The Cable Administrator may require periodic proof of performance tests to be performed at the expense of the franchisee. The franchisee shall provide the test results promptly to the Cable Administrator.
- (e) The franchisee shall advise the Cable Administrator when a proof of performance test is scheduled so that the County may have an observer present.
- (f) A franchisee shall not design, install or operate its facilities in a manner that will interfere with the signals of any broadcast station, the electrical system located in any building, the cable system of another franchisee, or individual or master antennas used for receiving television or other broadcast signals.

(C.B. 29, 1988)

Sec. 14.419. - Enforcement remedies.

- (a) The County has the right to apply any one or combination of the following remedies in the event a franchisee violates any provision of the law or its franchise agreement:
 - (1) Impose liquidated damages in such amount, whether per day, incident, or other measure of violation, as provided in the franchise agreement. Payment of liquidated damages by the franchisee will not relieve the franchisee of its obligation to meet the franchise requirements.
 - (2) Revoke the franchise as provided for in section 14.422.
- (b) In determining which remedy or remedies are appropriate, the County shall take into consideration the nature of the violation, the person or persons bearing the impact of the violation, the nature of the remedy required in order to prevent further violations, and such other matters as the County determines are appropriate.
- (c) In addition to or instead of any other remedy, the County may seek legal or equitable relief from any court of competent jurisdiction.

(C.B. 29, 1988; C.B. 82, 1995; C.B. 74, 2005, § 2)

Sec. 14.420. - Renewal of franchise.

- (a) If a franchisee decides to initiate a formal franchise renewal process in accordance with section 626(a)—(g) of the Cable Act, 47 U.S.C. section 546(a)—(g), it shall notify the Cable Administrator

within 30 to 36 months of the franchise expiration date. Upon such notification, or at the County's own initiative, the County shall commence the following process:

- (1) The County Executive shall review and evaluate the future cable-related community needs and interests and the franchisee's past performance. The review and evaluation process shall include opportunity for public comment.
 - (2) Immediately upon completion of the review and evaluation process, the Cable Administrator shall notify the franchisee that it may file a renewal application. The notice shall specify the information to be included in the renewal application and the deadline for filing the application, which shall be no earlier than 30 calendar days following the date of the notice. If the franchisee does not submit a renewal application by the specified date, it will be deemed not to be seeking renewal of its franchise.
 - (3) Upon receipt of the renewal application, the Cable Administrator shall publish notice of its receipt and may schedule one or more public meetings or implement other procedures under which comments from the public on the application may be received.
- (b) In considering a renewal application, the County shall consider whether:
- (1) The cable operator has substantially complied with the material terms of the existing franchise and with applicable law;
 - (2) The quality of the cable operator's service, including signal quality, response to consumer complaints and billing practices (but without regard to the mix, quality or level of cable services or other services provided over the system) has been reasonable in light of community needs;
 - (3) The cable operator has the financial, legal and technical ability to provide the services, facilities and equipment set forth in its proposal; and
 - (4) The cable operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.
- (c) The Council shall hold at least one public hearing to consider the application. The Executive may make recommendations to the Council prior to its public hearing, a copy of which recommendations shall be made available to the franchisee in advance of the Council's public hearing. Following the public hearing on the renewal application, the Council shall either:
- (1) Pass a resolution agreeing to renew the franchise, subject to the negotiation of a franchise agreement satisfactory to the County and the franchisee; or
 - (2) Pass a resolution that makes a preliminary assessment that the franchise should not be renewed.
- (d) The Council's action under subsection (c) above shall be taken within four months of the date of the renewal application notice to the franchisee required in subsection (c)(2) above.
- (e) If a preliminary assessment is made that a franchise should not be renewed, at the request of the franchisee or on its own initiative, the County shall commence an administrative proceeding in accordance with section 626(c) of the Cable Act, 47 U.S.C. section 546(c), and in accordance with the provisions of the Howard County Administrative Procedures Act [appendix B of this Code].
- (f) The Executive shall initiate an administrative proceeding by issuing a hearing order which establishes the issues to be addressed in the hearing and the procedures to be followed, and the Executive shall appoint a presiding officer for the hearing. Upon the completion of the hearing, the presiding officer shall issue a recommended decision. Parties to the hearing and the public shall have 30 calendar days to comment on the recommended decision after its issuance. Within 30 days after the receipt of comments, the Executive may submit recommendations to the Council on whether to grant or deny the application.
- (g) Based on the recommended decision, the comment and arguments presented, and other evidence of record, the Council, following a public hearing, shall make a final determination on whether to

grant or deny the renewal application. The council shall issue a written decision setting forth the reasons for its decision.

- (h) The provisions of subsections (a)—(g) above notwithstanding, a franchisee may submit a proposal for renewal of a franchise in accordance with 47 U.S.C. section 546(h). The County shall hold one or more public hearings or implement other procedures under which comments on the proposal from the public may be received. Following such public hearings or other procedures, the Council shall determine whether the franchise should be renewed and the terms and conditions of any renewal.
- (i) Once the Council grants a renewal application, the County Executive and the franchisee shall agree on a franchise agreement, pursuant to the procedures specified in subsections 14.408(e)—(h), before the renewal becomes effective.
- (j) If renewal of a franchise is denied, the County may acquire ownership of the cable system or affect a transfer of ownership of the system to another person upon approval of the Council. Any such acquisition or transfer shall be at fair market value, determined on the basis of the cable system valued as a going concern but with no value allocated to the franchise itself.
- (k) If renewal of a franchise is denied and the County does not purchase the cable system, the County may require the former franchisee to remove its facilities and equipment. If the former franchisee fails to do so within a reasonable period of time, the County Executive may have the removal done at the former franchisee's and/or surety's expense.

(C.B. 29, 1988)

Sec. 14.421. - Transfers.

- (a) A transfer of a franchise shall not occur without prior approval of the County. A transfer of a franchise will be approved only if the County finds that the transfer is necessary and in the best interests of the County and its residents.
- (b) The proposed transferee shall submit to the Cable Administrator an application to transfer the franchise. An application to transfer a franchise shall meet the requirements of section 14.407 and provide complete information on the proposed transaction, including details on the legal, character, financial, technical and other pertinent qualifications of the transferee, and on the potential impact of the transfer on subscriber rates. At minimum, the information required in subsections 14.407(e)(1)—(4) shall be provided by the proposed transferee. The information required in subsections 14.407(e)(5)—(10) shall also be provided whenever the proposed transferee expects material changes to occur in those areas.
- (c) Final action on an application for transfer of a franchise shall be taken by the Council.
- (d) Approval by the County of a transfer of a franchise does not constitute a waiver or release of any of the rights of the County under this subtitle or the franchise agreement.
- (e) The County may impose a grant fee to cover its costs in excess of the filing fee in considering an application for transfer of a franchise.

(C.B. 29, 1988)

Sec. 14.422. - Revocation or termination of franchise.

- (a) A franchise may be revoked by the Council for failure to construct as required, operate or maintain the cable system as required by this subtitle or the franchise agreement or for other material breach of this subtitle or the franchise agreement. If within 30 calendar days following written notice from the County Executive to the franchisee that it is in material breach of this subtitle or the franchise agreement, the franchisee has not taken corrective action or corrective action is not being actively and expeditiously pursued, the Council, acting on its own motion or upon the recommendation of the

Executive, may give written notice to the franchisee of its intent to consider revocation of the franchise, stating its reasons.

- (b) The Council may initiate an administrative proceeding to investigate facts and make recommendations on possible revocation. Such a proceeding shall be commenced by the issuance of a hearing order which establishes the issues to be addressed in the hearing and the procedures to be followed, and the Council shall appoint a presiding officer for the hearing. Upon completion of the hearing, the presiding officer shall issue a recommended decision. The franchisee and any members of the public shall have 30 calendar days, or such other period of time as the hearing order may specify, to comment on the recommended decision after its issuance. Within 30 days after receipt of any such comments, or such other period as the hearing order may specify, the Executive may submit recommendations to the Council.
- (c) Before final action can be taken, the Council shall hold a public hearing, at which time the franchisee and members of the public shall be given an opportunity to make argument. Following the public hearing the Council shall determine whether or not to revoke the franchise based on any recommended decision, the argument presented at the hearing, any recommendations of the Executive, and other evidence of record. The council's determination shall be reflected in a written opinion setting forth the reasons for its decision.
- (d) Any franchise may, at the option of the County, be revoked 120 calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the franchisee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors or other action or proceeding, unless within that 120-day period:
 - (1) Such assignment, receivership or trusteeship has been vacated; or
 - (2) Such assignee, receiver or trustee has fully complied with the terms and conditions of this subtitle and the franchise agreement and has executed an agreement, approved by the court having jurisdiction, assuming and agreeing to be bound by the terms and conditions of the franchise.
- (e) In the event of foreclosure or other judicial sale of any of the facilities, equipment or property of a franchisee, the County may revoke the franchise by serving notice upon the franchisee and the successful bidder at the sale, in which event the franchise and all rights and privileges of the franchise will be revoked 30 calendar days after serving such notice, unless:
 - (1) The County has approved the transfer of the franchise to the successful bidder; and
 - (2) The successful bidder has reached an agreement with the County Executive to assume and be bound by the terms and conditions of the franchise.
- (f) If the County revokes a franchise, or if for any other reason a franchisee abandons, terminates or fails to operate or maintain service to its subscribers, the following procedures and rights are effective:
 - (1) The County may require the former franchisee to remove its facilities and equipment. If the former franchisee fails to do so within a reasonable period of time, the County may have the removal done at the franchisee's and/or surety's expense.
 - (2) The County, by resolution of the Council, may acquire ownership of the cable system at an equitable price.
 - (3) If a cable system is abandoned by a franchisee, the County may sell, assign or transfer all or part of the assets of the system.
- (g) The County may, upon resolution of the Council, acquire ownership of and operate a cable system, whether or not such ownership is acquired following revocation or forfeiture of a franchise.

(C.B. 29, 1988)

Sec. 14.423. - Arbitration.

- (a) If the County exercises its right to purchase a cable system pursuant to this subtitle or a franchise agreement and the County and franchisee are unable to agree on a price for the purchase of the system, the price may be determined by arbitration. Other matters that are arbitrable under the provisions of a franchise agreement may be subjected to the arbitration procedures specified below.
- (b) The arbitration procedure employed shall be consistent with the rules and procedures of the American Arbitration Association. The County and the franchisee will each select a qualified arbitrator. The two persons selected shall select a third qualified arbitrator, and the three arbitrators will constitute a panel whose decision is binding on both parties. The fees of the first two arbitrators shall be paid by the party selecting such person, and the third person shall be compensated one-half by the County and one-half by the franchisee. The general costs of the proceeding shall be shared equally by the County and the franchisee.

(C.B. 29, 1988)

Sec. 14.424. - Continuity of service mandatory.

- (a) It is the right of all subscribers to receive all available services from the franchisee as long as their financial and other obligations to the franchisee are satisfied.
- (b) In the event of a termination or transfer of the franchise for whatever reason, the franchisee shall do everything in its power to ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances. The franchisee shall cooperate with the County to operate the system for a temporary period following termination or transfer as necessary to maintain continuity of service to all subscribers. The temporary period will not exceed six months without the franchisee's written consent. During such period the cable system shall be operated under such terms and conditions as the County and the franchisee may agree, or such other terms and conditions that will continue, to the extent possible, the same level of service to subscribers and that will provide reasonable compensation to the cable operator.
- (c) If the franchisee discontinues service to its subscribers without County approval, the franchise may immediately be terminated; and the County is empowered to occupy and take possession of all facilities and property, real and personal, related to the cable system for the purpose of operating the system. The County may undertake such operation itself or authorize operation by a contractor.

(C.B. 29, 1988)

Sec. 14.425. - Unlawful solicitation or acceptance of gifts.

It is unlawful for any person to offer any gift, favor, loan, service, promise, employment or anything of value to a County official or employee, or for a County official or employee to solicit or accept any such thing of value, for the purpose of influencing the grant, modification, renewal, transfer or any other matter affecting a franchise or the administration or enforcement of this subtitle.

(C.B. 29, 1988)

Sec. 14.426. - Rates.

Rates and charges published by the franchisee shall reflect the total amount of money actually charged to consumers for the use of the service and may be changed by the franchisee following a minimum 30 days' prior notice to the County and the subscribers. These rates and charges shall be factual and inclusive of all fees charged to consumers for the use of the service. At such time as Federal

law permits rate regulation, the County reserves the right to implement procedures to impose such regulations.

(C.B. 29, 1988; C.B. 42, 1992)

Sec. 14.427. - Access facilities.

- (a) Applications for a franchise shall include proposals for the provision of public, educational and governmental access channels sufficient to meet community needs during the term of franchise as determined by the County. A franchisee or Applicant shall specify what grants, if any, it is willing to make for studio equipment and facilities to be used for local program production by all cable access users. Applicants are encouraged to include proposals for local origination programming by the franchisee.
- (b) All access channel operators shall conform to the following minimum requirements:
 - (1) The County may require that a franchisee provide studio space for access use. Access channels shall be carried on the franchisee's lowest priced service offering.
 - (2) The franchisee shall have no control over the content of the programming carried on access channels. The County may require a franchisee, or select a nonprofit corporation or other entity, to manage the access program and to establish reasonable rules for the use of access channels consistent with the requirements of this subtitle, the franchise agreement and the intended purpose of such channels. Such rules shall be subject to review and approval by the Council following a public hearing.
 - (3) The use of any public access channel shall be made available to any County resident on a nondiscriminatory basis at no charge for channel use. Where access studio facilities are located on a franchisee's premises, the franchisee shall make its personnel available for consultation and assistance to access users at no charge provided that such personnel can be spared from their normal duties.
 - (4) The use of any educational access channel shall be made available free of charge to the County school system or other qualified educational institutions for the transmission of local educational programming.
 - (5) The use of any local governmental access channels shall be made available free of charge to the County for the transmission of government-related programming. The Cable Administrator shall be responsible for the administration of local government access channels.
 - (6) The franchisee shall submit to the County on an annual basis a plan for publicizing access programs and access use.
- (c) At the request of a franchisee the County shall promulgate rules under which channel capacity dedicated to access use may be used by the franchisee when it is not being used for access purposes.

(C.B. 29, 1988; C.B. 38, 1989)

Sec. 14.428. - Cable Advisory Committee.

- (a) *General Provisions.* General provisions applicable to this Committee are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Establishment; Number of Members.* A Cable Advisory Committee shall function to advise the Executive and Council on all matters related to the use of cable systems and facilities. The Committee shall consist of five members.

- (c) *Qualifications.* All members shall be residents of Howard County.
- (d) *Staff.* The County Executive shall designate personnel to serve as staff support for the Cable Advisory Committee and to be responsible for maintaining the records of the Committee.
- (e) *Duties and Responsibilities* The Advisory Committee shall advise the County on all matters related to the use of cable communications operations, and its duties and functions shall be:
 - (1) To review complaint and system malfunction statistics and make any recommendations to the franchisee, Executive or Council as it may find appropriate for the improvement of the system's technical operation.
 - (2) To make recommendations as to possible improvements in general categories of programming or service to subscribers, including matters dealing with control and operation of government, public and education access channels, and the overall operation of the system.
 - (3) To assist in any performance evaluation of a cable system.
 - (4) To perform other duties as directed by the Executive or requested by the Council.

(C.B. 29, 1988; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 14.429. - Performance evaluation.

- (a) The County may periodically evaluate the performance of a franchisee during the franchise term. A franchisee shall cooperate fully with these evaluations and supply the County with all relevant information requested. If the County desires to implement a survey of subscribers in connection with its evaluation of service, a franchisee shall distribute the County's questionnaire to its subscribers. Any meetings between the County and the franchisee for purposes of evaluation shall be publicized in advance and open to the public.
- (b) If evaluation indicates the need for modification to the franchise agreement, the Executive shall attempt to negotiate the necessary changes. The Executive shall issue a report to the Council of the results of the performance evaluation and any recommended changes to the franchise agreement as negotiated with the franchisee.
- (c) The Council may hold a public hearing on any performance evaluation reports. Any franchise agreement modifications shall be approved by the Council before they become effective.

(C.B. 29, 1988)

Sec. 14.430. - Administration.

- (a) The Executive shall have the responsibility for overseeing the day-to-day administration of cable communication operations within the County as governed by this subtitle and applicable franchise agreements. The Executive shall be empowered to take all administrative actions on behalf of the County except for those actions specified herein which are reserved to the Council. The Executive may recommend that the Council take certain actions with respect to the franchise. The Executive shall keep the Council apprised of developments in cable matters and provide the Council assistance, advice and recommendations as appropriate. The Executive shall assist and provide staff support to the Cable Advisory Committee as necessary.
- (b) The council has the sole authority to grant franchises, authorize the execution of franchise agreements, modify franchise agreements, renew franchises, revoke franchises, and authorize the transfer of franchises. Where this subtitle or a franchise agreement specifies that a certain action will be taken by the Council or other named County entity, that action is reserved to the named entity.

- (c) All filings and reports required of franchisees or Applicants pursuant to this subtitle or a franchise agreement shall be made with the County's Cable Administrator unless otherwise specified.

(C.B. 29, 1988)

Sec. 14.431. - Cable Administrator; duties and responsibilities.

- (a) The Cable Administrator shall report to the County Executive and have the responsibility for the day-to-day administration of cable communication operations within the County as governed by this subtitle and by applicable franchise agreements.
- (b) The duties of the Cable Administrator shall include the following:
 - (1) To act as the principal staff to the Cable Advisory Committee, assisting the Committee with all of its duties as described in section 14.428 of this subtitle.
 - (2) To manage all performance evaluations pursuant to section 14.429 of this subtitle.
 - (3) To advise the County Executive and the Council on cable matters and provide them with updated information about new developments in the cable industry, cable technology and cable regulatory issues.
 - (4) To accept applications and fees for new cable franchises, franchise renewals, franchise transfers and franchise agreement modifications. Record fees and transfer them to the County Office of Finance. Review all applications for conformity with the requirements contained in this subtitle and make recommendations to the Council concerning their disposition.
 - (5) To accept subscriber complaints about cable system malfunctions and resident complaints of damage and other problems caused by cable construction. Investigate complaints and negotiate their correction as appropriate and periodically report their incidence to the Cable Advisory Committee.
 - (6) To draft rules of procedure and forms to be approved by the Council governing the submission to the County of applications for cable franchises, franchise renewals, franchise agreement modifications and franchise transfers.
 - (7) To generally oversee the performance of franchisees, including oversight of the access channels cited in section 14.427 of this subtitle.
 - (8) To perform such other duties as may be prescribed by the Executive not inconsistent with the provisions of this subtitle.

(C.B. 29, 1988; C.B. 38, 1989)

Sec. 14.432. - Status of existing franchises.

Franchise agreements in effect prior to the enactment of this subtitle [July 6, 1988], which were made pursuant to the previously existing Howard County Cable Television Systems Franchise Act, shall continue in effect until they expire. These franchises may be renewed pursuant to the provisions of this subtitle.

(C.B. 29, 1988)

Sec. 14.433. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 29, 1988)

SUBTITLE 6. - PERMIT AND DISPOSAL FEES FOR USE OF SANITARY LANDFILLS⁵¹

Footnotes:

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Editor's note— C.B. 20, 1982, repealed §§ 14.600—14.602, derived from C.B. 29, 1972, and C.B. 48, 1977, and enacted new §§ 14.600, 14.601.

Sec. 14.600. - Annual permit charge.

- (a) *Requirement to Pay Annual Permit Charge.* Howard County may charge a permit fee to use the County Sanitary Landfill.
- (b) *Recommendation by Director of Public Works.* The Director of Public Works shall recommend to the County Council a schedule of annual permit charges to be paid by users of the Howard County Sanitary Landfill(s).
- (c) *Authorization by County Council.* The County Council shall, by resolution, approve a schedule of annual permit charges to be paid by users of the Howard County Sanitary Landfill(s).
- (d) *Collection.* Annual permit charges payable to the Director of Finance of Howard County shall be collected at the landfill(s).

(C.B. 20, 1982; C.B. 31, 2005)

Sec. 14.601. - User fees.

- (a) *Requirement to Pay User Fees.* All persons using the Howard County Sanitary Landfill(s) shall pay user fees, except for:
 - (1) Users disposing of solid waste collected pursuant to Howard County solid waste collection contracts; and
 - (2) Residents of Howard County disposing of personal residential household waste.
- (b) *Recommendation of the Director of Public Works.* Concurrent with introduction of the annual budget and appropriation ordinance, the Director of Public Works shall recommend to the County Council a schedule of user fees, including any special charges and late penalties, for use of the Howard County Sanitary Landfill(s).
- (c) *Authorization by County Council.* At the time of adoption of the annual budget and appropriation ordinance, the County Council shall, by resolution, approve a schedule of user fees, including any special charges and late payment penalties, to be charged for use of the Howard County Sanitary Landfill(s).
- (d) *Collection of User Fees for Use of the Howard County Sanitary Landfill(s).* Fees payable to the Director of Finance are ordinarily payable at the landfill(s) at the time of disposal. At the discretion of the Director of Finance, a user may be extended credit and be billed on a periodic basis for the user charges.
- (e) *Denial of Access to Landfill(s).* The Director of Public Works may deny access to the landfill to any user who is in default in payment of user fees.

(C.B. 20, 1982)

SUBTITLE 7. - SOLICITORS AND PEDDLERS⁶¹

Footnotes:

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State Law reference— Peddlers, Ann. Code of Md., Business Regulation article, § 17-901 et seq.

Sec. 14.700. - Definitions.

- (a) *Administrator* means the Administrator of the Howard County Office of Consumer Protection or the Administrator's designee.
- (b) *Peddler* means any person who engages in the activity of "peddling."
- (c) *Peddling* means moving about the County by foot or vehicle of any kind, from place to place, house to house, door to door, or upon any street or highway, for the purpose of selling and simultaneously delivering or offering for sale and simultaneous delivery, at retail, any goods, wares, merchandise, services or foodstuffs of any kind whatever.
- (d) *Person* means any person, firm, partnership, association, corporation, company or organization of any kind.
- (e) *Soliciting* means travelling about the County by foot or vehicle of any kind from place to place, house to house, door to door, or upon any street or highway, for the purpose of engaging in any one or more of the following activities:
 - (1) Attempting to obtain orders for the sale and future delivery of any goods, wares, merchandise, services or foodstuffs of any kind whatever.
 - (2) Attempting to obtain subscriptions to books, magazines, or newspapers not published in the County, State or District of Columbia, and every other kind of printed matter.
 - (3) Attempting to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation or project.
- (f) *Solicitor* means any person who engages in the activity of "soliciting."
- (g) *Street and highway* means the entire width between the boundary lines of every way or thoroughfare of any kind used by the public for purposes of vehicular travel, whether actually dedicated to the public and accepted by the proper authorities or otherwise.
- (h) *Vehicle* means every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway.

(C.B. 54, 1977; C.B. 8, 1978; C.B. 12, 2016, § 1)

Sec. 14.701. - Identification card—Required.

No person shall engage in soliciting or peddling in the County unless that person has obtained an identification (ID) card from the Administrator, as provided by this subtitle.

(C.B. 54, 1977; C.B. 8, 1978)

Sec. 14.702. - Identification card—Fee; term.

- (a) *Establishment of Fees.* The County Council, upon the recommendation of the County Executive, shall set the annual fee to be paid in advance for each ID card issued under this subtitle. The fees shall be sufficient to produce an amount of income to the County that shall be approximately equal to the costs of administering this subtitle.
- (b) *Term of Card; Property of County.* The ID card year shall begin on July 1 and end on June 30 in each and every year. Any ID card issued under the provisions of this subtitle shall remain the property of the County and shall be surrendered to the Administrator upon demand.

(C.B. 54, 1977; C.B. 8, 1978; C.B. 32, 1988; C.B. 69, 1991; C.B. 143, 1991)

Sec. 14.703. - Same—Application; display; replacement.

- (a) The Administrator shall furnish each Applicant for an ID card required by this subtitle with a form on which the Applicant shall state his name, address, telephone number, date of birth, sex, weight, height, color of hair and eyes, the name and address and telephone number of the Applicant's employer, if any, and the license tag number of vehicle(s), if any, to be used in connection with the soliciting or peddling.
- (b) Before the Administrator issues an ID card involving the peddling of foodstuffs of any kind, the Applicant for such an ID card shall obtain a separate permit from the Bureau of Environmental Health of the Howard County Health Department showing that the Applicant is in compliance with the health regulations governing food facilities.
- (c) The ID card issued to each Applicant shall be numbered and shall contain the information noted by the Applicant on the form furnished by the Administrator and conspicuous wording that its possession does not constitute endorsement by the County. The holder of an ID card shall carry his ID card on his person when engaged in soliciting or peddling and shall display the ID card to any person who shall request to see it.
- (d) The holder of an ID card which is lost or mutilated shall immediately report the loss or mutilation to the Administrator and shall pay a fee established by the Administrator for the issuance of a duplicate ID card.
- (e) If during the period for which an ID card is issued there is any change in the factual information furnished by the ID card holder to the Administrator under this section, the ID card holder shall fully and promptly communicate the new information to the Administrator upon a form furnished by the Administrator.

(C.B. 54, 1977; C.B. 8, 1978)

Sec. 14.704. - Same—Denial, revocation or suspension; notice; hearing and appeal.

- (a) The Administrator, for the reasons cited in subsection (c) of this section and pending a hearing as required by the Howard County Administrative Procedure Act, may refuse to issue an ID card or may summarily revoke or suspend an ID card which is required under this subtitle. Upon revocation or suspension, the holder of an ID card shall immediately return his ID card to the Administrator and upon failure to do so the Administrator may request and direct that the ID card be confiscated and held pending an appeal.
- (b) Any refusal to issue an ID card to an Applicant or the revocation or suspension of an ID card shall be accompanied by written notice to the Applicant or holder of an ID card delivered personally or sent by certified mail to the address listed in the application of the Applicant or holder of an ID card. The notice shall contain a statement of the reason for the action taken by the Administrator and shall notify the Applicant or holder of an ID card of his right to a hearing under the Administrative

Procedure Act and of his right to appeal to the Board of Appeals. Filing of an appeal shall not stay the revocation or suspension of an ID card unless, upon application, the Board of Appeals shall grant a stay.

- (c) In deciding to refuse to issue an ID card to an Applicant or to revoke or suspend an ID card, factors to be considered by the Administrator shall include, but not be limited to, previous denials, revocations or suspensions, failure to provide complete or accurate information or failure to leave the premises immediately when requested to do so by the owner or occupant.

(C.B. 54, 1977; C.B. 8, 1978)

Sec. 14.705. - Tags or labels for vehicles.

The Administrator shall furnish a metal tag or gum label to each Applicant who is issued an ID card for peddling under this subtitle for each vehicle used by the Applicant. The tag or label shall bear the inscription "Registered Howard County Peddler. No. _____. Expires _____." The number on the tag or label shall be the same number as the number of the ID card issued to the Applicant. The tag or label shall be attached on the right-hand side of the vehicle used by the Applicant and shall be visible at all times.

(C.B. 54, 1977; C.B. 8, 1978)

Sec. 14.706. - Exceptions.

(a) The provisions of this subtitle shall not apply to:

- (1) Any person who is at the premises of an owner or occupant at the prior request or invitation of the owner or occupant of the premises.
- (2) Any person selling or attempting to obtain orders for the sale of goods, wares, merchandise, services or foodstuffs to manufacturers, wholesalers, retailers, or other business or governmental establishments for use in their business or for resale.
- (3) Any person selling milk, vegetables, butter, eggs, poultry, fruit or country produce made or grown by the seller thereof.
- (4) Any person selling or attempting to obtain orders for the sale of goods, wares, merchandise, services or foodstuffs for any charitable or nonprofit association, organization, corporation or project, provided that the charitable or nonprofit association, organization, corporation or project registers annually with the Administrator.

The charitable or nonprofit association, organization, corporation or project registering under this subsection shall submit each year a form furnished by the Administrator giving, as applicable, its name, address, telephone number, the name of a contact person, a description of its proposed soliciting or peddling activities to the extent known, the location and date of the activities to the extent known, and the number or approximate number of individuals who will engage in the activities.

If during the period a charitable or nonprofit association, organization, corporation or project is registered there is any change in the factual information furnished to the Administrator under this subsection, the new information shall be fully and promptly communicated in writing to the Administrator upon a form furnished by the Administrator.

- (5) Insurance brokers and agents with a valid Maryland State insurance license, including bona fide trainees of such brokers and agents.
- (6) Real estate brokers and agents with a valid Maryland State real estate broker and agent license, including bona fide trainees of such brokers and agents.

- (7) Any person engaged in voter registration activities or partisan or nonpartisan election campaigns, including persons supporting or working against a ballot question.
- (8) Any person selling or attempting to obtain orders for the sale of goods, wares, merchandise, services or foodstuffs for companies, firms, corporations or partnerships which:
 - a. Subscribe to or are bound by a policy statement, code or regulation established either by the company, firm, corporation or partnership individually or by a recognized trade association of which the Applicant company, firm, corporation or partnership is a member in good standing and which policy statement, code or regulation:
 - (i) Requires that the offer of products or services for sale shall be truthful and accurate as to price, grade, quantity, make, value, performance, currency of model and availability;
 - (ii) Requires that the terms of any guarantee offered by the solicitor or peddler in connection with the sale shall be furnished to the buyer in writing and shall clearly state the nature and extent of such guarantee; and
 - (iii) Prohibits the initiation or continuation of any deceptive or any unlawful trade practices; and
 - b. Have established a procedure for processing consumer complaints within a reasonable time and providing consumer redress, if it is determined that the consumer was aggrieved by a violation of the policy statement, code or regulation or an unlawful trade practice; and
 - c. Are in compliance with all orders, directives, stipulations and agreements between them and the Howard County Office of Consumer Protection.

A company, firm, corporation or Partnership eligible to be excepted under this subsection shall register annually with the Administrator and shall provide the Administrator with a copy of the applicable code of ethics, the name and telephone number of the resident agent, if any, the names and addresses of those receiving ID cards and other pertinent information concerning the company, firm, corporation or partnership. The application for registration shall be accompanied by a fee as established by the Administrator.

The Administrator shall issue a block of numbered ID cards to the organization for distribution by the organization to individual solicitors and peddlers. The ID cards shall be numbered, and the organization shall maintain a control list of the cards and shall be responsible for them. If the activity upon which the organization engages is of limited duration, the ID cards shall be returned to the Administrator at the expiration of the activity. The holder of an ID card issued by the organization shall carry his ID card on his person when engaged in soliciting or peddling and shall display the ID card to any person who shall request to see it.

If during the period a company, firm, corporation or partnership is registered there is any change in the factual information furnished to the Administrator under this subsection, the new information shall be fully and promptly communicated in writing to the Administrator upon a form furnished by the Administrator.

- (b) Any person excepted by this section from the provisions of this subtitle who is involved in the selling of foodstuffs of any kind shall not be exempt from complying with appropriate health regulations of the Bureau of Environmental Health of the Howard County Health Department.

(C.B. 54, 1977; C.B. 8, 1978; C.B. 69, 1991; C.B. 12, 2016, § 1)

Sec. 14.707. - Hours of operation.

Soliciting or peddling shall be conducted within the County only between 9:00 a.m. and sunset each day, except that the peddling of foodstuffs from a vehicle shall be permitted between the hours of 7:00 a.m. and 10:00 p.m. each day.

(C.B. 54, 1977; C.B. 8, 1978; C.B. 1, 2016, § 1)

Sec. 14.708. - Listing of identification card holders and registered organizations.

The Administrator shall maintain a current listing of all holders of ID cards issued under this subtitle and of all organizations registered with the Administrator, as provided in section 14.706. The Administrator shall furnish a copy of the listing and any changes in factual information furnished to the Administrator by ID card holders and registered organizations to the Howard County Police Department.

(C.B. 54, 1977; C.B. 8, 1978)

Sec. 14.709. - Annual report.

Subject to section 22.1000 of the County Code, the Administrator shall submit to the County Executive and County Council each year a report on the work of the office in carrying out the provisions of this subtitle during the previous year.

(C.B. 54, 1977; C.B. 8, 1978; C.B. 69, 1991; C.B. 43, 2018, § 1)

Sec. 14.710. - Penalty.

Any person who violates any of the provisions of this subtitle shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$50.00 nor more than \$500.00 or imprisoned for not more than 30 days, or be both fined and imprisoned. Alternatively or in addition to and concurrent with all other remedies, the Office of Consumer Protection or the Police Department may enforce this subtitle with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A first violation of this subtitle shall be a Class D offense. Subsequent violations shall be Class B offenses.

(C.B. 54, 1977; C.B. 8, 1978; C.B. 32, 1985; C.B. 12, 2016, § 1)

SUBTITLE 9. - RENTAL HOUSING LICENSE⁸

Footnotes:

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Editor's note— Section 2 of C.B. 63, 2004 repealed Subtitle 9, §§ 14.900—14.905, which pertained to rental housing licenses and derived from C.B. 31, 1997. Section 4 of C.B. 63, 2004 enacted new provisions, §§ 14.900—14.905, relating to similar subject matter.

Sec. 14.900. - Definitions.

In this subtitle the following terms have the meanings indicated:

(a) *Common ownership community* means:

- (i) A residential or mixed use building that is subject to a condominium regime pursuant to title 11 of the real property article of the Annotated Code of Maryland; or
 - (ii) A residential or mixed use "cooperative housing corporation", as that term is defined in section 5-6b-01 of the corporations and associations article of the Annotated Code of Maryland.
- (b) *Common ownership community fees* means fees charged by the entity authorized to impose a fee on the owner or occupant of housing units in connection with the provision of services or the benefit of common areas in the Community.
 - (c) *Director* means the director of the Howard County Department of Inspections, Licenses and Permits or the Director's Authorized Designee.
 - (d) *Dwelling* means an enclosed space wholly or partly used or intended to be used for living and sleeping.
 - (e) *Dwelling unit* has the meaning set forth in the Howard County Property Maintenance Code for Rental Housing and includes a lot as defined in the Maryland Homeowners Association Act in title 11b of the real property article of the Annotated Code of Maryland.
 - (f) *Homeowners association* has the meaning set forth in section 11b-101(1) of the real property article of the Annotated Code of Maryland.
 - (g) *Homeowners association fees* means fees charged by the entity authorized to impose a fee on the owner or occupant of dwelling units in connection with the provision of services or the benefit of common areas in the community.
 - (h) *"Howard County Property Maintenance Code for Rental Housing"* means the International Property Maintenance Code, 2018 Edition, as adopted in title 3, subtitle 7 of the Howard County Code.
 - (i) *Owner* has the meaning set forth in the Howard County Property Maintenance Code for Rental Housing.
 - (j) *Premises* has the meaning set forth in the Howard County Property Maintenance Code for Rental Housing.

(C.B. 63, 2004; C.B. 80, 2006, § 3; C.B. 10, 2012, § 1; C.B. 15, 2019, § 1)

Sec. 14.901. - Rental housing license.

- (a) *Rental Housing License Required.* Except as provided in subsection (b) of this section, the owner of a dwelling unit in Howard County that is within the scope of the Howard County Property Maintenance Code for Rental Housing shall not rent or lease a dwelling unit unless the owner obtains a rental housing license under this subtitle.
- (b) *Exceptions:*
 - (1) Subsection (a) of this section does not apply to an occupancy of less than 90 days if:
 - (i) The seller of a dwelling unit allows the purchaser to occupy the dwelling unit prior to settlement; or
 - (ii) The purchaser of a dwelling unit allows the seller to occupy the dwelling unit after the settlement.
 - (2) A rental housing license is not required for a hospital or a prison.
- (c) *Rental Housing License Fee.* Upon the recommendation of the County Executive, the County Council shall set by resolution the amount of a rental housing license fee, license transfer fee, and any other special fee associated with the licensing of rental housing.

(d) *Application:*

- (1) The owner of a dwelling unit shall apply for the license and pay all appropriate fees. An application for a rental housing license shall be made on a form provided by the Director and submitted together with the license fee. If any information contained on an application changes after a license is issued, the license holder shall provide the Director with the updated information.
- (2) A rental housing license application shall include:
 - (i) A description of the dwelling unit by unit number (if appropriate), house number, street name, zip code, and the name of the complex if the dwelling unit is located in a named complex;
 - (ii) The name and address of:
 - a. The owner of record and of the managing operator;
 - b. If the owner is a corporation, the name and address of the resident agent; and
 - c. The homeowners association or common ownership community, if applicable;
 - (iii) The name and business address of an adult individual who:
 - a. Is a resident of Maryland;
 - b. Is customarily present in a business office in Maryland; and
 - c. Who shall be designated by the owner as the owner's authorized agent for receiving notices, court process, and other papers on behalf of the owner; however, an owner who is a natural person, resident of Maryland, and who is customarily present in a business office in Maryland may designate themselves as the authorized agent;
 - (iv) The type of dwelling unit;
 - (v) The number of units and stories;
 - (vi) Date and type of construction;
 - (vii) Type of smoke detectors;
 - (viii) Type of heating system;
 - (ix) Type of hot water heating;
 - (x) Source of water;
 - (xi) Type of sewage disposal; and
 - (xii) Certification from the homeowner that homeowner association or common ownership community fees for the dwelling unit are not more than 30 days past due.

(e) *Issuance of License.*

- (i) Upon receipt of an application for a rental housing license, the Director shall inspect the dwelling unit.
- (ii) The Director shall issue a license if the dwelling unit meets the requirements of the Howard County Property Maintenance Code for Rental Housing and the Homeowners Association or Common Ownership Community has not submitted proof of a final adjudication against the homeowner for unpaid fees relating to the unit.
- (iii) If the Director does not issue a license, the Director shall issue a written denial that states what must be done to bring the dwelling unit into compliance with this section.
- (iv) If the Director is satisfied that the deficiencies stated in a denial have been corrected, the Director shall issue a license for the dwelling unit.

- (f) *Renewal of License.*
- (i) A rental housing license may be renewed if: The dwelling unit continues to meet the requirements of the Howard County Property Maintenance Code for Rental Housing other requirements under this section of the Howard County Code, and has provided updated information in the rental license application.
 - (ii) If the requirements of the rental license application as set out in this section are not met, the Director shall issue a written denial that states what must be done to bring the dwelling unit in compliance with this section.
 - (iii) If the Director is satisfied that the deficiencies stated in a denial have been corrected, the Director shall issue a renewal license for the dwelling unit.
 - (iv) The Director shall not issue a renewal license for any dwelling unit for which there are outstanding violation notices from any County agency.
- (g) *Duration of License.* A rental housing license is valid for a period of two years. If a license is reissued after revocation or a license is renewed after correction of an outstanding violation, the Director may limit the license to a six-month period. The Director may limit future renewals after the six-month period to one-year periods for a period of three years, until it is confirmed that the dwelling unit is being maintained to standards set forth in the Howard County Property Maintenance Code for Rental Housing. The fee for the six-month or one-year renewal shall be prorated based on the fee for a two-year license.
- (h) *Transfer of License.* If there is a change of ownership of a dwelling unit and the new owner applies to the Director for a transfer within 15 days of the change of ownership, the license may be transferred to the new owner for the unexpired portion of the term for which it was issued. The application form for a transfer shall contain the same information as the application form for a new license. The Director may charge a transfer fee, to be set by resolution of the County Council upon recommendation of the County Executive.
- (i) *Suspension of License.*
- (i) The Director may suspend a rental housing license if the owner of a dwelling unit fails to correct a violation of the Howard County Property Maintenance Code for Rental Housing within the time period stated in the notice and order issued by the Director.
 - (ii) The Director may suspend a rental housing license if a homeowners association or common ownership community provides documentation of a final adjudication that the owner is more than 30 days past due on homeowners association or common ownership community fees for the dwelling unit.
 - (iii) The suspension under this subtitle shall end when:
 - a. The Director is satisfied that the violation has been corrected; or
 - b. The homeowners association or common ownership community submits to the Director documentation that the owner has made payment of overdue homeowners association or common ownership community fees.
- (j) *Revocation of License.* The Director may revoke a rental housing license if one of the following occurs:
- (i) The owner of the dwelling unit fails:
 - a. To keep the dwelling unit in good repair; or
 - b. To correct a violation within the time period stated in a notice or order issued by the Director;
 - (ii) The dwelling unit presents a danger to the health, safety, or welfare of the public or the occupants;

- (iii) The dwelling unit fails to comply with the provisions of the Howard County Property Maintenance Code for Rental Housing; or
 - (iv) The homeowners association or common ownership community provides documentation of a final adjudication that the owner is more than 30 days past due on homeowners association or common ownership community fees for the dwelling unit.
- (k) *Placard.* Upon denial, suspension, revocation, or expiration of a rental housing license, the Director shall place a placard upon the dwelling unit in accordance with the procedures set forth in the Howard County Property Maintenance Code for Rental Housing.

(C.B. 63, 2004; Ord. No. C.B. 80, 2006, § 3; C.B. 10, 2012, § 1)

Sec. 14.902. - Enforcement authority.

- (a) *In General.* The Director shall interpret, administer, enforce, and implement the provisions of this subtitle.
- (b) *Notices and Orders.* The Director may issue a notice or order to abate a violation of this subtitle.
- (c) *Inspections.* The Director may enter a dwelling unit at a reasonable time to make inspections pursuant to this subtitle. Inspections are performed for the protection and promotion of public safety, health, and welfare. Inspections, which are purely governmental in nature, are made solely for the public benefit and shall not be construed as providing any warranty or representation concerning the condition of the dwelling unit to the public.
- (d) *Right of Entry:*
 - (1) The owner, occupant, tenant, or other person in charge of a dwelling unit, property, or premises regulated by this subtitle shall give the Director entry and free access to any part of the dwelling unit, property, or premises for the purposes of inspection. If entry or access is refused or restricted, the Director may seek a court order to allow entry and free access.
 - (2) The occupant or tenant of a dwelling unit, property, or premises shall give the owner or operator access at reasonable times to make inspections and to carry out maintenance, repairs, or alterations necessary to comply with the provisions of this subtitle.

(C.B. 63, 2004; C.B. 80, 2006, § 3)

Sec. 14.903. - Notices and orders.

- (a) *Violations.* If the Director determines that there has been a violation of this subtitle or has reasonable grounds to believe that a violation has occurred, the Director shall give notice of the violation under subsections (b) and (c) of this section.
- (b) *Form.* The written notice shall include:
 - (1) A description of the dwelling unit sufficient for identification;
 - (2) A description of the violation; and
 - (3) A reasonable time period to correct the violation.
- (c) *Service.* The notice shall be sent to the owner. The notice is properly served upon the owner if a copy:
 - (1) Is delivered to the owner personally;
 - (2) Is sent by certified mail, return receipt requested, or first-class mail to the address of the owner listed on the rental housing license application;

- (3) Is sent by certified mail, return receipt requested, or first-class mail to the owner's authorized Maryland agent at the address listed on the rental housing application;
- (4) Is posted in a conspicuous place on the dwelling unit; or
- (5) If service cannot be obtained by one of the methods set forth above, service may be obtained by publishing the notice at least once in a local newspaper of general circulation.

(C.B. 63, 2004)

Sec. 14.904. - Appeal.

Any aggrieved person may appeal a decision of the Director to revoke, deny, suspend, or approve a rental housing license under this subtitle to a Board of Appeals' Hearing Examiner in accordance with title 2, subtitle 2 of the Howard County Code.

(C.B. 63, 2004)

Sec. 14.905. - Enforcement and penalties.

- (a) *Generally.* The Department may institute any action at law or equity, including injunction or mandamus, to enforce the provisions of this subtitle.
- (b) *Criminal Penalties.* A person who violates any provision of this subtitle or knowingly provides a false statement to the Department is guilty of a misdemeanor and upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both.
- (c) *Civil Penalties.* Alternatively, and in addition to and concurrent with all other remedies, the Department of Inspections, Licenses and Permits may enforce this subtitle pursuant to title 24, "Civil Penalties" of the Howard County Code. A violation of this subtitle is a Class B offense. Each day that a violation continues is a separate offense.

(C.B. 63, 2004; C.B. 80, 2006, § 4; C.B. 10, 2012, § 1)

SUBTITLE 10. - PAWNBROKER AND SECONDHAND DEALERS⁹

Footnotes:

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State Law reference— Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act, Ann. Code of Md., Business Regulation article, § 12-101 et seq.

Sec. 14.1000. - Purpose.

The purpose of this subtitle is to protect the safety and welfare of the citizens of Howard County by regulating pawnshops and secondhand dealers in order to prevent the disposition of stolen property, to identify stolen property, and to return stolen property to its owners.

(C.B. 5, 2005, § 1)

Sec. 14.1001. - Definitions.

In this subtitle the following terms have the meanings indicated:

- (a) *Antique dealer* means a person whose primary retail trade is buying and selling objects made in, or typical of, an earlier period of time, that either have special value because of their age or are examples of works of art or handicrafts.
- (b) *Department* means the Howard County Department of Inspections, Licenses and Permits.
- (c) *Director* means the Director of the Department of Inspections, Licenses and Permits or the Director's authorized designee.
- (d) *Item* means tangible personal property including, but not limited to, a household appliance, personal computer, compact disc player, digital video disc player, power tool, camera, firearm, radio, television set, video game system, video game accessory or component, or stereo equipment.
- (e) *Pawnbroker* means a person who engages in pawnbroker transactions.
- (f) *Pawnbroker or secondhand dealer establishment* means a person with a fixed place of business where pawnbroker or secondhand dealer transactions occur. A pawnbroker or secondhand dealer establishment includes both the person and its fixed place of business.
- (g) *Pawnbroker transaction* means engaging in the act of:
 - (1) Lending money on the deposit or pledge of tangible personal property other than secondhand precious metal objects, coins, or numismatic items; or
 - (2) Purchasing tangible personal property, other than secondhand precious metal objects, coins, or numismatic items, on the condition of reselling the property to the seller at a stipulated price.
- (h) *Person* means an individual, corporation, partnership, business trust, limited liability company, or any other type of business entity.
- (i) (1) *Secondhand dealer* means a person that engages in secondhand dealer transactions.
 - (2) *Secondhand dealer* does not include:
 - (i) A charitable, religious, or nonprofit organization, if the exchange of items for consideration is incidental to the organization's primary activity;
 - (ii) An antique show, trade show, convention, or auction;
 - (iii) A flea market as defined in the Howard County Zoning Regulations;
 - (iv) A person whose primary retail trade is new and unused video game components, video game systems, video games, or video game accessories; or
 - (v) An antique dealer.
- (j) *Secondhand dealer transaction* means engaging in the act of receiving tangible personal property, other than secondhand precious metal objects, coins, or numismatic items, and offering the tangible personal property to the public for sale, trade, barter, or other consideration.

(C.B. 5, 2005, § 1)

Sec. 14.1002. - Licenses required.

- (a) A person shall not own or operate a pawnbroker or secondhand dealer establishment within Howard County unless the person obtains a pawnbroker or secondhand dealer establishment license as required by this subtitle.
- (b) A person shall not conduct or participate in pawnbroker or secondhand dealer transactions unless the person obtains an employee license as required by this subtitle.

(C.B. 5, 2005, § 1)

Sec. 14.1003. - Requirement to maintain license.

- (a) A license required by this subtitle shall be issued for two calendar years.
- (b) A license required by this subtitle shall be renewable upon payment of a license fee and compliance with the requirements of this subtitle.
- (c) If a person required to be licensed under this subtitle ceases to engage or operate in pawnbroker or secondhand dealer transactions or is no longer employed as a pawnbroker or secondhand dealers, the license shall be returned to the Department upon cessation of the pawnbroker or secondhand dealer transactions.

(C.B. 5, 2005, § 1)

Sec. 14.1004. - Transferability.

- (a) A license to operate a pawnbroker or secondhand dealer establishment shall not be transferred from one person to another.
- (b) A person who holds a pawnbroker or secondhand dealer establishment license shall notify the Director in writing prior to moving the establishment from one location to another location within Howard County.
- (c) An employee license shall not be transferred from one individual to another.

(C.B. 5, 2005, § 1)

Sec. 14.1005. - Fees.

- (a) The County shall charge a license application fee and a two-year license fee for each license required by this subtitle.
- (b) A license shall be issued for two calendar years and the license fee shall be due upon application for a new or renewed license.
- (c) There shall not be a refund of a license application fee. There shall not be a refund or proration of a two-year license fee, except that a first two-year license fee submitted with the initial application may be refunded if the initial license is not granted.
- (d) The County Council shall annually adopt by resolution a fee schedule for a license application and a license.

(C.B. 5, 2005, § 1)

Sec. 14.1006. - Applications in general.

- (a) An application for a license shall be submitted to the Department on a form provided by the Director.
- (b) An application shall include a notarized statement attesting to the truth of the information provided under penalties of perjury which shall be signed by:
 - (1) Each individual listed on the application; or
 - (2) If the Applicant is a corporation, association, partnership, sole proprietorship, or other business entity, each authorized officer, Director, or general partner of the Applicant.
- (c) An application shall be accompanied by payment of the application fee and the license fee for the first two-year term.

- (d) An individual under the age of 18 shall not be eligible to receive a license under this subtitle.
- (e) The Director shall have the authority to obtain a criminal background check on each individual listed in the application.
- (f) During the term of the license, if there is a change in the information that a person provided in an application for a license or license renewal, the person must report the change to the Department within 30 days after the change occurs and must certify, under penalties of perjury, that the new information is correct.

(C.B. 5, 2005, § 1)

Sec. 14.1007. - Application for pawnbroker or secondhand dealer establishment license.

- (a) If an Applicant for a pawnbroker or secondhand dealer establishment is an association, partnership, or corporation the application shall include information from the following individuals:
 - (1) If the Applicant is an association or partnership, the required application information shall be provided for each associate or partner;
 - (2) If the Applicant is a corporation, the required application information shall be provided for each officer or Director; or
 - (3) If another corporation owns ten percent or more of the stock of the Applicant, the required information shall also be provided for each officer or Director of the owning corporation.
- (b) An Applicant that is an association, partnership, corporation, limited liability company, or other business entity shall provide a copy of all organizational documents, including, without limitation, articles of incorporation.
- (c) For each individual listed in an application, the application shall include:
 - (1) That individuals:
 - (i) Full name, including maiden name, aliases, and names under which the individual has previously been known;
 - (ii) Date of birth, residence address, Social Security Number, and residence phone number at the time of application and for the three-year period preceding the date of application; and
 - (iii) Business address and business phone number at the time of application;
 - (2) A complete set of fingerprints taken by the Howard County Police Department;
 - (3) Information regarding any pawnbroker or secondhand dealer-related permit or license issued in any jurisdiction which has been denied, suspended, or revoked and the reasons for the denial, suspension, or revocation; and
 - (4) A State-issued photograph identification card or driver's license.
- (d) An application for a pawnbroker or secondhand dealer establishment license shall include:
 - (1) The location, mailing address, and phone number of the premises where the pawnbroker or secondhand dealer will operate;
 - (2) The location, mailing address, and phone number of an off-site storage location where the pawnbroker or secondhand dealer will store items;
 - (3) If the pawnbroker or secondhand dealer is not the owner of the premises, written acknowledgement from the owner of the premises approving the use of the premises to engage in pawnbroker or secondhand dealer transactions;

- (4) If the pawnbroker or secondhand dealer is not the owner of the off-site storage location, written acknowledgement from the owner of the off-site storage location approving the use of the off-site storage location to store items; and
 - (5) If the pawnbroker or secondhand dealer is not the owner of the premises or off-site storage location, they shall include a copy of their current lease with their application.
- (e) An application shall include an authorization for governmental inspection, including police inspection, of the premises or off-site storage location during the application process and while the license is in effect for the purpose of ensuring compliance with this subtitle.

(C.B. 5, 2005, § 1)

Sec. 14.1008. - Application for an employee license.

- (a) Only an individual shall be eligible for an employee license.
- (b) For each individual listed in the application, the application shall include:
 - (1) The individuals:
 - (i) Full name, including maiden name, aliases, and names under which the individual has previously been known;
 - (ii) Date of birth, residence address, Social Security Number, and residence phone number at the time of application and for the three-year period preceding the date of application; and
 - (iii) Business address and business phone number at the time of application; and
 - (2) A complete set of fingerprints taken by the Howard County Police Department;
 - (3) Information regarding any pawnbroker or secondhand dealer-related permit or license issued in any jurisdiction which has been denied, suspended, or revoked and the reasons for the denial, suspension, or revocation;
 - (4) A State-issued photograph identification card or driver's license; and
 - (5) Three recent photographs of the individual required to be licensed, not more than two inches square.

(C.B. 5, 2005, § 1)

Sec. 14.1009. - Granting application.

The Director shall approve an application unless:

- (a) The information provided by the Applicant is incorrect or incomplete;
- (b) The Applicant has been convicted of a felony, crime of moral turpitude, or a violation of gambling, controlled dangerous substance, or theft laws;
- (c) The Applicant's license to act as a pawnbroker or secondhand dealer or as an employee of a pawnbroker or secondhand dealer in any jurisdiction has been denied, revoked, or suspended; or
- (d) The premises listed in the application does not meet the County's health, zoning, fire or building code requirements.

(C.B. 5, 2005, § 1)

Sec. 14.1010. - Operating requirements.

- (a) A pawnbroker or secondhand dealer establishment may be open to the public only between the hours of 7:00 a.m. and 10:00 p.m. and shall not conduct pawnbroker or secondhand dealer transactions with the public at any other time.
- (b) A pawnbroker or secondhand dealer shall not conduct business through the use of a drive-up window or other practice, service, or device that enables an individual to conduct business from a motor vehicle without leaving the motor vehicle.
- (c) A person licensed shall conspicuously display a license granted pursuant to this subtitle within the premises.

(C.B. 5, 2005, § 1)

Sec. 14.1011. - Trading with minors prohibited.

A pawnbroker or secondhand dealer shall not engage in pawnbroker or secondhand dealer transactions with an individual who is under the age of 18.

(C.B. 5, 2005, § 1)

Sec. 14.1012. - Recordkeeping requirements.

- (a) A pawnbroker or secondhand dealer shall maintain a record of each item purchased, bartered, exchanged, or received in the course of business, including a record of the disposition of the item.
- (b) The record shall be signed by the seller and the pawnbroker or secondhand dealer or an agent or employee of the pawnbroker or secondhand dealer, and shall include:
 - (1) The date, time, and place of the transaction;
 - (2) The name and address of the principal, if the transaction is conducted by an agent;
 - (3) A comprehensive description of the item, including any visible identification marks such as initials, name of manufacturer, model and serial number, owner applied identification numbers, and whether the item appears to be new or in its original box or packaging;
 - (4) The consideration received;
 - (5) For each individual from whom the pawnbroker or secondhand dealer acquires an item:
 - (i) The name, address, telephone number, date of birth, and driver's license number of the individual; or
 - (ii) Identification information about the individual that:
 - 1. Identifies the individual from at least two forms of identification, which may include an age of majority card, military identification, or passport; and
 - 2. Provides a physical description of the individual, including the gender, race, any distinguishing features, and approximate age, height, weight, hair and eye color of the individual; and
 - (6) The name, address, and telephone number for each individual to whom the pawnbroker or secondhand dealer sells or transfers the item.
- (c) The pawnbroker or secondhand dealer shall:
 - (1) Maintain the record for at least three years from the date of the transaction;
 - (2) Retain the record in an electronic data storage medium specified by the Police Department; and

- (3) Submit a copy of the record to the Police Department by electronically transmitting the record by 10:00 a.m. on the next business day after the transaction.

(C.B. 5, 2005, § 1)

Sec. 14.1013. - Holding periods.

- (a) A pawnbroker or secondhand dealer shall hold each item purchased or received in the course of business for ten days after submitting a copy of the record of the transaction or until the item is inspected by the Police Department, whichever occurs first.
- (b)
 - (1) A pawnbroker or secondhand dealer may submit to the Police Department a written request for a shorter holding period for a specific item.
 - (2) Within 96 hours after receiving the request, the Police Department shall approve or deny the request.
 - (3) If the Police Department does not respond to the request within 120 hours, the request is deemed to be approved.
- (c) During the holding period for an item, the pawnbroker or secondhand dealer:
 - (1) Shall tag the item in accordance with police department requirements;
 - (2) Shall store the item in a secure location on the premises that is separate from other items or at the off-site storage location listed in the application; and
 - (3) Shall not remove the item from the pawnbroker or secondhand dealer's licensed location of business or off-site storage location.
- (d) The holding period required by this section does not apply to a pawned item that is redeemed with the original pawn ticket.

(C.B. 5, 2005, § 1)

Sec. 14.1014. - Release of stolen property to the Police Department.

A pawnbroker or secondhand dealer is subject to the provisions of the business regulation article, section 12-401 of the Annotated Code of Maryland in regard to the release of stolen property to the Police Department.

(C.B. 5, 2005, § 1)

Sec. 14.1015. - Inspections and right of entry.

- (a) A pawnbroker or secondhand dealer shall allow an authorized member of the Department, the Police Department, or other enforcement agency to enter the pawnbroker or secondhand dealer establishment or storage premises at any reasonable time for the purpose of enforcing this subtitle.
- (b) If a pawnbroker or secondhand dealer refuses to allow entry, the County may seek a court order allowing entry.
- (c) An authorized member of the Department, the Police Department, or other enforcement agency shall have the right to enter a building, structure, or premises without the prior consent of the owner or occupant where there is evidence that a violation of this subtitle exists which threatens or may threaten the public health and safety for the purpose of enforcing the provisions of this subtitle. The authorized member of the Department, the Police Department, or other enforcement agency shall produce proof of identity prior to entry.

- (d) This section does not prohibit the Police Department from seeking a search warrant for the investigation of any criminal violation, including a violation of this subtitle.

(C.B. 5, 2005, § 1)

Sec. 14.1016. - Regulations.

The Chief of Police or the Director may adopt regulations to implement this subtitle.

(C.B. 5, 2005, § 1)

Sec. 14.1017. - Notice of violation.

- (a) Except as provided in subsection (c) of this section, if a violation of this subtitle is found, the Director shall provide to the licensee a written notice that describes the violation, specifies the action necessary to correct the violation, and sets forth the time to correct the violation.
- (b) The Director shall serve a notice of violation by certified mail, restricted delivery or by personal service. If service cannot be obtained by certified mail, restricted delivery or personal service, the notice may be posted in a conspicuous location on the pawnbroker or secondhand dealer establishment.
- (c) A notice of violation shall not be required if the licensee violates the same provision of this subtitle for which it had received one notice of violation within a 12-month period.

(C.B. 5, 2005, § 1)

Sec. 14.1018. - Denial, revocation or suspension of license.

- (a) The Director may issue an order denying, revoking, or suspending a license for the following reasons:
 - (1) The information provided by the licensee or Applicant in the application is incorrect, incomplete, or has not been updated as required by this subtitle;
 - (2) The licensee or Applicant has been convicted of a felony, crime of moral turpitude, or a violation of controlled dangerous substances, gambling, or theft law;
 - (3) The licensee or Applicant's permit or license to act as a pawnbroker or secondhand dealer in any jurisdiction has been denied, revoked, or suspended;
 - (4) A licensee has failed to comply with a notice of violation; or
 - (5) The licensee or Applicant has violated one or more of the provisions of this subtitle.
- (b) An order denying, revoking, or suspending a license shall be served upon the licensee or Applicant by certified mail, restricted delivery or by personal service. The order shall contain the reasons for the denial, revocation, or suspension. If service cannot be obtained by certified mail, restricted delivery or personal service, the notice may be posted in a conspicuous location on the pawnbroker or secondhand dealer establishment.
- (c) Within 30 days of the date of an order, a person aggrieved may appeal the order to suspend, revoke, or deny a license to the Department in accordance with administrative procedures act set forth at title 2, subtitle 1, article 3 of the Howard County Code. The filing of an appeal shall not stay the order of the Director.
- (d) Within 30 days of the date of the decision of the Department on the appeal of an order, a person aggrieved may appeal the decision to the Circuit Court of Howard County, Maryland in accordance

title 2, subtitle 1, article 3 of the Howard County Code. The filing of an appeal shall not stay the order of the Department.

(C.B. 5, 2005, § 1)

Sec. 14.1019. - Civil penalties.

- (a) The Department may institute any action at law or equity, including injunction or mandamus, to enforce the provisions of this subtitle.
- (b) Alternatively, and in addition to and concurrent with all other remedies, the Department may enforce the provisions of this subtitle with civil penalties in accordance with title 24 of this Code.
 - (1) A violation of section 14.1015 of this subtitle is a Class A offense.
 - (2) A first violation of any other provision of this subtitle is a Class B offense. A subsequent violation of any other provision of this subtitle is a Class A offense.
- (c) Each day that a violation continues is a separate offense.

(C.B. 5, 2005, § 1)

Sec. 14.1020. - Criminal penalties.

A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$900.00 or imprisonment not exceeding five months or both.

(C.B. 5, 2005, § 1)

Sec. 14.1021. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 5, 2005, § 1)

SUBTITLE 11. - COMMON OWNERSHIP COMMUNITY REGISTRATION

Sec. 14.1100. - Purpose; applicability.

- (a) The purpose of this subtitle is to protect the public health, safety, and welfare by further enhancing the Department's ability to conduct fire safety inspections by requiring a Common Ownership Community to register with the Department.
- (b) This subtitle shall apply to common ownership communities as defined in this subtitle.

(C.B. 53, 2009, § 1)

Sec. 14.1101. - Definitions.

In this subtitle the following terms have the meanings indicated:

- (1) *Common area* means:
 - (i) All of a multifamily residential building, except the individual dwelling units; and

- (ii) The property owned by the Common Ownership Community that is surrounding the multifamily residential building.
- (2) *Common ownership community* means:
 - (i) A multifamily residential building that is subject to a condominium regime pursuant to Title 11 of the Real Property Article of the Annotated Code of Maryland; or
 - (ii) A multifamily residential "Cooperative Housing Corporation", as that term is defined in section 5-6B-01 of the Corporations and Associations Article of the Annotated Code of Maryland.
- (3) *Council of Unit Owners* shall have the meaning described in section 11-109 of the Real Property Article of the Annotated Code of Maryland.
- (4) *Department* means the Department of Inspections, Licenses and Permits.
- (5) *Director* means the Director of the Department of Inspections, Licenses and Permits or the Director's designee.
- (6) *Relevant fire safety requirements* means fire safety requirements set forth in:
 - (i) The Property Maintenance Code for Rental Housing, set forth in title 3, subtitle 7 of this Code;
 - (ii) The Howard County Fire Prevention Code, set forth in section 17.104 of this Code; and
 - (iii) The Howard County Building Code, set forth in title 3, subtitle 1 of this Code and any codes adopted in the Howard County Building Code by reference.

(C.B. 53, 2009, § 1)

Sec. 14.1102. - Registration.

- (a) A Common Ownership Community shall register with the Department annually on a form provided by the Department.
- (b) Upon the recommendation of the County Executive, the County Council may adopt a registration fee by resolution.
- (c) Within 30 days of the change, a Common Ownership Community shall notify the Department if there is a change in:
 - (1) The name of the community;
 - (2) The ownership interest of the community, including a change in a resident agent or officer;
 - (3) The management company or maintenance company; or
 - (4) Any other information required on the registration form.

(C.B. 53, 2009, § 1)

Sec. 14.1103. - Inspection and enforcement authority.

- (a) The Director shall interpret, administer, enforce, and implement the provisions of this subtitle for:
 - (1) Failure to register or failure to notify the Department of a change in information as required by this subtitle; or
 - (2) Failure to comply with relevant fire safety requirements.
- (b) The Director may:

- (1) Inspect a common area for compliance with relevant fire safety requirements; and
 - (2) Enter a common area at a reasonable time to make inspections pursuant to this subtitle.
- (c) Inspections, which are purely governmental in nature, are made solely for the public benefit and shall not be construed as providing any warranty or representation concerning the condition of the common area to the public.
- (d) The Common Ownership Community, occupant, tenant, or other person in charge of a common area subject to this subtitle shall give the Director entry and free access to any part of the common area, property, or premises for the purposes of inspection under this subtitle. If entry or access is refused or restricted, the Director may seek a court order to allow entry and access.

(C.B. 53, 2009, § 1)

Sec. 14.1104. - Notices of violation; citations.

- (a) If the Director determines that there has been a violation of this subtitle or of relevant fire safety requirements or has reasonable grounds to believe that a violation has occurred, the Director shall issue a notice of violation under this section.
- (b) A notice of violation:
- (1) Shall be in writing; and
 - (2) Shall include:
 - (i) A description of the Common Ownership Community sufficient for identification;
 - (ii) A description of the violation; and
 - (iii) A reasonable time period to correct the violation.
- (c) The Director may issue a citation for failure to comply with a notice of violation and a citation shall contain the information required by section 24.106(III) of this Code.

(C.B. 53, 2009, § 1)

Sec. 14.1105. - Service of notices of violation and citations.

- (a) Subject to subsection (b) of this section, a notice of violation and citation is properly served if a copy is hand delivered or sent by first class mail:
- (1) If the Common Ownership Community is incorporated:
 - (i) To the resident agent;
 - (ii) To the Council of Unit Owners of a condominium regime; or
 - (iii) To an officer of the corporation or to a member of the Board of Directors of a Cooperative Housing Corporation; or
 - (2) If the Common Ownership Community is not incorporated, to the Council of Unit Owners.
- (b) If service cannot be obtained by one of the methods set forth in subsection (a) of this section, service may be obtained by:
- (1) Publishing the notice of violation or citation at least once in a local newspaper of general circulation; or
 - (2) Posting the notice of violation or citation in a conspicuous place in the common area where the violation existed or has occurred.

- (c) In addition to the service requirements set forth in this section, a copy of the notice of violation or citation shall be sent to the management company or maintenance company for the Common Ownership Community.

(C.B. 53, 2009, § 1)

Sec. 14.1106. - Penalties.

- (a) The Department may institute any action at law or equity, including injunction or mandamus, to enforce the provisions of this subtitle.
- (b) A person who violates any provision of this subtitle is guilty of a misdemeanor and upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both.
- (c) Alternatively, and in addition to and concurrent with all other remedies, the department of inspections, licenses and permits may enforce this subtitle pursuant to title 24, "civil penalties" of the Howard County Code. A violation of this subtitle is a Class B offense. Each day that a violation continues is a separate offense.

(C.B. 53, 2009, § 1)

TITLE 15 - NATURAL RESOURCES

SUBTITLE 3. - FENCES

Sec. 15.300. - Party fences; duty as to.

When the lands of any two persons adjoin, each of them shall make and maintain one-half of the whole length of the line of fence between them, and if either of said persons shall fail or neglect to make his proportion of said fence, or to keep or put the same in good repair within 60 days after he shall have been notified and requested to do so in writing, then the party making said request may make or repair said fence at the expense of the party so neglecting or refusing, to be recovered from him in an action of debt, with costs of suit.

(P.L.L. 1930, Art. 14, § 194; 1912, Ch. 211; 1918, Ch. 238, § 2)

Sec. 15.301. - Same; hitherto unenclosed land.

Should any person wish to fence in any land which has hitherto been unenclosed, after having built his proportion of said fence, he shall give to the party whose land adjoins his notice in writing that he must erect his proportion of said fence within 60 days; and if the party so notified shall fail to erect his proportion of said fence, the same remedy as given in section 15.300 shall apply.

(P.L.L. 1930, Art. 14, § 195; 1918, Ch. 238, § 3)

Sec. 15.302. - Same; determination of cost.

Before proceeding, however, to make or repair the fences mentioned in sections 15.300 and 15.301, the person who has given the notification in writing shall apply to a judge of the district court of the said County, who, upon affidavit of the party that he has given such notice, and that said fence has not been erected or repaired within the time specified, shall summon three disinterested landholders, who shall view the said fence and shall determine the proper amount of money to be expended in erecting or

repairing the same in a good and substantial manner, and said inquisition shall be put in writing, and the party erecting or repairing such fence shall not expend more than said sum.

(P.L.L. 1930, Art. 14, § 196; 1918, Ch. 238, § 4)

Sec. 15.303. - Same; construction.

The fences to be made or kept in repair shall be at least four feet high, and shall be sufficiently close to prevent hogs from pressing through same; provided, said fence be not within five miles from the City of Baltimore.

(P.L.L. 1930, Art. 14, § 197; 1918, Ch. 238, § 5)

Sec. 15.304. - Same; compensation of appraisers.

The landowners summoned under section 15.302 shall be allowed the same per diem compensation as witnesses before the District Court of Howard County for each day they may be engaged in the performance of their duties.

(P.L.L. 1930, Art. 14, § 198; 1918, Ch. 238, § 6)

SUBTITLE 4. - BEVERAGE CONTAINERS³

Footnotes:

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Editor's note— C.B. 26, 1977 repealed sub. 4, §§ 15.400—15.403, and enacted in lieu thereof a new sub. 4, §§ 15.400—15.413, pertaining to beverage containers. The act from which this subtitle is derived was approved at a referendum held in 1978. Certain sections failed to pass, and these have been noted at the proper places.

Sec. 15.400. - Definitions.

For the purposes of this subtitle, unless the context requires otherwise, the following words have the meanings given herein:

- (a) *Beverage* means beer or other malt beverages and mineral waters, soda water and similar soft drinks in liquid form and intended for human consumption, whether or not carbonated, but does not include uncarbonated water, soups, fluid milk products, natural or partially natural reconstituted or frozen fruit, vegetable or meat juices, or liquids intended for medicinal purposes only.
- (b) *Beverage container* means the individual, separate, sealed glass, metal or plastic bottle, can, jar or carton containing a beverage.
- (c) *Biodegradable material* means material which is capable of being broken down by bacteria into basic elements.
- (d) *Consumer* means every person who purchases a beverage container for use or consumption.
- (e) *Dealer* means every person in Howard County who engages in the sale of beverages in beverage containers to a consumer, and includes every person in Howard County who engages in the business of servicing and replenishing coin-operated vending machines in which beverages are sold

in beverage containers. However, "dealer" does not mean a church, school, political, civic or charitable group or organization.

- (f) *Director* means the Director of the Department of Inspections, Licenses and Permits of Howard County or his designee.
- (g) *Distributor* means every person who engages in the sale of beverages in beverage containers to a dealer in Howard County, including any manufacturer who engages in such sales.
- (h) *Manufacturer* means every person bottling, canning or otherwise filling beverage containers for sale to distributors or dealers.
- (i) *Place of business* means the location at which a dealer sells or offers for sale beverages in beverage containers to consumers.
- (j) *Refillable* means a beverage container which can be refilled at least five times and is so designated by type by the Director.
- (k) *Soft drink* means ginger ale, root beer, sarsaparilla, soda pop or any soda water, cola or other carbonated or noncarbonated beverage.
- (l) *Use or consumption* includes the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale or the keeping or retention of a beverage for the purposes of sale.

(C.B. 26, 1976; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Secs. 15.401—15.404. - Reserved.

Editor's note— Section 15.401, relative to refund value required for beverage containers; § 15.402, requiring dealers and distributors to accept and pay refund value for empty beverage containers; § 15.403, authorizing dealers and distributors to refuse to accept certain empty containers; and § 15.404, requiring certain markings on beverage containers, were defeated in the 1978 referendum.

Sec. 15.405. - Certain metal beverage containers prohibited.

No person shall sell or offer for sale in Howard County any metal beverage container so designed and constructed that a part of the container is detachable in opening the container without the aid of a can opener.

(C.B. 26, 1976)

Sec. 15.406. - Certain connecting devices prohibited.

No person shall sell or offer for sale in Howard County any beverage containers connected to each other with plastic rings or similar devices which are not classified as biodegradable by the Director.

(C.B. 26, 1976)

Sec. 15.407. - Nonrefillable beverage containers prohibited.

No person shall sell or offer for sale in Howard County any beverage containers not designated as refillable by the Director.

(C.B. 26, 1976)

Sec. 15.408. - Authorization to certify certain beverage containers.

- (a) To promote the use in Howard County of reusable beverage containers of uniform design, and to facilitate the return of containers to manufacturers for reuse as a beverage container, the Director may certify beverage containers which satisfy the requirements of this section.
- (b) A beverage container may be certified if:
 - (1) It is reusable as a beverage container by more than one manufacturer in the ordinary course of business; and
 - (2) More than one manufacturer will, in the ordinary course of business, accept the beverage container for reuse as a beverage container and pay the refund value of the container.
- (c) The Director may by rule establish appropriate liquid capacities and shapes for beverage containers to be certified or decertified in accordance with the purposes set forth in subsection (a) of this section.
- (d) A beverage container shall not be certified under this section if by reason of its shape or design, or by reason of words or symbols permanently inscribed thereon, whether by engraving, embossing, painting or other permanent method, it is reusable as a beverage container in the ordinary course of business only by a manufacturer of a beverage sold under a specific brand name.

(C.B. 26, 1976)

Sec. 15.409. - Granting certification of beverage containers; review and withdrawal of certification granted.

- (a) Unless an application for certification under section 15.408 is denied by the Director within 60 days after the filing of the application, the beverage container shall be deemed certified.
- (b) The Director at any time may review certification of a beverage container. If after such review, with written notice and hearing afforded to the person who filed the application for certification under section 15.408, the Director determines the container is no longer qualified for certification, he shall withdraw certification.
- (c) Withdrawal of certification shall be effective not less than 30 days after written notice to the person who filed the application for certification under section 15.408 and to the manufacturers referred to in subsection (b) of section 15.408.

(C.B. 26, 1976)

Sec. 15.410. - Certification and withdrawal procedures.

The procedures for certification or withdrawal of certification provided for in sections 15.408 and 15.409 shall be in accordance with the Howard County Administrative Procedure Act.

(C.B. 26, 1976)

Cross reference— Administrative Procedure Act, § 2.100 et seq.

Sec. 15.411. - Penalties.

Any person found guilty of violating this subtitle shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$100.00. Each day of violation shall constitute a separate offense.

(C.B. 26, 1976)

Sec. 15.412. - Authority to study and report on effectiveness of this subtitle.

- (a) During the period commencing on the enforcement date of this subtitle, and ending when he submits the report provided for in subsection (b) of this section, the County Executive shall cause to be conducted a study of the operation of the provisions of this subtitle that shall include but not be limited to an analysis of:
- (1) The problems if any, incurred in the distribution, sale and return of beverage containers subject to the provisions of this subtitle, including the effect, if any, on tax revenues accruing to Howard County;
 - (2) The effectiveness of the provisions of this subtitle in reducing energy consumption, solid waste and the incidence of the littering by beverage containers in Howard County;
 - (3) The effect of the provisions of this subtitle on consumer beverage prices;
 - (4) The degree of consumer acceptance of the provisions of this subtitle;
 - (5) The costs incurred in the enforcement of the provisions of this subtitle.
- (b) Not later than 12 months following the enforcement date of this subtitle, the County Executive shall prepare and submit to the County Council a report of his findings made pursuant to subsection (a) of this section and his recommendations with respect to any legislative proposals considered by him to be necessary as the result of the study conducted as required by subsection (a) of this section.

(C.B. 26, 1976)

Sec. 15.413. - Enforcement date.

- (a) The enforcement of the subtitle, except for sections 15.405, 15.406 and 15.407, shall not take effect until January 1, 1977.
- (b) Section 15.405 or 15.406 or 15.407 of this subtitle severally or together shall take effect when two counties contiguous to Howard County enact substantially similar legislation.

(C.B. 26, 1976)

SUBTITLE 5. - AGRICULTURAL PRESERVATION^[4]

Footnotes:

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Editor's note— C.B. 63, 2018, § 1, adopted Oct. 9, 2018, changed the title of subtitle 5 from "Agricultural Land Preservation" to the present title.

Editor's note— Subtitle 5, §§ 15.501—15.510, was repealed and reenacted to read as set out in §§ 15.500—15.521 by C.B. 10, 1993. The subtitle was formerly derived from C.B.'s 13, 1978; 47, 1979; 2, 1981; 7, 1983; 39, 1983; 3, 1985; 49, 1986; 72, 1987; 3, 1988; 62, 1988; 9, 1989; 17, 1989; 45, 1989; 151, 1991.

State Law reference— Agricultural land preservation, Ann. Code of Md., Agriculture article, § 2-501 et seq.

Sec. 15.500. - Short title; findings; purpose.

- (a) *Short Title.* This subtitle may be known as the Howard County Agricultural Sustainability and Land Preservation Act.
- (b) *Findings.* Much of the agricultural land in the County is in jeopardy of being lost for any agricultural purpose because of development pressures stemming from rapid growth in the region's population. It is in the public interest to preserve these agricultural lands and a robust agricultural economy because:
 - (1) Agricultural lands enhance the material and aesthetic quality of life in the County and are valued by both urban and rural residents;
 - (2) Maintaining viable farms makes possible the provision of fresh, high quality food close to the consumer;
 - (3) Agricultural lands serve as valued natural and ecological resources by providing needed open spaces for clean-air sheds, watershed, and floodplain protection;
 - (4) Preservation of agricultural land provides an eventual saving in the cost of public services that development would otherwise require.
- (c) *Purpose.* The purpose of this act is to protect the health, safety and well-being of present and future residents of Howard County by advancing the sustainability of agriculture as a viable sector of the County's economy and by conserving and protecting 30,000 acres of agricultural land as a resource of major importance. The County intends to acquire development rights by purchase of the land, by purchase of the development rights and by acceptance of dedicated remainders from cluster subdivision pursuant to the subdivision and zoning regulations. The County also intends to support farming, agricultural endeavors and its investment in easements by offering technical assistance, promoting agribusiness innovation, and developing future market opportunities.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Sec. 15.501. - Nonapplicability.

Except as expressly provided in this subtitle, the provisions of this subtitle do not apply to agricultural land preservation easements acquired by the County or districts established before the effective date of this act [May 1, 1993]. The law in effect at the time an easement was acquired will continue to govern easements acquired before the effective date of this act.

(C.B. 10, 1993)

Sec. 15.502. - Definitions.

For purposes of this subtitle, the following terms shall have the meanings indicated:

- (a) *Administrator* means the Director of the Department of Planning and Zoning or the Director's designee.
- (b) *Agricultural endeavors* means those agricultural uses that require the filing of a Schedule F for federal income tax purposes.

- (c) *Agricultural use* means farming and includes:
 - (1) Dairying, pasturage, growing crops, bee keeping, horticulture, floriculture, orchards, plant nurseries, viticulture, silviculture, aquaculture, and animal and poultry husbandry;
 - (2) The breeding, raising, training and general care of livestock for uses other than food, such as sport or show purposes;
 - (3) Construction and maintenance of barns, silos and other similar structures, the use of farm machinery, the primary processing of agricultural products and the sale of agricultural products produced on the land where the sales are made; and
 - (4) Other uses directly related to or as an accessory use of the premises for farming and agricultural purposes.
- (d) *Agricultural land preservation program* means the acquisition and stewardship of County agricultural land preservation easements and programs to support farming and agricultural endeavors. The program may be referred to as the "ALP Program".
- (e) *Board* means the Howard County Agricultural Preservation Board as described in section 15.503 of this subtitle. The Board may also be referred to as the "APB".
- (f) *Dedication* or *dedicated* refers to the process by which a landowner places a preservation parcel under a restrictive easement of the ALP Program.
- (g) *Department* means the Department of Planning and Zoning.
- (h) *Development right* means the right to develop the parcel for purposes other than agricultural uses. *Development right* includes, but is not limited to, the right to use the property for industrial or commercial uses, for residential purposes (except as set forth in this subtitle), or the storage or depositing of trash, junk, rubbish or debris.
- (i) *Easement; agricultural land preservation easement* means a recorded restriction on exercising the development rights on land.
- (j) *Grantor* means the landowner who conveyed an easement on a parcel to the County.
- (k) *Landowner* means the legal owner or owners of a parcel.
- (l) *Preservation parcel* means a parcel of land:
 - (1) Which is created in a subdivision after clustering; or
 - (2) That is:
 - (i) The sending parcel on a density exchange option or on a cluster exchange option pursuant to the zoning regulations; and
 - (ii) Subject to an agricultural land preservation easement.
- (m) *Pricing formula* means a formula adopted by resolution of the County Council to assign point values for various characteristics of a farm which make its preservation as agricultural land more or less valuable to the County.
- (n) *Public interest use* means a use which:
 - (1) Does not unduly interfere with the agricultural use of property subject to an easement; and
 - (2) Has been determined by the County Council to be a public interest use.
- (o) *Tenant housing* means housing for workers fully engaged in operation of the agricultural use and their families.

(C.B. 10, 1993; C.B. 19, 2006, § 1; C.B. 63, 2018, § 1)

Sec. 15.503. - Agricultural Preservation Board.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Establishment; Number of Members; Method of Appointment.* There is an Agricultural Preservation Board consisting of seven members who shall be appointed by the County Executive and confirmed by the County Council. When exercising the power of appointment and confirmation, the County Executive and County Council shall consider, at a minimum, the following areas including, without limitation:
 - (1) In order to ensure that members represent the diversity of farms and agricultural endeavors within the County, when appointing members under subsection (c)(2) of this section, consideration should be given to individuals based on the following criteria including, without limitation:
 - (i) Size of the agricultural operation;
 - (ii) Location of the farm or agricultural endeavor;
 - (iii) Type of farming or other agricultural endeavors; or
 - (iv) Participation in the ALP Program or the State of Maryland Land Preservation Foundation.
 - (2) When appointing members under subsection (c)(4) of this section, consideration should be given to individuals with experience or knowledge in the following areas including, without limitation:
 - (i) Land easements;
 - (ii) Real estate;
 - (iii) Agricultural economic development;
 - (iv) Sciences that relate to agriculture; or
 - (v) Other relevant experience.
- (c) *Membership:*
 - (1) All members shall be residents of Howard County.
 - (2) At least three of the members shall receive at least 50 percent of their annual income, at the time of their appointment, from active farming;
 - (3) At least one member shall own and farm property subject to an easement in the County's ALP Program;
 - (4) At least two of the members shall not receive income from agricultural endeavors.
 - (5) The Board may recommend board members to the County Executive based on the criteria listed in subsections (b)(1) and (b)(2) of this section.
- (d) *Executive Secretary.* A County employee from the Office of Community Sustainability shall be assigned to serve as the Executive Secretary to the Board and shall attend all meetings.
- (e) *Meetings.* The Board shall meet at least once every three months and more frequently as necessary to conduct the affairs of the Board. Meetings may be called by the chair or by any two members. The Board may decide not to meet one month in the spring and one month in the fall for the planting and harvesting seasons.
- (f) *Voting.* Any action or recommendation of the Board shall be by the affirmative vote of a majority of the members, except that five affirmative votes are needed to recommend to the County Executive acquisition of an easement.

- (g) *Conflict of Interest.* If a member of the Board or the member's spouse, parent, child, or affiliated business interest has a financial interest in a parcel, an offer may be made to sell an easement in the parcel to Howard County, provided that:
- (1) Pursuant to provisions of the Howard County Charter and the Howard County Code regarding conflicts of interest, the County Council has authorized the member to negotiate with the County for sale of the easement; and
 - (2) The Board member, in their Board capacity, does not participate in any discussions concerning price, terms of purchase or other issues related to the purchase; and
 - (3) The Board member abstains from discussing and voting on the Board's recommendation to the County Executive regarding the purchase of the parcel, and the price and terms.
- (h) *Duties and Responsibilities.* The Board shall have the following duties:
- (1) For the County Executive and County Council, the Board shall:
 - (i) Make recommendations on:
 - a. The acquisition of easements as provided in this subtitle;
 - b. The criteria and method for calculating the price for purchase of an easement;
 - c. ALP Program policy, and agricultural policy in general;
 - d. Agricultural and agricultural preservation issues by providing written or oral testimony; and
 - (ii) Listen to concerns and ideas of individuals, institutions, and organizations on agricultural issues affecting the County; and
 - (iii) Report annually on the status of the program and issues of particular interest or concern to the agricultural community.
 - (2) For the Department, the Board shall:
 - (i) In accordance with the terms of the deed of easement and this subtitle, review and make recommendations on proposals for:
 - a. The location of permitted lots and dwellings;
 - b. The construction of tenant housing;
 - c. Parcel subdivision of the land; and
 - d. Requests pertaining to an easement brought by the owners of the property subject to the easement. This section is not intended to limit the Department's police powers or the County's property rights under the easement;
 - (ii) Host or participate with the Department to conduct outreach, education or both, outreach and education, for potential easement applicants and existing property owners; and
 - (iii) Make recommendations on agricultural issues, including the evaluation of zoning related complaints and easement enforcement, based on the Board's knowledge of common and acceptable farming practices. This section is not intended to limit the Department's police powers related to zoning enforcement or the County's property rights under the easement;
 - (3) For the Hearing Examiner, the Board shall review and make recommendations on commercial solar facility and other conditional uses sought on easements as provided in the Howard County Zoning Regulations.
- (i) *Agricultural Preservation Advisory Board.* There is an Agricultural Preservation Advisory Board established pursuant to Title 2, subtitle 5 of the Agricultural Article of the Annotated Code of Maryland which makes recommendations on properties participating in the Maryland Agricultural Preservation Program. The advisory Board consists of five members of the Howard County

Agricultural Preservation Board who are also designated as members of the Agricultural Preservation Advisory Board. The other two members of the Howard County Agricultural Preservation Board shall not participate in the deliberations of the Agricultural Preservation Advisory Board.

(C.B. 63, 2018, § 1)

Editor's note— C.B. 63, 2018, § 1, adopted Oct. 9, 2018, added a new § 15.503, repealed § 15.504, and renumbered the existing § 15.503 as § 15.504. The former § 15.504 pertained to purchase of easements and derived from C.B. 10, 1993.

Sec. 15.504. - Methods of acquiring easements.

- (a) *Methods of Acquisition* . The County may acquire agricultural land preservation easements on land in the County in the following ways:
 - (1) By purchasing the development rights on eligible land.
 - (2) By dedication pursuant to the provisions of the zoning regulations concerning dedication of preservation parcels.
 - (3) By donation of the development rights on eligible land from the owners.
- (b) *Purchase of Easements* .
 - (1) There is a plan to finance the purchase of easements. The County Executive shall establish methods of paying landowners for these easements, including long-term obligations of the County through the use of installment purchase contracts. Since these contracts involve the spending of County money in future fiscal years, they are subject to approval by the County Council, pursuant to section 612 of the Howard County Charter. Contracts are exempt from the provisions of Section 19-205 and 19-206 of the Local Government Article of the Annotated Code of Maryland.
 - (2) The price of an easement shall be based on a pricing formula developed by the Board and approved by the County Executive and by resolution of the County Council.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Editor's note— C.B. 63, 2018, § 1, adopted Oct. 9, 2018, repealed § 15.504 and renumbered the existing § 15.503 as § 15.504. The former § 15.504 pertained to purchase of easements and derived from C.B. 10, 1993.

Sec. 15.505. - Easement administration.

- (a) *Procedures*. The Board may develop procedures for the review of parcels offering development rights to the County, the rating of desirability, the pricing of an agricultural land preservation easement, and the functioning of the ALP program and other related matters.
- (b) *Purchase Price Formula*. There is a purchase price formula for determining the price the County will pay per acre to purchase an agricultural land preservation easement. The formula shall be set by resolution of the County Council.
- (c) *Maps and Records*. The official maps of parcels subject to an agricultural land preservation easement are the 1 inch = 600 feet zoning maps. The Administrator shall update maps on a regular basis to reflect the addition of new parcels and the amendment of existing parcels.

(C.B. 10, 1993; C.B. 9, 2013, § 1; C.B. 63, 2018, § 1)

Sec. 15.506. - Easement eligibility criteria.

- (a) *Buying Easements.* Howard County may buy the development rights on a parcel provided that the purchase is consistent with the intentions and policies of the general plan and the parcel meets each of the criteria listed below:
- (1) *Developable.* The parcel shall be capable of being further developed to a greater residential density than presently exists or for nonagricultural uses. To meet this criteria, the parcel shall:
 - (i) Be in a zoning district which permits development to a higher residential density than presently exists; and
 - (ii) Be capable of being subdivided or developed for nonagricultural uses by right, notwithstanding the effect of the growth tier designation of the parcel on the County's general plan in terms of the parcel's major subdivision capability when the landowner applies to sell development rights to the County under this Act.
 - (2) *Size.* The parcel contains at least 20 contiguous acres.
 - (3) *Soils.* The parcel shall meet the following soils criteria:
 - (i) More than 50 percent of the parcel shall be U.S. Department of Agriculture capability Class I, II and III soils, and more than 66 percent of the parcel shall be Class I through IV soils; and
 - (ii) The parcel shall have:
 - a. A complete soil conservation and water quality plan approved by the local soil conservation district; and
 - b. Verification by the local soil conservation district that the plan reflects current conditions and activities on the land.
- (b) *Dedicated Acquisitions.* The criteria for the acceptance of development rights on a preservation parcel are that the parcel, if farmed, have a complete soil conservation and water quality plan approved by the local soil conservation district and verification that the plan reflects current conditions and activities on the land.
- (c) *Donated Acquisitions:*
- (1) The criteria for the acceptance of donated development rights on any parcel are that the parcel:
 - (i) If farmed, have a complete soil conservation and water quality plan approved by the local soil conservation district and verification that the plan reflects current conditions and activities on the land.
 - (ii) The parcel shall be capable of being further developed to a greater residential density than presently exists or for nonagricultural uses. To meet this criteria, the parcel shall:
 - a. Be in a zoning district which permits development to a higher residential density than presently exists; and
 - b. Be capable of being subdivided or developed for nonagricultural uses by right.
 - (2) Notwithstanding paragraph (1) of this subsection, an easement on real property may be donated to the County if the real property was released from an agricultural land preservation easement:
 - (i) To create a lot under section 15.514 of this subtitle; or
 - (ii) For a public interest use under section 15.516 of this subtitle.

(C.B. 10, 1993; C.B. 63, 2003, § 1; C.B. 19, 2006, § 1; C.B. 9, 2013, § 2; C.B. 23, 2017, § 1; C.B. 63, 2018, § 1)

Sec. 15.507. - Process for buying easements.

This process applies only to buying easements and does not apply to donated easements or to easements acquired by dedication of a preservation parcel.

- (a) *Applications.* An application to sell the development rights shall be submitted to the Administrator by the landowner. The application shall be in a form approved by the Department, shall contain the information required and shall be accompanied by a nonrefundable application fee, the amount of which is set by resolution of the County Council.
- (b) *Number of Applications.* A landowner may submit an application for each parcel or may submit a single application as part of a package for multiple contiguous parcels.
- (c) *Review by Administrator:*
 - (1) The Administrator shall review each application to determine if all eligibility criteria for acquiring an easement are met.
 - (2) If the eligibility criteria are met, the Administrator shall evaluate the parcel, considering geographic location, productivity, soil characteristics, accessibility, size, developability, contiguity to other land on which the County holds easements, restrictions and covenants on the land, comments from other County departments, and any other information which may assist the Board in evaluating the desirability of the property.
 - (3) The Administrator shall prepare a detailed report on the parcel and the pricing formula score and shall submit the report, the application and the Administrator's evaluation and recommendation to the Board for its consideration.
 - (4) If the eligibility criteria are not met, the Administrator shall reject the application and shall notify the landowner of the rejection and the reason(s) for rejection. The landowner may request the Board to review the Administrator's decision to reject the application.
- (d) *Review by Board:*
 - (1) The Board may review the application, the Administrator's report and recommendation and may make an on-site inspection of the parcel.
 - (2) The Board shall hold a public meeting to receive comments from the public as to whether the parcel offered is acceptable and desirable.
 - (3) After the public meeting, the Board shall determine the price to be offered according to the pricing formula and may provide any recommendations to the County Executive concerning the acquisition.
- (e) *Purchase:*
 - (1) *Offers to landowners.* After determining the price to be paid per acre, based on the pricing formula, the Board shall make an offering proposal to the landowner to purchase the development rights. An offer made under this section is subject to the availability of adequate borrowing authority.
 - (2) *Recommendation to County Executive.* If the landowner agrees to the price, terms and conditions of the offering proposal, the Board shall advise the County Executive of the agreement in a written notification briefly describing the property and the price, terms and conditions agreed upon.
 - (3) *Action by County Executive.* The County Executive may not modify the agreed upon price, terms and conditions, and may only approve or disapprove the purchase as proposed.

- (4) *Installment purchase; multiyear agreement; Federal tax exemption.* If the County is to pay the price in installments, County Council approval of a multiyear agreement is required, pursuant to section 612 of the Howard County Charter. In addition, if the County and the landowner intend that the interest paid under the installment purchase agreement is to be exempt from federal income taxation, the transaction shall comply with all relevant provisions of the Internal Revenue Code of 1986, as amended.

(C.B. 10, 1993; C.B. 19, 2006, § 1; C.B. 9, 2013, § 3; C.B. 63, 2018, § 1)

Sec. 15.507A. - Alternate process for the purchase of easements.

- (a) *Applicability.* Notwithstanding any other provision of this subtitle, the process under this section applies to the purchase of an agricultural land preservation easement if the source of all or a portion of the funds for the purchase is a State or Federal grant program that requires, as a condition of the use of the funds, that a process other than that contained in this subtitle be used.
- (b) *Price of Easement.* To determine the price the County will pay for an agricultural land preservation easement the Administrator shall use the formula under subsection 15.505(b) of this subtitle or other method required by the program from which the funds originate.
- (c) *Notification to Potential Participants.* The Administrator may advertise the requirements for participation in the program or may notify potential Applicants through any means authorized under the program from which the funds originate.
- (d) *Review by Administrator.* The Administrator shall prepare an analysis of the proposed purchase of an easement based upon criteria for qualification under the program from which the funds originate. If the purchase of the easement is approved by the regulatory or administrative authority for the program from which the funds originate, the Administrator shall include the analysis in a report submitted to the Board.
- (e) *Review by Board:*
 - (1) The Board shall review the application, the Administrator's report and recommendation and may make an on-site inspection of the parcel.
 - (2) The Board shall hold a public meeting to receive comments from the public as to whether the parcel offered is acceptable and desirable.
 - (3) The Board shall make a recommendation to the County Executive regarding the purchase of the easement. The Board may not revise the price to be offered for the purchase.
- (f) *Process for Purchase:*
 - (1) *Confirmation of price and conditions of sale.* The Administrator shall confirm the purchase price for the development rights and any specific conditions required with the appropriate regulatory or administrative authority, and shall notify the property owner in a manner consistent with the requirements of the program under which the funds are provided.
 - (2) *Recommendation to the County Executive.* If the landowner agrees to the price, terms and conditions of the offering proposal, the Administrator shall notify the County Executive in writing of the agreement describing the property, the price, funding sources, and the terms and conditions agreed upon.
 - (3) *Action by County Executive.* The County Executive may not modify the agreed upon price, terms, and conditions, and may only approve or disapprove the purchase as proposed.
 - (4) *Installment purchase; multiyear agreement.* If the County is responsible as a participating party to a contract that requires the payment of funds from a fiscal year beyond the year in which the contract is made, the contract shall be approved by the County Council as a multiyear agreement under section 612 of the Howard County Charter.

(C.B. 7, 1999; C.B. 9, 2013, § 4; C.B. 63, 2018, § 1)

Sec. 15.508. - Process for acquiring an easement by donation.

This section applies only to the donation of agricultural land preservation easements.

- (a) A landowner whose parcel meets the criteria of subsection 15.506(c) may apply to donate an easement to the County.
- (b) The application shall be completed by the landowner and submitted to the Administrator.
- (c) The Administrator shall make a report and recommendation to the Board. The Board shall then make a recommendation to the County Executive whether or not to accept the donation.
- (d) If the County Executive agrees to accept donation of an easement, the Executive shall send a letter to the landowner accepting the offer.

(C.B. 10, 1993)

Sec. 15.509. - Process for acquiring an easement by dedication of a preservation parcel.

The Administrator may accept easements on preservation parcels which meet the criteria of subsection 15.506(b) during the subdivision process as set forth in the subdivision regulations and shall notify the Board of any such acquisition.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Sec. 15.510. - Fee simple acquisitions.

Funds dedicated for the acquisition of agricultural land preservation easements may be used to purchase land in fee simple, provided that the land shall then be subject to all the restrictions of an agricultural land preservation easement.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Sec. 15.511. - Restrictions.

- (a) The restrictions and covenants imposed by the agricultural land preservation easement shall be held by the County or its assigns in perpetuity and shall run with the land and bind all subsequent owners.
- (b) Land subject to an agricultural land preservation easement may not be:
 - (1) Developed for purposes other than agricultural uses.
 - (2) Used for commercial, industrial or residential purpose except as provided in section 15.514 or section 15.516.
 - (3) Subdivided except as provided in section 15.514.
- (c) No dwellings may be constructed on land subject to an agricultural land preservation easement except as provided in section 15.514.

(C.B. 10, 1993)

Sec. 15.512. - Obligations.

- (a) *Soil Conservation and Water Quality Plan.* The landowner shall continue to maintain a current soil conservation and water quality plan, approved by the local soil conservation district, and shall implement the plan according to the approved schedule.
- (b) *Agricultural Value Not to Be Reduced.* The owner shall not reduce the agricultural value of the land by use of practices unacceptable to the United States Department of Agriculture and the Maryland Department of Agriculture. If the land is not cropped or managed for pasture, it shall be maintained to control erosion and noxious weeds.

(C.B. 10, 1993)

Sec. 15.513. - Enforcement/penalties.

- (a) *Inspection.* The Administrator shall have the right, with prior notice to the landowner, to enter the land on which the County holds an agricultural land preservation easement in order to inspect for compliance with the conditions of the deed of easement.
- (b) *Civil Penalties.* The County may impose civil penalties pursuant to title 24 of the Howard County Code for failure of the landowner to maintain and implement the approved soil conservation and water quality plan, which failure shall be a Class A offense.
- (c) *Damages.* The County may seek monetary damages of up to 25 percent of the value of the easement from a landowner who substantially reduces the value of the easement by engaging in practices which are unacceptable to the U.S. Department of Agriculture or the Maryland Department of Agriculture.
- (d) *Injunction.* In addition to other remedies, the County may seek an injunction to halt practices which violate the terms and conditions of the easement.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Sec. 15.514. - Rights.

- (a) *General.* The landowner retains all rights of a fee simple owner, except for the development rights which are extinguished by the easement and the restrictions and conditions imposed in the deed of easement pursuant to this subtitle. The agricultural land preservation easement is perpetual and does not grant the public any rights of access or rights to the use of the land.
- (b) *Limited Number of One-Acre Lots.* This subsection applies only to parcels of 50 acres or more. A landowner may subdivide one one-acre lot per 50 acres of the total contiguous acreage which is subject to the easement. The County will release the easement for each one-acre lot permitted after all the following conditions are met:
 - (1) The Board has approved the release of the easement after determining that each lot is located to minimize any disruption of existing or potential future agricultural activities; and
 - (2) The landowner repays the County the price per acre that the County paid for the easement for each lot released.
 - (3) The one-acre maximum lot size permitted under this section may be increased by a maximum of 20 percent pursuant to sections 104.E.6 and 105.E.6 of the Howard County Zoning Regulations.
- (c) *Limited Number of Dwellings.* Only the following dwellings, which may not be subdivided from the land, may be constructed on land subject to an agricultural land preservation easement, after the Board has determined that they are located so as to minimize disruption of existing or potential future agricultural activities:

- (1) An existing dwelling which is no longer habitable may be replaced, provided that the existing dwelling is demolished;
 - (2) If permitted under the deed of easement; tenant housing may be constructed at a density of one tenant dwelling per 25 acres; this density includes tenant housing which existed when the County acquired the easement;
 - (3) A landowner's dwelling, if:
 - (i) There were no dwellings other than tenant housing on the parcel when the County acquired the easement; and
 - (ii) The parcel is 50 acres or larger; and
 - (iii) The parcel is not a subdivision or separate portion of the parcel on which the County acquired the easement, unless the landowner has relinquished the right to subdivide one of the one-acre lots allowed pursuant to section 15.517.
- (d) *Parcel Subdivision*. If the right to subdivide has not been relinquished under the terms of the deed of easement, a landowner may subdivide a larger parcel into smaller parcels if all the following conditions are met:
- (1) The Board has reviewed the proposed subdivision and has determined that it meets requirements of this paragraph;
 - (2) Before subdivision the parcel is at least 100 acres;
 - (3) After subdivision, each parcel is at least 50 acres;
 - (4) After subdivision, the number of dwellings on each parcel does not exceed the numbers permitted by this section; and
 - (5) The deed of easement on the parcel is amended to allocate among the subdivided parcels any unexercised rights to create residential lots pursuant to this paragraph to ensure that no additional residential lots or dwellings are permitted as a result of the parcel subdivision.

(C.B. 63, 2003, § 1; C.B. 19, 2006, § 1; C.B. 53-2006, § 1; C.B. 9, 2013, § 5)

Sec. 15.515. - Exchange of easements.

- (a) *Authority* . In very limited circumstances and only where the exchange of easements would benefit the ALP program, the County may release the easement from land subject to a:
 - (1) Purchased easement;
 - (2) Donated easement; or
 - (3) Dedicated easement on a preservation parcel that is:
 - (i) Created, in accordance with the zoning regulations, on a density exchange option sending parcel; and
 - (ii) Subject to an agricultural land preservation easement.
- (b) *Value of the exchange* . An easement may only be exchanged for an easement on contiguous land of equal or greater acreage and agricultural value.
- (c) *Conditions to complete an exchange* . The exchange may not take place unless:
 - (1) The Board approves the exchange; and
 - (2) The subdivision regulations permit the exchange; and

- (3) The landowner bears all expenses in connection with the exchange, including, but not limited to, all subdivision fees, survey and engineering costs and any title search or title insurance required by the County.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Sec. 15.516. - Public interest uses.

At the request of the landowner and with the approval of the County Council, the County may release the easement on up to one acre of land for a public interest use provided that:

- (a) The Board, after public hearing, has recommended the release of the easement for the public interest use; and
- (b) The County Council, after public hearing, has passed a resolution finding that the proposed use is in the public interest and authorizing release of the easement; and
- (c) The landowner pays the County for the release at the same price per acre that the County paid to acquire the easement, plus interest at the general rate of interest.

(C.B. 10, 1993)

Sec. 15.517. - Optional right to exchange children's or grantor's lots.

A landowner who has the right to create one or more one-acre lots for the owner's personal use or the personal use of a child pursuant to the provisions of a deed of easement recorded prior to May 1, 1993, may, instead, elect to create one-acre lots permitted under section 15.514 on the following conditions:

- (a) The landowner relinquishes any further rights to create lots pursuant to the existing deed of easement; and
- (b) In determining the number of lots allowed by this election, any one-acre lots already created for the grantor or the grantor's children shall be deducted from the total number allowed pursuant to section 15.514;
- (c) The deed of easement is amended to reflect the exercise of this option.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Sec. 15.517A. - Optional right to build a dwelling in exchange for relinquishing the right to create a one-acre lot.

- (a) *Applicability.* The provisions of this section apply only on parcels smaller than 50 acres which have not been subdivided since the County acquired the easement, except for the creation of one-acre lots as permitted under the terms of the deed of easement. In addition, the parcel shall be one on which:
 - (1) The County acquired the easement before May 1, 1993;
 - (2) The landowner has the right to create one or more lots for the owner's personal use or the personal use of a child; and
 - (3) No dwelling of any kind existed at the time the County acquired the easement.
- (b) *Right to Build a Dwelling.* A landowner may build a dwelling which shall not be subdivided from the land, provided that the landowner relinquishes one of the one-acre lots to which he or she is entitled

under the terms of the deed of easement and amends the deed of easement to reflect the exercise of this option.

(C.B. 52, 1994)

Sec. 15.518. - Transitional provisions—Districts.

- (a) *Districts Required under Previous State Law.* Maryland Agricultural Land Preservation Foundation (the Foundation) law effective prior to July 1, 2007 required parcels to be included in agricultural land preservation districts before the landowner could offer an easement to the State. This requirement was repealed by Chapter 650 of the 2007 Laws of Maryland. This section deals with the status of the agricultural land preservation districts.
- (b) *Status of Districts in Which the State Has Purchased an Easement.* Pursuant to Chapter 650 of the 2007 Laws of Maryland, any district in which an easement has been transferred to the Foundation remains in force and may not be terminated.
- (c) *Status of Districts in Which the State Does Not Hold an Easement.* Pursuant to Chapter 650 of the 2007 Laws of Maryland, districts in which the State does not hold an easement were terminated as of July 1, 2012.

(C.B. 63, 2018, § 1)

Editor's note— C.B. 63, 2018, § 1, adopted Oct. 9, 2018, repealed the former § 15.518, and enacted a new § 15.518 as set out herein. The former § 15.518 pertained to Agricultural Land Preservation Board and derived from C.B. 10, 1993; C.B. 19, 2006, § 1; C.B. 68, 2016, § 1; C.B. 43, 2018, § 1.

Sec. 15.519. - Transitional provisions—Parcels subject to an agricultural land preservation easement acquired before May 1, 1993.

Except as specifically provided in this subtitle, the laws in effect prior to May 1, 1993 governing the use of parcels subject to an agricultural preservation easement, including the types and number of dwellings and the potential for subdivision, shall continue to govern all parcels which were subject to an agricultural land preservation easement prior to the effective date of this act.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Editor's note— C.B. 63, 2018, § 1, adopted Oct. 9, 2018, repealed the former § 15.519, and renumbered the former §§ 15.520 and 15.521 as §§ 15.519 and 15.520, as set out herein. The former § 15.519 pertained to the Maryland Agricultural Preservation Districts—authority, purpose, applicability; and derived from C.B. 10, 1993.

Sec. 15.520. - Transitional provisions—Districts.

- (a) *Districts Required Under Previous County Law.* Howard County agricultural land preservation law effective prior to May 1, 1993 required parcels to be included in agricultural land preservation districts before the landowner could offer the easement to the County. Pursuant to Council Bill No. 10-1993, that law was repealed and replaced by this subtitle which does not require the establishment of agricultural land preservation districts. There are parcels, however, which are in agricultural land preservation districts and which the landowners have not sold the development rights to the County. This section deals with the status of the agricultural land preservation districts.

- (b) *Status of Districts in Which the County Has Purchased an Easement.* All the parcels in which the County bought or was authorized to buy the easement before May 1, 1993 were in agricultural preservation districts. The district agreement for parcels subject to an agricultural preservation easement is superseded by the deed of easement and is hereby terminated.
- (c) *Status of Districts in Which the County Does Not Hold an Easement.* Districts in which the County does not hold an easement may continue as provided in the district agreement and pursuant to the law in effect when the district was created. However, the County shall terminate the district upon the written request of the landowner.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Editor's note— See editor's note to § 15.519.

TITLE 16 - PLANNING, ZONING AND SUBDIVISIONS AND LAND DEVELOPMENT REGULATIONS^[1]

Footnotes:

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State Law reference— Zoning and planning, Ann. Code of Md. art. 66B, § 1.00 et seq.; applicability to County, Ann. Code of Md. art. 66B, § 1.02

SUBTITLE 1. - SUBDIVISION AND LAND DEVELOPMENT REGULATIONS^[2]

Footnotes:

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Editor's note— C.B. 43, 1980, repealed subtitle 1 of title 16 and enacted in lieu thereof a new subtitle 1. Formerly, subtitle 1 was derived from C.B. 41, 1975; C.B. 27, 1977; C.B. 47, 1979; C.B. 19, 1979; C.B. 22, 1979; and C.B. 58, 1979. The new subtitle was amended by C.B. 9, 1982; C.B. 39, 1982; C.B. 47, 1982; C.B. 28, 1984, C.B. 59, 1984; C.B. 13, 1986; C.B. 12, 1987; C.B. 17, 1987; C.B. 21, 1988; C.B. 47, 1988; C.B. 61, 1988; C.B. 62, 1988; C.B. 66, 1988; C.B. 25, 1989; C.B. 13, 1990; C.B. 10, 1991; C.B. 11, 1992; C.B. 38, 1992; and C.B. 99, 1992. A new subtitle, §§ 16.100—16.157, was added by C.B. 121, 1992.

State Law reference— Subdivision regulations, Ann. Code of Md. art. 66B, § 5.01 et seq.

ARTICLE I. - GENERAL

Sec. 16.100. - Short title.

This subtitle may be cited as the Subdivision and Land Development Regulations of Howard County, Maryland.

(C.B. 121, 1992)

Sec. 16.101. - legislative intent.

- (a) *Purpose.* The purpose of this subtitle is to promote the health, safety, and general welfare of the residents of the County by:
 - (1) Assisting orderly, efficient, and integrated development of land.

- (2) Providing the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the County.
- (3) Using land and buildings in ways which avoid traffic congestion and which provide for pedestrian movement.
- (4) Guiding public and private policy and action in order to provide infrastructure, including:
 - (i) Adequate and efficient transportation by a variety of means, including alternatives to the automobile.
 - (ii) Water systems of adequate size and pressure for water supply and fire protection.
 - (iii) Sewerage and adequate drainage.
 - (iv) Schools, parks, playgrounds, recreation, and other public facilities.
- (5) Ensuring that land use is consistent with the transportation and the water and sewer elements of the general plan, zoning regulations, and zoning map.
- (6) Determining development densities in the County, in conjunction with the zoning map and regulations.
- (7) Providing for development and the erection of structures in areas free from danger of flooding, erosion, stream siltation, soil slump, unsuitable sanitary conditions and other hazards.
- (8) Preserving the scenic beauty and natural resources of the County, including wetlands, streams, water quality, topography, forests and other vegetation.
- (9) Ensuring appropriate development with regard to natural features.
- (10) Preserving cultural features and historic sites or structures.
- (11) Providing for adequate open space for recreation, light and air and to prevent overcrowding of the land and undue congestion.
- (12) Ensuring adequate provisions are made for public fire protection.
- (13) Providing uniform procedures and standards for the processing of subdivision plans.
- (14) Assisting County officials in securing adequate records of land titles.

(C.B. 121, 1992; C.B. 52, 2001, § 1)

Sec. 16.102. - Applicability.

This subtitle shall apply to all divisions of land and all development of land situated within Howard County, with the following exceptions:

- (a) *Comprehensive Development.* This subtitle shall not apply where it is inconsistent with the zoning regulations concerning comprehensive development in areas zoned new town, planned golf course community, mixed-use, or other planned unit development.
- (b) *Rights-of-Way or Land Acquisition or Disposition.* The provisions of this subtitle do not apply to parcel or lot line changes occurring as a result of highway, road, street, utility or other improvements which require acquisition or disposition of right-of-way or land by a public agency or a corporation regulated by the Public Service Commission, provided that any remaining lots shall be consistent with the zoning regulations.
- (c) *Minor Subdivisions and Resubdivisions:*
 - (1) *Exempt from sketch and preliminary plan.* Provided that the proposed subdivision does not involve public road improvements, a minor subdivision is exempt from the sketch plan and preliminary plan procedures of this subtitle. Initial submissions of minor subdivisions may be at the final plan stage.

- (2) *Plat to cover entire parcel.* Submissions shall cover the entire parcel being subdivided, except for agricultural preservation subdivisions or parcels of 50 acres or more that have not been previously included on a recorded plat.
 - (3) *Zoning.* The Department of Planning and Zoning may permit minor subdivisions or resubdivisions which are not in accordance with the minimum lot size requirements of the zoning regulations if:
 - (i) The minor subdivision or resubdivision improves the compliance of existing lots that do not meet current zoning bulk regulations by bringing the noncomplying lots as close to zoning compliance as possible; and
 - (ii) The remainder of the parcel after the minor subdivision or resubdivision is in accordance with the zoning regulations.
- (d) *Resubdivisions Exempt from Sketch and Preliminary Plan:*
- (1) Resubdivision plan approval is required in order to modify a previously recorded plat for residential and nonresidential properties by adding or deleting lots or modifying lot lines. A resubdivision is exempt from the sketch plan and preliminary plan procedures of this subtitle if:
 - (i) There are no public road improvements required; and
 - (ii) There is no addition to the area previously recorded, except for the inclusion of deeded acreage which only provides the site with access or public road frontage.Initial submissions of such resubdivisions may be at the final plan stage.
 - (2) Resubdivision lots shall be renumbered using the next highest unrecorded lot number in the subdivision.
- (e) *Agricultural Preservation Subdivisions Exempt from Sketch and Preliminary Plan.* Parcels in the agricultural preservation program which are eligible for subdivision are not required to submit a sketch plan or preliminary plan. The initial submission may be a final plan.
- (f) *Merger of Nonresidential Parcels.* Where two or more nonresidential parcels that have not been part of a previously recorded subdivision are to be merged and interior lot lines are to be eliminated, neither a sketch plan nor a preliminary plan is required as long as no public road improvements are required. The initial submission may be a final plan.
- (g) *Multifamily Development:* Existing parcels planned for multifamily dwellings are exempt from the subdivision submission requirements of this subtitle, if no additional lots are created and no public road improvements and no right-of-way dedication is required. Such projects are subject to the site development plan requirements and all other requirements of this subtitle.
- (h) *Pending Subdivisions and Developments.* Except as otherwise provided by law, if the processing requirements of sections 16.144, 16.147, and 16.156 of this subtitle are met, plans which have reached the following stages in the approval process prior to the effective date of this subtitle shall continue to be processed in accordance with the regulations which were in effect at the time of plan approval:
 - (1) Preliminary plan original signature or preliminary equivalent sketch plan original signature approval;
 - (2) Final plan approval letter for minor subdivisions and resubdivisions; or
 - (3) Site development plan original signature approval.If the approved plans fail to meet the processing requirements, the plans shall be resubmitted pursuant to this subtitle. Plan changes that alter the limits of submission or the limits of disturbance shall also be processed pursuant to this subtitle.
- (i) *Cemetery Preservation:*

- (1) *Time limits on Planning and Zoning extended.* The time limit requirements imposed on the Department of Planning and Zoning for approval/denial of a submitted sketch plan or preliminary equivalent sketch plan, preliminary plan, or final plan, pursuant to section 16.144 of this subtitle, and for approval/denial of a site development plan pursuant to section 16.156 of this subtitle, shall be extended to allow for compliance with the public meeting, recommendation and final decision making requirements of subtitle 13 of this title, "Cemetery Preservation."
- (2) *Milestones stayed.* If a cemetery boundary documentation and accommodation plan is required to be submitted for the first time after the approval of a sketch plan or a preliminary equivalent sketch plan, pursuant to subtitle 13 of this title, "Cemetery Preservation," then any milestone imposed, pursuant to section 16.144 of this subtitle, requiring the submission of a preliminary plan or a final plan, shall be stayed from the time of the submission of the cemetery boundary documentation and accommodation plan to the time of the decision by the Department of Planning and Zoning of that plan.

(C.B. 121, 1992; C.B. 13, 1993; C.B. 20, 1996; C.B. 15, 1998; C.B. 52, 2001, §§ 1, 2; C.B. 45, 2003)

Sec. 16.103. - Administration.

- (a) *Provide Information to All Parties.* The Department of Planning and Zoning shall keep all parties to a proposed subdivision or development advised in writing of the Department's recommendations and actions.
- (b) *Department of Planning and Zoning Responsible for Final Action.* The Department of Planning and Zoning is responsible for the final approval or disapproval of proposed subdivisions and site developments. In making its decision on a subdivision or site development plan the Department shall consider the reports and recommendations of the review committee and other appropriate agencies to which it has sent the plan for comment and recommendation.
- (c) *Plans Approved if They Comply with Requirements.* The Department of Planning and Zoning shall approve a subdivision or site development plan which:
 - (1) Complies with the requirements of this Title and the provisions of subtitle 11, "Adequate Public Facilities"; subtitle 12, "Forest Conservation,"; and subtitle 13, "Cemetery Preservation," of this title; and
 - (2) Is consistent with the zoning regulations.
- (d) *Plans Approved if No Action Within Prescribed Time Limitations.* If the Department does not act on a subdivision plan or site development plan within the time limits of this subtitle, the plan shall have automatic approval.
- (e) *Types of Final Action.* Final action by the Department of Planning and Zoning on a subdivision or site development submittal shall be:
 - (1) Approval;
 - (2) Approval with required modification; or
 - (3) Denial.
- (f) *Financial Obligations for Required Improvements; Developer's Agreement.* Upon approval of a subdivision or site development plan, the developer shall post financial obligations for the required public improvements. A developer's agreement and a major facilities agreement, if required, shall be executed between the developer and the County prior to recording of the record plat or signature approval of the site development plan. The agreement may provide that the developer may be partially released from the surety requirements of the agreement upon partial completion of the work in accordance with the criteria established by the Department of Public Works.

- (g) *Conflict with Other Regulations.* If a provision of this subtitle overlaps or contradicts another law covering the same subject matter, the provision which is more restrictive or imposes higher standards or requirements shall govern.
- (h) *Lots in a Proposed Subdivision May Not Be Sold.* The owner or agent of an owner of a proposed subdivision shall not transfer or sell any proposed lots within the subdivision before it has received final plat approval and been recorded or filed in the office of the Clerk of the Circuit Court for Howard County. The description of a lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from this prohibition. Violations shall be enforced pursuant to section 16.106 of this subtitle.
- (i) *Building and Other Permits:*
 - (1) The Department of Planning and Zoning shall not endorse a building permit in any subdivision or development until and unless the requirements of these regulations have been met.
 - (2) If a site development plan is required by these subdivision regulations, no permit shall be issued for the construction, alteration, or use of a structure or lot unless:
 - (i) Signature approval of the site development plan original is complete; and
 - (ii) The permit is in accordance with the approved site development plan.
- (j) *Correction Plats.* The Department of Planning and Zoning may administratively approve corrections or revisions to previously recorded plats which do not change the number of lots or the lotting plan. The addition or modification of any public or private easements must be processed as a correction plat and recorded in the land records of Howard County, with the exception of revertible easements and easements for on-site sewage disposal systems.
- (k) *Fees.* Fees for the processing of plans pursuant to this subtitle shall be established by the County Council with recommendations from the Department of Planning and Zoning. The Department of Planning and Zoning may refund any portion of fees if the Director determines an error was made in collecting the fee.

(C.B. 121, 1992; C.B. 3, 1993; C.B. 20, 1996; C.B. 52, 2001, § 2)

Sec. 16.104. - Waivers.

- (a) *Authority to Grant.* So that substantial justice may be done and the public interest secured, the Department of Planning and Zoning may grant waivers of the requirements of this subtitle, except as prohibited in subsection (d), in situations where the Department finds that extraordinary hardships or practical difficulties may result from strict compliance with this subtitle or determines that the purposes of this subtitle may be served to a greater extent by an alternative proposal.
- (b) *Conditions Under Which Waiver May Be Granted.* The Department of Planning and Zoning may approve a waiver to a provision of this subtitle provided that:
 - (1) The developer has presented a petition demonstrating the desirability of waiver; if the County requests additional justifying information, the information must be submitted within 45 days of the Department's letter of request. If the information is not submitted by the deadline, the Department shall deny the petition.
 - (2) The waiver shall not have the effect of nullifying the intent and purpose of this subtitle.
 - (3) Within 30 days of the date of the Department's decision letter regarding a waiver petition, the developer may submit additional information to support a request for the Department to:
 - (i) Modify any approval conditions;
 - (ii) Reverse the Department's denial; or
 - (iii) Add or delete specific waiver requests.

- (4) After 30 days, requests for reconsideration will require a new petition for a waiver and payment of fees in accordance with the adopted fee schedule.
 - (5) Any waiver to the minimum requirements of this subtitle in regard to a particular subdivision or development shall be appropriately noted on the final plat or site plan.
- (c) *Period of Validity.* The waiver petition, if approved, will remain valid for 12 months from the date of approval or as long as a subdivision or site development plan is being actively processed in accordance with the processing provisions of section 16.144 of this subtitle. Subdivisions or site developments which fail to meet the processing requirements will be required to submit a new waiver request. Waivers granted to extend time limits for plan processing will remain valid for the time duration specified.
- (d) *No Waivers of Floodplain, Wetland, Stream, or Steep Slope Regulations in the Tiber Branch Watershed.* The Department may not grant waivers of any requirement of section 16.115 or section 16.116 of this title for any property located in the Tiber Branch Watershed unless the waiver:
- (1) Was requested on or before November 7, 2016;
 - (2) Is necessary for the reconstruction of existing structures or infrastructure damaged by flood, fire, or other disaster;
 - (3) Is necessary for the construction of a stormwater management or flood control facility as part of a redevelopment project;
 - (4) Is necessary for the retrofit of existing facilities or installation of new facilities intended solely to improve stormwater management or flood control for existing development;
 - (5) Is requested as part of a development proposal and the Director of the Department of Public Works, or his designee serving as Floodplain Administrator, finds that upon completion of construction of the development, which may include off-site improvements within the Tiber Branch Watershed, there will be improvement to flood control in the Tiber Branch Watershed at least ten percent more than what would otherwise be required by law; or
 - (6) Is necessary for the construction of an addition, garage, driveway or other accessory use improvement of an existing residential structure on property located within the Tiber Branch Watershed that increases the square footage of the impervious surfaces on the property by no more than 25 percent over the square footage of impervious surfaces that existed on the property prior to the effective date of this bill [Dec. 9, 2016].

(C.B. 121, 1992; C.B. 20, 1996; C.B. 52, 2001, § 2; C.B. 80, 2016, § 1)

Sec. 16.105. - Appeals.

- (a) *Appeal to Board of Appeals.* A person aggrieved by an order of the Department of Planning and Zoning may, within 30 days of the issuance of the order, appeal the decision to the Board of Appeals.
- (b) *Appeal to Circuit Court.* The decision of the Board of Appeals may be appealed to the Circuit Court for Howard County in accordance with section 501 of the Howard County Charter.

(C.B. 121, 1992; C.B. 45, 2003)

Sec. 16.106. - Enforcement.

- (a) *In Violation of Approved Plan or Failure to have Approved Plan.* If property is developed, used, or maintained in violation of or without obtaining an approved final plan or site development plan, the County shall institute appropriate action to compel compliance. In addition to and concurrent with all other remedies, the County may enforce the provisions of an approved final plan or site development

plan with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of this Code and subtitle 16 of this title. A violation shall be a Class B offense under title 24 of this Code or an offense subject to a fine in the amount set forth in section 16.1608 of this title.

- (b) *Transferring Land Prior to Subdivision Plan Approval:*
- (1) The County may enforce the provision which prohibits the transfer or sale of lots in a proposed subdivision before final plat approval and recordation with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of this Code. A violation shall be a Class A offense.
 - (2) The County may enjoin such a transfer or sale by action for injunction brought in any court of equity jurisdiction.
 - (3) In addition to the foregoing the County may institute and maintain a civil action to set aside and invalidate any conveyance made in violation of the prohibition on transferring lots in an unapproved or unrecorded subdivision.
- (c) *Vacating of Plat.* The County may vacate a recorded plat when a developer fails to comply with the requirements of an executed developer's agreement and the value of the surety is insufficient for the County to complete the required public improvements if the following provisions apply:
- (1) No lots have been sold; and
 - (2) The current owner is unwilling to make the surety sufficient or to restrict sale of lots until the surety is made sufficient.
- (d) *County Shall Take Whatever Action Necessary.* Nothing in this section shall prohibit the County's taking whatever action is necessary to enforce the provisions of this subtitle and to protect the public health, safety and welfare.

(C.B. 121, 1992; C.B. 20, 1996; C.B. 52, 2001, § 2; C.B. 3, 2008, § 2)

Sec. 16.107. - Severability.

If any portion of this subtitle is held invalid or unconstitutional by a court of competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision; and the holding shall not affect the validity of the remaining portions of the subtitle.

(C.B. 121, 1992)

Sec. 16.108. - Rules of construction; definitions.

- (a) *Rules of Construction.* The following rules apply to the text of this subtitle:
- (1) The particular shall control the general.
 - (2) In case of any difference of meaning or implication between the text of this subtitle and any caption, illustration, summary table, or illustrative table, the text shall control.
 - (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
 - (4) Words used in the present tense shall include the future; words used in the singular number shall include the plural; words used in the plural number shall include the singular.
 - (5) A *building* or *structure* includes any part thereof.
 - (6) The phrase *used for* includes *arranged for, designed for, intended for, maintained for, or occupied for.*
 - (7) The word *person* includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

- (8) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction *and*, *or*, or *either/or*, the conjunction shall be interpreted as follows:
 - (i) *And* indicates that all the connected items, conditions, provisions, or events shall apply;
 - (ii) *Or* indicates that the connected items, conditions, provisions, or events may apply separately or in any combination; and
 - (iii) *Either/or* indicates that the connected items, conditions, provisions, or events shall apply separately but not in combination.
 - (9) The word *includes* shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
 - (10) All terms defined in subtitles 11 and 12 of this title, in the County zoning regulations and the Design Manual where occurring in this subtitle, shall have the meanings specified in those regulations.
 - (11) The word *County* means Howard County, Maryland. The word *State* means the State of Maryland. The term *County boundary* means any exterior boundary of the County.
 - (12) The terms *County Council*, *County Executive*, *Board of Appeals*, *Director of Planning and Zoning*, *Planning Board*, *County Solicitor*, *Director of Public Works*, *Director of Fire and Rescue Services*, *Director of Recreation and Parks*, *Department of Education*, and *County Health Officer* mean the respective council, boards and officers of the County.
 - (13) Throughout these regulations, all words, other than the terms specifically defined above and below, shall have the meaning implied by their context in these regulations or their ordinarily accepted definitions.
- (b) *Definitions*. As used in these regulations, the following terms shall be defined as follows:
- (1) *Active processing time* means the period of time after formal application for approval of a sketch plan, preliminary equivalent sketch plan, preliminary plan, final plan and plat, or site development plan during which the County is required to determine whether or not the development or subdivision plan or plat and attendant documents conform to County regulations. If a reviewing agency makes a written request to the developer for additional data or information, the time between issuance of the request and receipt of the reply is not part of the active processing time.
 - (1.1) *Adjoining property* means land which is touching or would be touching in the absence of an intervening utility or road right-of-way, other than a principal arterial highway, shall be considered adjoining for purposes of this subtitle.
 - (2) *Agricultural preservation subdivisions* means subdivisions of land in the County or State agricultural preservation programs, for which an agricultural preservation easement has been acquired pursuant to title 15, subtitles 5 and 6 of the Howard County Code and title 2, subtitle 5 of the Agricultural Article of the Annotated Code of Maryland.
 - (3) *Application, formal* means an application is formal when the Department of Planning and Zoning determines that the required number of plans and attendant documents have been submitted in the form required by these regulations and the appropriate fees have been paid.
 - (4) *Area, gross* means the entire area within a subdivision plan or plat or development project.
 - (5) Reserved.
 - (6) *Building development* means the improvement of land by the addition of structures.
 - (7) *Building envelope* means the area of a lot in which the principal buildings shall be located. The envelope is formed by the building restriction lines.

- (8) *Building restriction line* means lines established on lots to indicate the setbacks required by the zoning regulations for the zoning district in which the lot is located or the setbacks required by section 16.120 of this subtitle, if more restrictive.
- (8.1) *Bulk parcel* means bulk parcels may be recorded to permit a developer to stage subdivision or when project phasing is necessary because tentative housing allocations are not available. The bulk parcel must be resubdivided or developed in accordance with the pre-established phasing plan and may initially be buildable or non buildable depending on whether one housing unit allocation has been granted for the parcel.
- (9) *Capital budget* means the plan of the County, approved in the annual budget and appropriation ordinance, to receive and expend funds for capital projects during the first fiscal year included in the capital program.
- (10) *Capital program* means an annual document approved by resolution of the County Council indicating planned County capital projects authorized for the current fiscal year and for the following five fiscal years.
- (11) Reserved.
- (12) *Dedication* means the offering for conveyance of land or public improvements for any general and public uses, reserving to the owner no other rights than those of the general public.
- (13) *Design manual* means Howard County's technical standards, approved by resolution of the County Council, for design, construction and inspection of bridges, roads, storm drain structures, stormwater management systems, sidewalks, walkways, pathways, trails, parking areas, traffic-control devices, water and sewer facilities, and other improvements.
- (14) *Developer* means an individual, partnership, public agency or corporation (or their agent) that undertakes the responsibility for any or all of the activities covered by this subtitle, particularly the designing of a subdivision or site development plat or plan showing the layout of the land and the required public improvements. The term *developer* is intended to include the term *subdivider* even though the personnel involved in successive stages of the project may vary.
- (15) *Develop* or *development* means the establishment of a principal use on a site; a change in a principal use of a site; or the improvement or alteration of a site by the construction, enlargement, or relocation of a structure; the provision of stormwater management or roads; the grading of existing topography; the clearing or grubbing of existing vegetation; or any other non-farming activity that results in a change in existing site conditions.
- (16) Reserved.
- (17) *Developer's agreement* means an agreement between the County and the developer, covering the developer's financial obligations for all required public improvements relating to the subdivision.
- (18) Reserved.
- (18A) *Driveway* means a privately owned and maintained road which provides direct vehicular access from a public or private road to one or more lots or parcels.
- (19) Reserved.
- (20) *Final plat* means the official record of a division of land approved by the Department of Planning and Zoning and recorded in the land records of Howard County.
- (21) *Final subdivision plan* means a final plat and supporting detailed plans and data demonstrating that all technical requirements of the County's regulations have been met.
- (22) *Fire lane* means a lane within a road or a separate driveway to provide adequate emergency vehicle access.
- (23) *Floodplain* means that area which would be inundated by stormwater runoff equivalent to that which would occur from a rainfall of 100-year frequency, assuming total development of the

watershed as shown in the general plan of the County. Floodplain determination shall be in accordance with the Design Manual.

- (24) *Frontage* means that portion of a lot or parcel of land which adjoins a public road that provides vehicular access to the property.
- (25) *General plan* means a plan for the County, approved by ordinance of the County Council, which includes, but is not limited to a plan for land use and land conservation and multiyear plans for transportation, public facilities, water, sewerage, parkland, housing, human services, historic preservation and environmental protection.
- (26) Reserved.
- (27) *Government action* means the action or inaction of a governmental agency in relation to a timely filed action by a developer. *Governmental agency* means an agency of the Federal, State, or local government, including, but not limited to, the U.S. Corps of Engineers, the Maryland Department of the Environment, the County Council, the Zoning Board, and the Board of Appeals.
- (28) *Health authority* means The Health Officer of Howard County or the officer's duly authorized representative.
- (28.1) *Initial plan submittal*. For required presubmission community meetings, the initial plan submittal is the:
 - (i) Zoning petition, if it includes a site plan or a preliminary development plan;
 - (ii) Conditional use petition, if required;
 - (iii) Sketch plan or preliminary equivalent sketch plan for a major subdivision;
 - (iv) Final plan for a minor subdivision or resubdivision; or
 - (v) Site development plan for single-family units on deeded parcels, or for condominium or rental units on a parcel which is not part of a recorded subdivision that authorized an equal or greater number of residential units than proposed on the site development plan.
- (29) *Landscape edge* means the area around the perimeter of a development designated for buffer or screen plantings in accordance with the Landscape Manual.
- (30) *Lot or parcel* means a piece of land described in a final plat or deed and recorded in the land records of Howard County in accordance with the laws and regulations in effect at the time of recordation.
- (31) *Maryland Coordinate System* means a system of plan rectangular coordinates established for defining and stating the position or location of points on the surface of the earth within the State of Maryland.
- (31.1) *Major subdivision* means the division of a residential or agricultural parcel into five or more residential lots, including buildable preservation parcels, but excluding open space and nonbuildable preservation parcels.
- (32) *Minor subdivision* means the division of a residential or agricultural parcel that has not been part of a previously recorded subdivision, into four or fewer residential lots (including buildable preservation parcels but excluding open space and nonbuildable preservation parcels), either all at one time or lot by lot. However, a lot of 20 acres or less created by a division approved by Howard County prior to January 1, 1984 in order to comply with a court-ordered partition of real property, shall not be considered part of a previously recorded subdivision within the meaning of this definition.
- (32.1) *Net area* means the *gross area* minus all steep slopes existing at the time of subdivision and the area within the 100-year floodplain.

- (33) *Open space* means a separate lot or area which provides for protection of the environment, for recreation or for public use, including: public facilities such as schools, libraries, fire stations and parks as shown on the general plan or hiking, biking, and equestrian trails.
- (34) *Owner* means the person or other legal entity holding current legal title.
- (35) *Parcel number* means a descriptive term used to identify portions of land contained in the tax maps of Howard County.
- (36) *Pathway* or *walkway* means as distinguished from a sidewalk and crosswalk which are incorporated in a street right-of-way, a pathway or walkway is a paved path within a ten-foot pedestrian right-of-way, usually extending from a street to another street, or to a school site, open space, or other public or general use area.
- (37) *Pavement* means that portion of a street or walkway surfaced for vehicular or pedestrian traffic and constructed according to the Design Manual.
- (38) *Phased subdivision* means a subdivision utilizing sequential development by sections pursuant to a sketch plan for the entire subdivision which includes a schedule for submission of plans for the various sections and a schedule for completion of these sections.
- (39) *Pipestem lot* means a residential lot that is shaped like a pipe or flag, and is separated from the nearest road by another lot, except for an unbuildable strip of land 50 feet or less in width.
- (40) *Preliminary equivalent sketch plan* means a sketch plan which also provides the information required with a preliminary plan.
- (41) *Preliminary plan* means the preliminary engineered drawings and supplementary material that indicate how the proposed layout of the subdivision will meet the technical requirements of the County regulations.
- (41.1) *Preservation parcel* means a parcel in the RC or RR zoning district that encompasses all or a portion of the preserved area of a cluster subdivision or receiving subdivision, or that is designated as a sending parcel on a final plat of easement. A preservation parcel is encumbered by a preservation parcel easement and may be buildable or nonbuildable depending on whether one of the housing units permitted by zoning will be located on the parcel.
- (41.2) *Preservation parcel easement* means a permanent easement that prohibits a preservation parcel from subdivision and most types of development, as specified in the requirements for the RC and RR zoning districts.
- (42) *Public* means open to common use, whether or not public ownership is involved.
- (43) *Public improvements* means public improvements include all the infrastructure and improvements which this subtitle requires a developer to install in a subdivision or land development.
- (44) *Recorded subdivision* means a subdivision which has been recorded pursuant to:
- (i) Approval by the Howard County Planning Commission prior to March 12, 1969;
 - (ii) Approval by the Department of Planning and Zoning on or after March 12, 1969; or
 - (iii) A plat recorded prior to the requirement for County approval, including, but not limited to, North Laurel Park, Harwood Park, Lennox Park, The Cedars, Villa Heights, High Ridge Park, and Nordau.
- (45) *Reservation; reserve* means the identification and setting aside of an area of land on a subdivision or site development plan for future condemnation or acquisition for public use, which subjects the land reserved to use limitations for a specified period of time. Such land may be designated on the general plan or in the County or State capital improvement program or the State highway needs inventory.

- (45.1) *Residential infill* means a residential development in the area planned for both water and sewer service that creates one or more units on a property that adjoins an existing residential unit.
- (46) *Resubdivision* means a further division or modification of an existing subdivision previously approved by the County and recorded in the Howard County Land Records. However, a lot of 20 acres or less created by a division approved by Howard County prior to January 1, 1984 in order to comply with a court-ordered partition of real property, shall not be considered part of an existing subdivision previously approved by the County within the meaning of this definition.
- (47) *Review committee* means an advisory group to the Department of Planning and Zoning, organized to coordinate the subdivision and site development plan review process. The group shall include, but not be limited to, representatives of the following agencies:
- (i) Department of Public Works;
 - (ii) Health Department;
 - (iii) Department of Education;
 - (iv) Department of Recreation and Parks;
 - (v) Department of Fire and Rescue Services;
 - (vi) Department of Inspections, Licenses and Permits;
 - (vii) Soil conservation district;
 - (viii) Maryland State Highway Administration; and
 - (ix) Office of Transportation.
- (48) *Scenic road* means a public road or road segment that is included in the scenic roads inventory adopted by the County Council in accordance with section 16.1403 of this Code.
- (49) *Right-of-way* means a strip or parcel of land designated for use as a street, highway, driveway, alley, or walkway or for any drainage or public utility purpose or other similar uses.
- (50) *Sidewalk* means a paved walk primarily for pedestrian traffic, normally placed parallel to a street or highway and within the street right-of-way.
- (51) *Sight distance* means visual distance along a road or across an intersection, more specifically described in the Design Manual.
- (52) *Site development plan* means the plan indicating the location of existing and proposed buildings, structures, paved areas, walkways, existing and proposed grades, vegetative cover, landscaping, and screening within a lot or parcel proposed for development.
- (53) *Sketch plan* means a sketch indicating the developer's general objectives and lay-out for development of the land. The basic role of the sketch plan is to allow the County to provide the developer with important information that may affect the project and to ensure that the plan complies with Zoning Regulations and incorporates good planning and development principles.
- (54) *Soil map* means a map showing soil map symbols and outlines of soil types (U.S.D.A.—1968 and subsequent amendments).
- (55) *Steep slope* means a slope that averages 25 percent or greater over ten vertical feet.
- (56) *Stormwater management:*
- (i) *Quantity control* means a system of vegetative, structural, and other measures that control the increased volume and rate of surface runoff caused by development.
 - (ii) *Quality control* means a system of vegetative, structural and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff from development.

- (57) *Stormwater management plan* means a set of drawings or other documents, submitted as a prerequisite to obtaining stormwater management approval, which contain all of the information and specifications required by the Department of Public Works.
- (58) *Stream* means water, flowing in a definite direction in a channel with a bed and banks, and having a substantial degree of permanence, although flow may vary and in times of drought may cease to flow for a period of time. Includes perennial or intermittent streams, but does not include ditches or gullies resulting entirely from pipe outfalls or other man made features. Streams usually are shown on the 1 inch = 200 feet topographic maps of Howard County produced by Howard County or the soil survey of Howard County, Maryland, but field verification is necessary.
- (59) *Street, highway, road* means a facility providing for vehicular traffic. The Howard County General Plan designates highways which perform an arterial or collector function.
- (60) *Subdivision* means any division of a lot or parcel of land into lots or parcels for the immediate or future transfer of ownership, sale, lease or building development. The term includes lot mergers and resubdivision and, when appropriate to the context, shall relate to the process of subdivision or to the land subdivided.
- (61) *Traffic-control devices* means signs, signals, markings, and other devices prescribed to regulate, guide, or warn traffic.
- (62) *Trails* means as distinguished from a walkway and pathway which are paved, a natural path within a minimum ten-foot hiking/biking/equestrian right-of-way, intended to be open for common use.
- (63) *Wetland* means any land which has been determined by the Army Corps of Engineers or the Maryland Department of the Environment to be a regulated or jurisdictional wetland, as well as any land determined by the Soil Conservation District to be regulated wetlands using Federal and State standards.

(C.B. 121, 1992; C.B. 51, 1994; C.B. 107, 1994; C.B. 20, 1996; C.B. 52, 2001, §§ 1, 2; C.B. 45, 2003, § 1; C.B. 39, 2009, § 1; C.B. 5, 2017, § 1; C.B. 20, 2017, § 1)

Sec. 16.109. - Maps; coordinates; elevations, etc.

- (a) *Coordinates Using Maryland Coordinate System.* Coordinates for the outline of the subdivision or site development shall be established in the meridian of the Maryland Coordinate System, if control points and published information are within one mile of proposed subdivision. If not, the Department of Public Works will provide geodetic control. A note shall be placed on the vicinity map indicating the source of Maryland coordinate data.
- (b) *Elevations.* Elevation shown on preliminary and site development plans and on related topographic maps shall be based on current datum in accordance with Department of Public Works standards.
- (c) *Geodetic Control Survey Stations.* Howard County geodetic control survey stations located on the site to be developed shall be plotted accurately on the site development plan and similar construction documentation. The developer shall identify all those stations which require relocation. The Department of Public Works shall relocate these stations before a building permit is issued.

(C.B. 121, 1992)

Secs. 16.110—16.113. - Reserved.

ARTICLE II. - DESIGN STANDARDS AND REQUIREMENTS

Sec. 16.114. - General.

- (a) *Design Consistent with Subtitle.* In designing a subdivision or site development plan, the developer shall comply with the requirements of this subtitle.
- (b) *Consideration Consistent with Subtitle.* The Department of Planning and Zoning in considering an application for the subdivision or development of land shall be governed by the standards of this subtitle.
- (c) *Consistent with General Plan and Zoning Regulations and Map.* The subdivision or site development plan layout shall be consistent with:
 - (1) The transportation, and the water and sewer elements of the general plan of the County; and
 - (2) The zoning regulations and map, especially in relation to development densities, the permitted uses of land and the bulk requirements.
- (d) *Reflect Unique Characteristics of Site.* Subdivisions and site development plans shall reflect the uniqueness of the site responding to its topography, wetlands, streams, forests, historic resources and its relationship to adjoining land uses and roads, both proposed and existing.

(C.B. 121, 1992)

Sec. 16.115. - Floodplain preservation.

- (a) *Development Restricted in 100-Year Floodplain (Base Flood Elevation).* Development within the boundaries of the 100-year floodplain (base flood elevation) shall be pursuant to title 16, subtitle 7 of this Code. Most land within base flood elevation is considered a protection area (i.e., a stream valley or valuable ecological area or scenic resource) which is shown:
 - (1) In the General Plan of Howard County for conservation status; or
 - (2) In the master plan of parks for acquisition as a conservation area; or
 - (3) In the capital improvement program for acquisition as a conservation area.
- (b) *Floodplain Protection.* In subdivisions and site development plans containing a 100-year floodplain (base flood elevation), the floodplain land shall be protected in accordance with one of the following alternatives. Prior to the recordation of the final plat and final acceptance of the construction drawings, a deed description of the floodplain will be provided when requested.
 - (1) *Deed the floodplain land to the County.* Developers are encouraged to dedicate and deed the land in the 100-year floodplain (base flood elevation) to Howard County as permanent open space.
 - (2) *Grant a floodplain easement to Howard County.* If the floodplain is not dedicated to the County, the developer shall grant the County right of entry through a perpetual easement, and shall:
 - (i) Dedicate and deed the land area within the 100-year floodplain (base flood elevation) in fee simple to a legally constituted property owners association. The property owners association may use the area in any manner consistent with the maintenance and preservation of the area as a floodplain; or
 - (ii) Include the 100-year floodplain (base flood elevation) within the boundary of the lots in accordance with section 16.120 of this subtitle. The property owner whose lot includes floodplain area may use the area in any manner consistent with the maintenance and preservation of the area as a floodplain.
- (c) *Prohibitions on Use of Floodplain Land:*
 - (1) A person shall not store materials of any kind in a floodplain either temporarily or permanently. Accordingly, building materials and other debris shall not be stored or discarded in floodplains.

- (2) No clearing, excavating, filling, altering drainage, or impervious paving, may occur on land located in a floodplain unless required or authorized by the Department of Planning and Zoning upon the advice of the Department of Inspections, Licenses and Permits, the Department of Public Works, the Department of Recreation and Parks, the Soil Conservation District, or the Maryland Department of the Environment. Any proposed construction of a structure located within a floodplain shall be subject to the requirements of the Howard County Building Code.
- (d) *Delineation on Final Plats and Site Development Plans.* Floodplain limits shall be clearly defined, except for agricultural preservation subdivisions and rural cluster subdivisions where the floodplain is obviously not critical to the proposed development as defined by the Design Manual nor critical to calculation of forest conservation obligations. Final plats and site development plans shall show the following information:
 - (1) Floodplain elevations at every bearing change to be designated along floodplain limits. Elevation shall be designated at not greater than 200-foot horizontal intervals.
 - (2) Bearings and distances or coordinated values along each line.
 - (3) The area shall be labeled as "100-year floodplain, drainage, and utility easement".

(C.B. 121, 1992; C.B. 20, 1996; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1; C.B. 41, 2013, § 1(2))

Sec. 16.116. - Protection of wetlands, streams, and steep slopes.

(a) *Streams and Wetlands:*

- (1) Grading, removal of vegetative cover and trees, paving, and new structures shall not be permitted within 25 feet of a wetland in any zoning district.
- (2) Grading, removal of vegetative cover and trees, paving, and new structures shall not be permitted within:
 - (i) Fifty feet of an intermittent stream bank;
 - (ii) Seventy-five feet of a perennial stream bank for Use I streams as classified by the Maryland Department of the Environment in residential zoning districts and residential and open space land uses in the NT, PGCC, and MXD districts;
 - (iii) One hundred feet of a perennial stream bank for Use III and IV streams; and
 - (iv) Fifty feet of a perennial stream bank in nonresidential zoning districts.
- (3) In residential subdivisions, wetlands, streams, and their buffers shall be located in required open space or a nonbuildable preservation parcel rather than on residential lots except as permitted by section 16.120 of this subtitle.
- (4) Wetlands and the required buffers for wetland and streams shall be delineated on final plats and site development plans with a clear notation of use restrictions. Wetlands need not be delineated for agricultural preservation subdivisions or rural cluster subdivisions if a qualified professional certifies that wetlands and buffers will not be impacted by the proposed lots or potential development.

(b) *Steep Slopes.* Steep slopes are slopes that average 25 percent or greater over ten vertical feet.

- (1) Grading, removal of vegetative cover and trees, new structures, and paving shall not be permitted on land with existing steep slopes, except when:
 - (i) The on-site and off-site contiguous area of steep slopes is less than 20,000 square feet; and
 - (ii) There is sufficient area, a minimum ten feet, outside of stream and wetland buffers for required sediment and erosion control measures.

- (2) In residential subdivisions steep slopes existing at the time of subdivision shall be located in required open space or a nonbuildable preservation parcel, except as permitted by section 16.120 of this subtitle.
- (c) *Necessary Disturbance:*
- (1) Grading, removal of vegetative cover and trees, and paving are not permitted in wetlands, streams, wetland buffers, stream buffers or steep slopes unless the Department of Planning and Zoning determines based on a detailed justification provided by the developer that:
 - (i) It is necessary for construction of public or private roads, driveways, utilities, trails, pathways, or stormwater management facilities which are essential for reasonable development of the property;
 - (ii) The design minimizes disturbance;
 - (iii) There is no other reasonable alternative; and
 - (iv) The cost of an alternative improvement shall not be a factor in deciding whether the criteria in subject subsection (i) above can be met.
 - (2) Reasonable development, for the purpose of this subsection, does not guarantee maximum possible development under the zoning regulations for density receiving subdivisions in the RC and RR zoning districts. In any zoning district, achieving the maximum possible density is not sufficient justification alone to allow disturbance.
 - (3) If permitted, the grading, removal of vegetative cover and trees, or construction shall only be to the extent required to accommodate the necessary improvements. In these cases, the Department of Planning and Zoning shall require the least damaging designs, such as bridges, bottomless culverts or retaining walls, as well as environmental remediation, including the planting of the areas where grading or removal of vegetative cover or trees has taken place utilizing best practices for ecological restoration and water quality enhancement projects.
 - (4) An applicant shall request permission from the Department of Planning and Zoning for a necessary disturbance exception in writing for the grading, removal of vegetative cover and trees, or paving as described in subsection (c) of this section.
 - (5) The Department of Planning and Zoning shall make available to the County Council and the public on the Department's webpage a monthly report that includes the following information for each application for a necessary disturbance exception:
 - (i) The name of the applicant;
 - (ii) The date of the application;
 - (iii) Project name;
 - (iv) Project type;
 - (v) A description of the project;
 - (vi) The action of the Department to deny the application, approve the application, or advise the applicant to seek alternative compliance; and
 - (vii) If approved, include in the report the applicant's mitigation requirement.

(C.B. 121, 1992; C.B. 20, 1996; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1; C.B. 4, 2019, § 1)

Sec. 16.117. - Forest conservation and preservation of natural cover.

- (a) *Forest Resource Protection.* Land to be subdivided or developed shall be designed and improved in reasonable conformity to existing topography in order to minimize clearing or alteration of existing plant communities, especially forest areas, and to minimize associated stormwater runoff and soil

erosion impacts. Where required by subtitle 12 of this title, a forest conservation plan shall be submitted.

- (b) *Residential Restrictions.* In residential subdivisions forest conservation easements shall be located in open space or a nonbuildable preservation parcel except as permitted in section 16.120 of this subtitle.

(C.B. 121, 1992; C.B. 52, 2001, § 2)

Sec. 16.118. - Protection of historic resources.

- (a) *Historic Resource Identification.* Historic districts identified on the zoning map and historic sites designated by resolution of the County Council shall be shown on subdivision and site development plans. Human burial grounds shall also be identified by the developer.
- (b) *Guidelines.* The following guidelines suggest ways to improve project design and do not prohibit either demolition of historic structures or relocation of burial grounds in accordance with State law. This section applies upon adoption of a list of historic sites and criteria for nomination adopted by council resolution.
 - (1) Historic buildings, structures and landscape features which are integral to the historic setting should be located on a single lot of suitable size to ensure protection of the historic structure and setting. If demolition is proposed, information explaining this decision shall be provided (structural condition, cost to retain, etc.).
 - (2) Whenever possible, historic resources should be integrated into the design of the subdivision or site plan. If compatible, new and historic structures may be juxtaposed. Alternately, open space may be used to buffer the historic resources from new development.
 - (3) Access to the historic property should be via its existing driveway, wherever possible.
 - (4) The new subdivision road should be sited so that the lot layout does not intrude on the historic resources. The road should be oriented so that views of the historic property from the public road are of its primary facade.
 - (5) Grading, construction and landscaping on the adjacent lots should enhance views to and from the historic property, while buffering views of new development.
 - (6) Achieving the maximum possible density is not sufficient justification to allow adverse impacts on historic resources.
- (c) *Cemeteries.* Cemeteries shall be dealt with in accordance with subtitle 13 of this title. In any case, no grading or construction shall be permitted within 30 feet of a cemetery boundary or within ten feet of individual grave sites.

(C.B. 121, 1992; C.B. 13, 1993; C.B. 20, 1996; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1)

Sec. 16.119. - Highways, streets, and roads.

Streets, roads and highways within Howard County shall be located, designed and constructed in accordance with the Howard County Design Manual.

- (a) *General Guidelines.* In designing a highway, street, or road system, the following guidelines shall apply:
 - (1) Safe vehicular and pedestrian access shall be provided to all parcels of land.
 - (2) Highways, streets, and roads shall be suitably located, and adequately improved to accommodate prospective traffic and to afford access for emergency services, road maintenance, and other County services.

- (3) Residential streets shall clearly relate to their local function and traffic volumes. Pedestrian-vehicular conflict points shall be minimized.
- (4) Land uses which create high volumes of traffic within residential areas shall be considered in the design of the circulation pattern.
- (5) Local residential street systems shall be designed to minimize through traffic movement, but at the same time provide reasonably direct access to the primary circulation system.
- (6) Local circulation systems and land development patterns shall not conflict with the efficiency of bordering arterial routes.
- (7) The street layout shall be continuous in alignment and grade with existing streets, planned or platted, with which they are to connect.
- (8) Proposed public streets shall be extended to the boundary lines of the proposed subdivision so that a connection can be made to all adjacent properties. However, if the Department of Planning and Zoning determines after consultation with the review committee that such extension is not desirable due to environmental conditions or is not necessary for the coordination of existing streets or the most advantageous development of adjacent tracts, the Department may require transfer of a fee simple right-of-way to the adjacent property that is sufficient to accommodate a use in common driveway. If the adjacent property owner will not accept fee simple right-of-way transfer, then an access easement of equivalent size shall be recorded.

No subdivision shall be designed so as to create or perpetuate the landlocking of adjacent undeveloped land. The County Council may by its resolution terminate the extension of an existing street.

- (9) The street system layout shall be designed insofar as practicable to preserve natural features such as streams, wetlands, forest, topography, scenic views, and other natural features.
 - (10) Where required by this subtitle, the developer shall be responsible for street right-of-way, paving, curbs, gutters, shoulders, sidewalks, ramps, streetlights, street trees, and traffic-control devices.
 - (11) Street system layout shall provide for the acceptable disposal of stormwater to comply with provisions elsewhere in this subtitle and the Design Manual.
 - (12) Where topography or other conditions make the inclusion of utilities or drainage facilities within street rights-of-way impractical, perpetual unobstructed easements at least 20 feet in width for such utilities shall be provided across property outside the street right-of-way as determined by the Department of Public Works. Surface drainage easements exclusive of storm drainage outfalls shall be a minimum of ten feet.
 - (13) Streets which are permanently designed with only one end open to vehicular traffic shall be terminated in accordance with the Design Manual. If the street may be extended in the future and designated as a future extension on the record plat, a temporary T-turnaround shall be provided.
 - (14) Pedestrian walkways to commercial or institutional uses, schools, or other public facilities such as parks, nearby streets, or transit connections shall be provided where the Department of Planning and Zoning has determined that existing access is inadequate.
- (b) *Streets in Commercial and Industrial Areas:*
- (1) Subdivisions shall include a public right-of-way that will provide continuous access to a County or State street or highway.
 - (2) Streets carrying commercial and industrial traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent residential areas.

- (3) The design of streets, service drives, and pedestrian ways shall provide for safe and hazard-free internal circulation.
 - (4) Traffic movements in and out of commercial and industrial areas shall not interfere with external traffic, nor shall the movements create hazards to adjacent residential areas. Where required by the Department of Planning and Zoning, adjacent commercial uses shall consolidate entrances, use shared driveways or be interconnected to promote safe traffic movement. In such instances, cross easements are required.
- (c) *Grades.* Grades of streets shall not exceed the standards of the Design Manual, except that the Department of Planning and Zoning after consultation with the Department of Public Works may permit steeper grades where warranted by unusual topographic conditions or for the purpose of preserving trees or other natural conditions.
- (d) *Alignment.* Horizontal and vertical alignment for streets shall not exceed the standards of the Design Manual except where permitted by the Department of Planning and Zoning after consultation with the Department of Public Works.
- (e) *Intersections:*
- (1) Streets shall be designed to intersect as close to right angles as possible.
 - (2) Multiple intersections involving junctions of more than two streets shall be avoided.
 - (3) Roadways entering opposite sides of another roadway shall be located in accordance with the Design Manual.
 - (4) Minimum curb radii and paving radii at street intersections shall adhere to the Design Manual.
 - (5) The public right-of-way lines on corner lots at an intersection shall be truncated by straight lines joining points 25 feet back from the theoretical property line intersection in each quadrant.

Where the Department of Planning and Zoning, after consultation with the Director of Public Works, determines that more width is necessary to provide safe sight distance or for traffic channelization, it may require a cutoff greater than the 25 feet cited above.
 - (6) No building, structure, or planting shall be permitted within the public right-of-way, which obstructs the vision of those using the intersection.
- (f) *Access Restrictions:*
- (1) Where a proposed subdivision involves frontage on an arterial road, or a residential subdivision fronts a major collector, the street layout should provide vehicular access to the subdivision by a lower classification public road, except as provided in paragraph (3) of this subsection.
 - (2) The statement "Vehicular egress and ingress is restricted" shall be shown with limits on the final subdivision plat to prevent residential, commercial, or industrial driveways from having direct access to arterial highways and residential driveways from access to major collector roads.
 - (3) For subdivisions and site development plans with no other means of access except from a restricted access road, the Department of Planning and Zoning may approve a single use-in-common driveway that meets the minimum sight distance requirements of the Design Manual or the State Highway Administration's access requirements, if the Department determines that a public road is not required in accordance with subsection 16.119(a)(8) of this subtitle.
 - (4) For agricultural preservation subdivisions with no other means of access except from a restricted access road, the Department of Planning and Zoning may approve one or more driveway access points, based on justification by the owner and compliance with the Design Manual.
 - (5) For commercial and industrial properties adjoining a local road serving an existing single-family detached residential area and also having frontage and a State Highway Administration

approved, permanent vehicular access point on a State road, the Department of Planning and Zoning shall not approve a vehicular access driveway onto the local road.

(g) *Rights-of-Way.* Streets and highways shall require a minimum right-of-way in accordance with the Design Manual or the requirements of the State Highway Administration.

(1) *Provision of rights-of-way for existing County and State roads:*

(i) The owner shall provide the additional right-of-way to meet the minimum requirements when the existing right-of-way is insufficient because:

- a. The proposed subdivision or development borders, adjoins or includes an existing County or State road the right-of-way width of which does not conform to minimum right-of-way widths established by the Design Manual or the Maryland State Highway Administration; or
- b. The general plan shows realignment of an existing County or State road that requires use of some of the land in the proposed subdivision or development and direct driveway access is provided to the proposed development.

(ii) For subdivisions, the additional right-of-way shall be dedicated and deeded to the County or State on the recorded plat, unless the Department of Planning and Zoning determines that the traffic impact on an arterial road is minimal, in which case a right-of-way reservation will be required. For site development plans, the right-of-way shall be reserved or may be voluntarily deeded to the County or State prior to signature approval of the original site development plan. A plat will not be required.

(2) *Dedication of rights-of-way for new roads which provide access to subdivisions:*

(i) Where a new County or State road, designated on the general plan, is located within and will provide direct driveway access to a proposed subdivision, the owner shall provide the right-of-way for the road in the general location indicated on the general plan.

(ii) The Department of Planning and Zoning, after consultation with the Director of Public Works, or for State roads, the Maryland State Highway Administration, shall determine the right-of-way width, based on the density of development and projected traffic.

(iii) For subdivisions, the right-of-way shall be dedicated and deeded to the County or State with the final plat, when direct driveway access is provided to the proposed subdivision.

(3) *Reservation of rights-of-way for new roads:*

(i) *Requirement to reserve rights-of-way.* Where a proposed County or State road, designated on the general plan or included in the State highway needs inventory, is located within, but will not provide direct driveway access to a proposed subdivision or is located on a proposed site development plan, the owner shall reserve rights-of-way for the road.

a. Except as provided in subparagraphs (iii), (iv) and (v) of this paragraph, no permit or approval shall be issued for development or subdivision on any part of the reserved right-of-way, nor shall the area of the reserved right-of-way be used in calculating the residential density allowed by zoning, open space, and forest conservation requirements.

b. Alternately, the additional right-of-way may be voluntarily dedicated to the County or the State, in which case the area of dedicated right-of-way shall be used in calculating residential density and open space requirements. A dedicated right-of-way shall be deeded to the County or the State either on the recorded plat or prior to signature approval of the site development plan.

(ii) *Location and width.* The location and width of the reserved right-of-way shall be determined by the County or the State.

(iii) *Petition for development on right-of-way for County or State road.* If the owner of property which includes a proposed County or State road files a petition for alternative compliance

in accordance with section 16.104 of this subtitle to allow development or subdivision on any part of the land within the proposed County or State road right-of-way, the Department of Planning and Zoning may grant the petition to issue the permit or approval if:

- a. The entire property of the landowner, excluding the proposed County or State road right-of-way, cannot yield a reasonable return to the owner unless the permit or approval is granted; and
 - b. In balancing the interest of the County to preserve the integrity of the general plan and the interest of the landowner to the use and benefits of the property, considerations of reasonable justice and equity require granting the request.
- (iv) *Requirements if Department of Planning and Zoning approves the petition.* If the Department of Planning and Zoning grants a petition to issue a permit or approval for development or subdivision within a proposed County or State road right-of-way, the Department shall specify details regarding the extent and character of the development or subdivision and may impose reasonable requirements benefitting the County as a condition of granting the petition.
- (v) *Requirements regarding reservations:*
- a. The period of time for which the right-of-way is reserved shall be specified on the recorded plat, permit, or approval. Written approval of all legal and equitable owners of the property is required for reservations longer than three years from the date of recordation of the plat or approval of the development.
 - b. With the written approval of the Department of Planning and Zoning, the reserved land may be used for agricultural and temporary uses permitted by the zoning regulations. The Department of Planning and Zoning may allow any permitted use of the reserved land which it finds will not impair the efficient and economic use of the land for a road.
 - c. The right-of-way area may be included within the area of lots in a subdivision provided that the right-of-way area is not used to satisfy minimum lot size requirements or other zoning requirements.
- (h) *Rail Service.* If rail service is proposed for the subdivision, the proposed alignment shall have prior approval by all County, State, and Federal regulatory bodies having jurisdiction before recordation of the final subdivision plat.

(C.B. 121, 1992; C.B. 51, 1994; C.B. 16, 1995; C.B. 20, 1996; C.B. 15, 1998; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1; C.B. 21, 2005, § 1)

Sec. 16.120. - Lot layout.

- (a) *Lot Access from Arterial Highways or Major Collector Roads:*
- (1) Residential lots, preservation parcels, and bulk parcels shall not derive direct access from arterial highways or major collector roads. Where residential lots, preservation parcels, and bulk parcels abut such roadways, access to the lots shall be in accordance with section 16.119 of this subtitle.
 - (2) Nonresidential lots shall not derive direct access from arterial highways. Where nonresidential lots front on such roadways, access to the lots shall be in accordance with section 16.119 of this subtitle.
- (b) *Lot Design:*
- (1) *Size, width, depth, etc.* The size, width, depth, shape, orientation, and yards of lots shall not be less than specified in the zoning regulations for the district within which the lots are located and shall be appropriate for the use contemplated, and available public utilities.

- (2) *Land for street widening:*
- (i) *Minimum lot area.* Land dedicated for street widening shall not be counted in satisfying the minimum lot area requirements of the zoning regulations.
 - (ii) *Special provision for minor subdivisions.* Land dedicated for street widening in a minor subdivision may be counted to satisfy up to ten percent of the minimum lot size requirements not to exceed the actual area dedicated, notwithstanding any provisions to the contrary in the zoning regulations or in this subtitle.
- (3) *Nonbuildable lots.* Lots using private sewerage or a private water system shall meet the requirements of the Maryland State Department of Environment. Lots which do not meet the requirements will be labeled "Nonbuildable until approved by the County Health Officer." The creation of any nonbuildable lot (excluding non-buildable preservation parcels) must be approved by both the Department of Planning and Zoning and the Health Department.
- (4) *Usable design.* Residential lots shall be designed to be usable in terms of:
- (i) Regular, generally rectangular lot shape;
 - (ii) Lot dimensions generally not exceeding a three to one lot depth to lot width ratio;
 - (iii) Not being encumbered by environmentally sensitive features:
 - a. For a lot or buildable preservation parcel 20,000 square feet or greater in size, excluding any pipestem area, steep slopes may be on the lot if located no closer than 35 feet from the building envelope. A deck may project ten feet beyond the building envelope;
 - b. For a lot or buildable preservation parcel of ten acres or greater in size, floodplains, wetlands, streams, their buffers, and forest conservation easements for afforestation, reforestation, or retention may be located on the lot or parcel if the building envelope is no closer than 35 feet from these environmental features provided that a deck may project ten feet beyond the building envelope;
 - c. For R-20 infill subdivisions that are restricted in using optional lot sizes under subsection 16.121(a) of this subtitle, steep slopes, floodplains, wetlands, wetlands buffers, streams, and stream buffers may be located on lots, provided that the building envelope is no closer than 35 feet from these environmental features, and provided that a deck may project ten feet beyond the building envelope; and
 - d. For condominium units and rental apartments, protected environmental features shall be located in open space with units no closer than 15 feet from the protected features;
 - (iv) Not being encumbered by access easements for stormwater management facilities or open space, except in accordance with subsection 16.121(e) of this subtitle; and
 - (v) *Drainage:*
 - a. The centerline of drainage swales shall be no closer than 15 feet from the rear of a residential dwelling.
 - b. Drainage inlets, outlets, headwalls, and rip-rap shall not be located within the building envelope on residential lots unless, based on justification prepared by the developer, the Department of Planning and Zoning determines there is no better alternative.
- (5) *Excessive noise levels:*
- (i) For residential subdivisions or site development plans a noise study may be required in accordance with the Design Manual. The subdivision or site development plan layout shall ensure that the noise level in the rear yard does not exceed the standard set in the Design Manual. Where necessary, noise mitigation shall be provided.

- (ii) Where residential lots will be impacted by excessive noise levels from an existing or proposed highway or railroad, and a wall or fence is required for noise mitigation, it shall be located in open space and maintained by a homeowner's association, if open space is being created. If open space is not being created, noise walls and fences shall be located on residential lots with cross easements for maintenance to be recorded with the final plat.
- (6) *Pipestem residential lots:*
- (i) *Limit on adjoining driveway entrances.* Pipestem lots are permitted. Not more than two pipestem lots may have adjoining driveway entrances to a public right-of-way, except that additional adjacent pipestem lots may be approved if the Department of Planning and Zoning determines that this design better protects environmental features or yields a better lot layout. In such instances a use-in-common driveway must be provided in accordance with the Design Manual.
 - (ii) *Length of pipestem lot.* The length of the pipestem shall not exceed:
 - a. One thousand five hundred feet for noncluster subdivision lots in the RC or RR zoning districts. For cluster subdivisions, the Department of Planning and Zoning may approve a greater pipestem length if this permits lots to be better located with respect to preservation parcels; or
 - b. Eight hundred feet for lots in all other zoning districts that are served by an individual or use-in-common driveway.
 - (iii) *Minimum lot area.* Minimum lot area shall not include the area of the pipestem.
 - (iv) *Front yard setback.* For pipestem lots the front yard setback shall be established in the nonpipestem area to permit best utilization for the lot and greatest privacy to the adjacent lot. The front setback shall be measured as a line parallel to the front lot line.
 - (v) *Subdivision layout:*
 - a. The subdivision lot layout shall pair or cluster pipestem lots whenever possible, so that the units on pipestem lots face each other across the use-in-common driveway.
 - b. In order to avoid orientation and privacy problems, new homes on pipestem lots shall be oriented side to rear, not front to rear, in relation to adjoining lots that front on a public road.
 - c. Pipestem lots shall not be created on both sides of a frontage lot in the same subdivision.
 - (vi) *Driveway setback from project boundary.* The driveways for pipestem lots shall be located at least ten feet from the project boundary to provide space for required perimeter landscaping to buffer the adjacent property. Where a ten-foot buffer is not possible due to the existing parcel's configuration, drainage, or easement constraints, or is undesirable because future subdivision of the adjoining parcel may require sharing the use-in-common driveway under subsection (c)(2)(iv) of this section, the Department of Planning and Zoning may approve a five-foot driveway buffer. In such instances, a hedge, solid fence, wall, or Type D landscape edge is required, except in the front setback from a public road, where a solid screen would block sight distance.
- (7) *Side lot lines.* Side lot lines shall be at right angles or radial to street right-of-way lines unless a variation from this rule will give a better street or lot plan as determined by the Department of Planning and Zoning.
- (8) *Abutting two streets.* Lots which abut two streets, other than corner lots, will be permitted only when necessary to avoid fronting lots on nonaccess roads or where their use resolves special site planning or land use problems.
- (9) *Transmission mains and power lines.* Where residential lot lines include or adjoin an easement for certain utilities, additional setbacks are required:

- (i) From an underground high-volume and pressure-transmission main or high-tension power line, the lots shall allow a 30-foot minimum distance between the easement and any proposed dwelling units on the lots. Decks are not subject to this requirement.
- (ii) From an easement for a public water or sewer line, the lots shall allow the minimum distance between the easement and any proposed dwelling unit on the lots specified in section 5.4.B.5 of Volume II of the Design Manual. Decks are subject to this requirement.

(10) *Fire access :*

- (i) Fire lanes or other approved access ways may be required adjacent to commercial, industrial, townhouse and apartment buildings to provide reasonable fire access.
- (ii) The Department of Planning and Zoning, shall determine when and where fire lanes are to be required for all types of structures, including multifamily residences, based upon the recommendation of the Director of Fire and Rescue Services.

(11) *Commercial, industrial and multifamily bulk parcel subdivisions.* Developers of commercial, industrial and multifamily subdivisions have difficulty predicting the lot design needed by future users. The developer shall follow the requirements of this subtitle, but shall place primary emphasis on the street layout and on the development's relationship to any adjoining residential area. Bulk parcels to be resubdivided to fit user's specifications may be utilized.

Any lots to be created shall provide adequate space for buildings, off-street parking and loading, stormwater management, forest conservation and landscaping to protect adjacent residential areas from potential nuisances that could be created by a commercial, industrial, or multifamily development.

(12) *Multifamily developments.* Off-street parking requirement shall be met within 200 feet or less from the main entrance to an apartment building or the midpoint of a group of single-family attached units. Parking shall be distributed as evenly as possible throughout the development to avoid parking shortages in any area.

(c) *Minimum Frontages:*

- (1) *Commercial, industrial or apartment.* All commercial, industrial or apartment lots shall have a minimum frontage of 60 feet on an approved public road which provides access to the property. Lots for individual businesses within a commercial center or industrial development that have shared access and parking may be approved by the Department of Planning and Zoning without public road frontage.
- (2) *Single-family detached.* All lots, preservation parcels, or bulk parcels for single-family detached dwellings shall have minimum lot frontages on approved streets within a public right-of-way which provides access to the property as follows:
 - (i) Twenty feet for single pipestem and nonpipestem lots and preservation parcels which cannot be further divided under current zoning;
 - (ii) Lots or preservation parcels which share access shall have sufficient frontage collectively to meet the driveway easement requirements in the Design Manual;
 - (iii) Nonpipestem, single pipestem, and adjacent pipestem lots which have enough subdivision potential under current zoning to require future provision of a public road shall have sufficient frontage collectively to meet the public road right-of-way requirements in the Design Manual, including future right-of-way truncation. Cross easements for future road construction shall be provided;
 - (iv) If subdivision lots with access from a use-in-common driveway adjoin a parcel that can be further subdivided under the parcel's current zoning, cross easements shall be recorded that will allow use and, if required by the design manual, improvement of the use-in-common driveway by the future adjoining subdivision. Shared use and maintenance of a

single use-in-common driveway will be required only if the total development potential of the two subdivisions under current zoning will not exceed six units;

- (v) For pipestem lots and preservation parcels with shared access, an access and maintenance easement for the driveway shall be recorded for the impacted lots and referenced on the final plan. When appropriate, the easement shall indicate that any party to the easement may construct a public road to permit further subdivision;
 - (vi) It shall be noted on the final subdivision plat that refuse collection, snow removal, and road maintenance for pipestem lots and preservation parcels are provided to the junction of the public road and the pipestem driveway; and
 - (vii) Frontage on a public road is not required for agricultural preservation subdivisions if the lots being created are provided with an access easement containing an individual or shared driveway meeting the requirements of the Design Manual.
- (3) *Single-family semidetached.* Single-family semidetached lots shall have a minimum of 15 feet of frontage on a public road.
 - (4) *Single-family attached.* Single-family attached lots shall have a minimum of 15 feet of frontage on a public road. Single-family attached lots may be approved without public road frontage provided they front on a commonly owned area containing a parking area or private road not exceeding a length of 200 feet measured from the edge of the public right-of-way along the centerline of the private road.
 - (5) *Nonbuildable preservation parcels.* Nonbuildable preservation parcels shall have 20 feet of frontage unless the Department of Planning and Zoning determines that a different frontage is needed for the proposed use.

(C.B. 121, 1992; C.B. 20, 1996; C.B. 13, 1999; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1; C.B. 8, 2016, § 1)

Sec. 16.121. - Public sites and open space.

(a) *Open Space Requirements:*

- (1) *Purpose.* The purpose of open space requirements are:
 - (i) To properly locate and preserve open space which protects environmental resources and provides for recreation or public use; and
 - (ii) To equitably apportion costs of providing the sites necessary to serve the additional families brought into the community by subdivisions or developments on the basis of the additional need created.
- (2) *Calculated as percentage of gross area of proposed subdivision or site development.* Required open space shall be calculated as the following percentage of the gross area of the proposed subdivision or development. The area of any overhead utility transmission line easements shall be deducted from gross area before calculating the open space requirement.

Zoning District		Minimum Open Space
RC, RR:	Agricultural Preservation Subdivisions	None
	Cluster, DEO or CEO Subdivisions	None

	Non-Cluster Subdivisions	Fee-in-lieu
R-ED		50 percent
R-20:*	All lots 20,000 square feet or greater	6 percent
	Developments using optional lot size:**	
	Min. Lot size 18,000 square feet	10 percent
	Min. Lot size 16,000 square feet	20 percent
	Min. Lot size 14,000 square feet	30 percent
	Min. Lot size 12,000 square feet	40 percent
R-12:*	All lots 12,000 square feet or greater	8 percent
	Developments using optional lot size:*	
	Min. Lot size 10,800 square feet	10 percent
	Min. Lot size 9,600 square feet	20 percent
	Min. Lot size 8,400 square feet	30 percent
	Min. Lot size 7,200 square feet	40 percent
R-SC		25 percent
R-SA-8		25 percent
R-A-15		25 percent
RMH		25 percent
PEC, NT, MXD, PGCC, PSC: As provided in Zoning Regulations		

* Developers in the R-20 and R-12 districts electing to use optional lot size shall select an optional minimum lot size to apply to the entire subdivision. For example, the developer of a 50-acre parcel in the R-20 district may create a subdivision with a minimum lot size of 14,000 square feet if at least 30 percent of the gross parcel area, or 15 acres, is provided as open space.

** R-20 and infill subdivisions or resubdivisions creating ten or fewer lots may not use the optional lot size method unless there are wetland, stream or floodplain areas that the Department of Recreation and Parks wants to be dedicated to the County as open space. The creation of homeowner association open space is not permitted. If dedication to the County is required, R-20 lot sizes may be reduced to 18,000 square feet, exclusive of the pipestem areas.

- (3) *Suitability.* Only land which is suitable to achieve the County's open space objectives for environmental protection, recreation and the provision of sites for public use can be used to meet the minimum open space requirements. Suitability is defined as follows:
 - (i) Open space shall incorporate floodplains, wetlands, streams, wetland and stream buffers, forest conservation easements, and shall be linked with protected environmental land on adjacent property.
 - (ii) Recreational open space and landscaped squares or areas should be integrated into subdivision design to create focal points along streets and at entrances.
 - (iii) Parking lot islands, driveway easements serving nonopen space uses, overhead utility transmission lines, and narrow strips under 35 feet wide may not count towards minimum open space requirements.
- (4) *Recreation open space.* A portion of the open space which is accessible and usable for recreation shall be provided:
 - (i) All residential subdivisions and site developments with more than ten dwelling units or more shall have recreation open space, except in the RC and RR zoning districts and except as provided in the new town, mixed use development, PSC, and PGCC zoning districts;
 - (ii) Recreation land shall be regular in shape (generally square or rectangular) and suitable for active recreation uses such as tot lots, ball fields, and courts or for passive recreation in formal parks and squares;
 - (iii) Recreation open space shall not include wetlands or stream buffers, floodplains, forest conservation easements, stormwater management easements, inlets, outfalls, and stormwater management credit areas, or slopes over ten percent;
 - (iv) At least 20 feet of the perimeter of the recreation land must front on a public or private road and the recreation area should be centrally located to the lots it serves.
 - (v) Recreation land should generally be consolidated into a single area, but may be divided for more equitable distribution into two areas if the subdivision contains 50 or more residential lots.
 - (vi) The following chart indicates the amount of recreation open space required:

Project Type	Recreation Requirement
Single-Family Detached R-20, R-12, square feet/unit	200

Single-Family Detached R-ED, R-SC, R-SA-8, R-A-15, square feet/unit	300
Single-Family Attached, square feet/unit	400
Apartments, square feet/unit	400
R-MH Dwellings, square feet/unit	400 or as provided in subparagraph(4)(vii) of this subsection

(vii) Recreational open space may be satisfied in whole or in part in the R-MH district by the construction of amenities including: community center, pool facility, or sports court paved area at a ratio of ten square feet of floor surface area per dwelling unit.

(b) *Dedication of Required Open Space; In-Lien Fee Payments:*

- (1) At the discretion of the County, all or a portion of the open space area shall be dedicated and deeded without charge to Howard County or to the State of Maryland if adjacent to an existing State park. For condominium or rental unit site development plans, the open space may be transferred to the County by deed rather than a subdivided lot.
- (2) The Department of Planning and Zoning may at the Department's discretion require the developer to pay a fee-in-lieu of actual establishment of open space if:
 - (i) The subdivision does not use the optional lot size provision in the R-20 or R-12 zoning district and the Department of Recreation and Parks has determined that creation of open space is not necessary or desirable;
 - (ii) The size of the area required for dedication is small (generally under one-half acre) and has no potential for expansion via the subdivision of an adjacent parcel; and
 - (iii) The open space would have little environmental or recreational purpose.
- (3) In-lieu fee payments shall be:
 - (i) As established in the fee schedule adopted by the County Council; and
 - (ii) Held in escrow and used by the County for the purpose of acquiring open space land in the general area of the subdivision or development and shall be used for this and no other purpose.

(c) *Dedication to Homeowners' Association:*

- (1) When the Department of Planning and Zoning does not require open space dedication to the County or payment of an in-lieu fee, the developer of a subdivision shall create an open space lot(s) to convey to an incorporated homeowners' association for the subdivision. The total area of the open space lots shall equal or exceed the total area of open space required for the subdivision.
- (2) Concurrent with a recording of the final plat these open space lots shall be conveyed by the developer to an incorporated property owners' association approved and accepted by the State Department of Assessments and Taxation.

- (3) The date of acceptance and approval of the articles of incorporation of such property owners by the State Department of Assessments and Taxation shall be noted on the final plat prior to recording.
 - (4) The Department of Planning and Zoning shall review and approve any documents deemed necessary to ensure that ownership and maintenance of such open space land by a responsible homeowners' association is guaranteed prior to recording of the final plat.
- (d) *Designated Open Area.* When the County waives dedication of open space and all land within a condominium or rental development is to remain under single ownership, the open space requirement may be satisfied by the designation of an open area on the site development plan. The designated open space area need not be a separate lot, but in all other respects shall conform to open space requirements.
- (e) *Access and Frontage:*
- (1) If a public road is being created or an existing public road is available that permits and is viable for direct access, open space lots or areas shall have a minimum of 40 feet of frontage on a public road for access by pedestrians and maintenance vehicles. Open space frontage may be reduced to a minimum of 20 feet if the adjacent side yard setback for one or both abutting lots in combination is increased by the total amount of open space frontage reduction, but only if the abutting lots are a part of the proposed development. For any additional access points provided, frontage may be reduced to 20 feet.
 - (2) If a subdivision or development project will be accessed exclusively by a use-in-common driveway or a private road, the required open space may be created without public road frontage provided that one of the following applies:
 - (i) The open space will be owned by a homeowner's association or a condominium association and all of the residential lots, condominium units, or apartment units will directly adjoin the open space;
 - (ii) The open space will be owned by the County, all of the residential lots in the subdivision or development project will directly adjoin the open space, and the County has determined that an easement for public access or County maintenance is not needed because a public access point that is adequate to serve the open space already exists;
 - (iii) If all of the residential lots do not directly adjoin the open space, and the open space will be owned by the County, an access easement shall be established that:
 - a. Has a minimum width of 12 feet;
 - b. Grants the County use of the use-in-common driveway;
 - c. Does not require the County to participate in maintenance of the use-in-common driveway; and
 - d. Accommodates pedestrian access and periodic access for maintenance and emergency vehicles; or
 - (iv) If all of the residential lots do not directly adjoin the open space, and the open space will be owned by a homeowner's association or a condominium association, an access easement shall be established that:
 - a. Has a minimum width of 12 feet; and
 - b. Accommodates pedestrian access and periodic access for maintenance and emergency vehicles.
 - (3) Two adjacent open space lots may share the fee simple frontage or access easement described in paragraphs (1) and (2) of this subsection if the Department of Planning and Zoning determines that access will be acceptable for the proposed use of the open space.

- (4) Open space access points shall be located so as to be reasonably accessible from all lots within the subdivision.
- (5) An asphalt path or markers specified by the Department of Recreation and Parks shall be installed to clearly delineate open space access points. An open space pathway connection to an adjacent school, park, open space, or commercial area may be required.
- (f) *Condition of Open Space Land.* Open space dedicated to the County shall meet the minimum standards regarding property boundary markers and other requirements set forth in the developer agreement as a condition of the release of the developer's performance bond. Further, where open space has been adversely affected by the developer's operation (by clearing, grading, drainage or construction activities), the developer shall restore it pursuant to a restoration plan approved by the County prior to the release of the performance bond.
- (g) *Acceptance.* The approval by the Department of Planning and Zoning of a final subdivision plat shall not be deemed to constitute or imply the County's acceptance of any park, recreation, or other public land shown on the plat until such land has been determined to be in an acceptable condition in accordance with subsection (f) of this section.

(C.B. 20, 1996; C.B. 52, 2001, § 2; C.B. 50, 2002, § 1; C.B. 45, 2003, § 1)

Sec. 16.122. - Reservations of land for public facilities.

- (a) *Land Not Being Dedicated as Open Space.* When land in a subdivision or development is needed for a County park, school, road, or other public facility which is proposed in the general plan or in the County's or State's capital program and the land is not being dedicated as open space pursuant to section 16.121, the County may require that the land be reserved.
- (b) *Reserved at Written Request of Agency Which Requires the Land.* A reservation shall be required only when the agency charged with the responsibility for the designated use makes a written request to the Department of Planning and Zoning for reservation of the land.
- (c) *Value.* Acquisition of the reserved land by Howard County, the Board of Education or other public agency shall be at the unimproved value of the land.
- (d) *Conditions.* The following conditions apply to land reserved pursuant to this section:
 - (1) No reservation shall continue for longer than three years from the date of recordation of the plat or approval of the site development plan except with written approval of all legal and equitable owners of the property.
 - (2) The period of time for which the land is reserved shall be specified on the recorded plat or site development plan.
 - (3) Upon written approval of the Department of Planning and Zoning the reserved land may be used for agricultural purposes and other temporary uses permitted by the zoning regulations.
 - (4) The reserved land may be included within the area of lots in a subdivision as long as that area is not used to satisfy minimum lot size requirements or other zoning requirements.

(C.B. 121, 1992)

Sec. 16.123. - Grading, soils and sediment control.

- (a) *Grading:*
 - (1) *Prior approval of the Department of Inspections, Licenses and Permits.* No person shall grade, strip, excavate, or fill land, except for farming, without first having obtained approval of the

Department of Inspections, Licenses and Permits pursuant to the requirements of subtitle 4 of title 3, "Buildings," of this Code.

- (2) *Grading in conformity with final subdivision plat or site development plan.* Grading for public roads and all other grading shall be performed under a valid permit issued by the Department of Inspections, Licenses and Permits in accordance with forest conservation, road construction, storm drainage, stormwater management, grading, utility, and erosion and sediment control plans approved as a part of the final subdivision plat required under section 16.147 "Final Subdivision Plan and Final Plat" of this subtitle or a site development plan approved under section 16.154, "Site Development Plan Procedures," of this subtitle.
 - (3) *Minimum area to be disturbed.* Prior to approval of the subdivision plat or site development plan, the Department of Planning and Zoning shall consider the comments of the review committee with regard to the extent and nature of the work to be performed. In all cases, the extent of land and land cover disturbance shall be the minimum necessary to accommodate the proposed development and shall conform to any restrictions imposed by an approved forest conservation plan.
- (b) *Soils.* For all subdivisions and site development plans the developer will be required to submit a copy of the U.S.D.A. Soils Map showing the boundary of the proposed development at the same scale as the plan submitted.
- (c) *Sediment Control:*
- (1) The developer shall plan for practical and effective sediment control on the site to prevent off-site damages due to erosion and sedimentation processes which are accelerated by changing vegetation and grades.
 - (2) Acceptable plans shall include:
 - (i) Temporary structural and vegetative measures to be used during construction; and
 - (ii) Permanent structural and vegetative measures, including reforestation and afforestation measures, which will remain on the site upon the completion of final grading and construction activities.
 - (3) Plans for erosion and sediment control measures shall be prepared in accordance with the requirements of the Howard Soil Conservation District and shall be approved by the Department of Planning and Zoning in consultation with the Soil Conservation District, the Department of Inspections, Licenses and Permits and the Department of Public Works as a part of all development, grading, road construction, utility and site development plans required pursuant to this subtitle.

(C.B. 121, 1992; C.B. 52, 2001, § 2)

Sec. 16.124. - Landscaping.

- (a) *In General:*
- (1) *Intent.* The requirements for landscaping and screening are intended to:
 - (i) Enhance the physical appearance of County development.
 - (ii) Buffer potentially incompatible land uses.
 - (iii) Screen undesirable views.
 - (iv) Improve the environmental performance of new development by reducing stormwater runoff, air pollution, glare, and noise.
 - (v) Promote energy conservation.
 - (vi) Prevent damage to and unnecessary removal of vegetation.

- (vii) Conserve the value of property and neighborhoods.
- (2) *Standards; Landscape Manual.*
 - (i) *Standards.* Landscaping shall be provided in accordance with the requirements of this subtitle, the zoning regulations, the Howard County Forest Conservation Manual and the Howard County Landscape Manual.
 - (ii) *Landscape manual.* The Howard County Landscape Manual is the technical manual used to establish performance standards and guidelines for preparing landscape plans. The Manual is prepared by the Department of Planning and Zoning and adopted by resolution of the County Council. The Manual shall address, but is not limited to the amount of landscaping materials required, suitable landscaping materials, and alternative means of compliance.
- (3) *Landscape plan submissions.* A design to fulfill landscaping requirements shall be presented in a landscape plan which shall include sufficient information for the County to determine whether the proposed landscape improvements are in conformance with the requirements of this section and the Manual.
 - (i) The preliminary or preliminary equivalent sketch plan submissions shall identify schematically:
 - a. Required landscape edges and the type of landscape planting for each edge; and
 - b. Intended methods of fulfilling obligations (i.e., retention of existing vegetation, planting or other alternative solutions).
 - (ii) Final plan submissions (except for resubdivision and correction plats which do not increase the number of units) shall include the final landscape plan in the road construction drawings or for minor subdivisions, the supplemental information sheets. Plans shall specify:
 - a. Whether the developer and/or builder will be responsible for installation of specific elements of the overall landscape plan; and
 - b. Which landscaping will be provided as part of the final plan.
 - (iii) Site development plans shall include a landscape plan unless landscaping requirements were met and surety was posted during subdivision.
- (4) *Preparation of landscape plans.* All landscape plans shall be prepared and sealed by a registered landscape architect or other qualified professional as defined in the Landscape Manual.
- (b) *Types of Landscape Planting Requirements:*
 - (1) *General:*
 - (i) The type and amount of landscaping required shall be based on the compatibility of the proposed land use with adjacent land uses, including public and private rights-of-way, parking lots, loading areas and residential or nonresidential properties.
 - (ii) Landscaping requirements shall be met by providing planting as specified in the Landscape Manual. Optional landscape treatments as defined in the Landscape Manual may be substituted in full or in part for the required planting. Optional treatments include preservation of existing forests and trees, use of berms or other land forms, and provision of fences and walls.
 - (iii) Landscaping requirements may not be met within easements for public water, sewer or stormdrains.
 - (2) *Perimeter landscape edges:*

- (i) Landscape edges, pursuant to the requirements of the Landscape Manual, shall be provided in all districts adjacent to public roads and to abutting properties. Required landscaping shall be shown on the final plan or on the site development plan as specified in the Landscape Manual.
 - (ii) Expansion of existing development that does not currently meet perimeter landscaping requirements shall provide perimeter landscaping in equal proportion to the percentage of the site impacted by the expansion. The area impacted by expansion includes the square foot area of new or expanded buildings and the area of any parking, loading, driveways, or infrastructure necessary to support the additional building area.
- (3) *Parking lot and loading area landscaping:*
- (i) Landscaping within new parking lots is required in accordance with the Landscape Manual. Landscaped areas shall divide the parking spaces to relieve the monotony of large expanses of paving and contribute to efficient circulation of traffic. Loading areas shall be screened from adjacent roads and properties.
 - (ii) Expansions of existing parking lots that do not currently meet landscaping requirements shall provide landscaping in equal proportion to the percentage of the site impacted by the expansion. The area impacted by expansion includes the square foot area of new or expanded buildings and the area of any parking, loading, driveways or infrastructure necessary to support the additional building area.
 - (iii) Parking lot and loading area landscaping shall be shown on the site development plan.
- (4) *Single-family attached, apartment and mobile home developments:*
- Internal landscaping within new single-family attached, apartment, and mobile home projects is required in accordance with the Landscape Manual.
- (5) *Stormwater management facilities.* Landscaping of the entire perimeter of stormwater management ponds is required in all zoning districts, excluding M-1 and M-2 parcels that are not adjacent to residential zoning districts or public roads, in accordance with the Landscape Manual.
- (c) *Alternative compliance.* The Department of Planning and Zoning may approve an alternative to the landscaping requirements of this title and the Landscape Manual upon determining that the proposal meets the intent of this subtitle and meets or exceeds the standard requirements. Alternative plans may be approved when unusual topographic constraints, sight restrictions, siting requirements, preservation of existing stands of trees, preservation of specimen trees or when similar conditions prevent strict compliance with the landscape standards.
- (d) *Reforestation and Afforestation:*
- (1) Certain forms of landscaping may be used to meet the reforestation or afforestation requirements of the forest conservation plan upon approval of the Department of Planning and Zoning.
 - (2) The amount of the landscaped area to be credited for forest conservation obligations shall be in accordance with title 16, subtitle 12 of the Howard County Code and the standards for landscaping substitutions cited in the Howard County Forest Conservation Manual.
 - (3) Landscaping used to fulfill forest conservation requirements shall be included in the required construction and post-construction protection and management agreements and shall be in open space, or in areas protected by binding, long-term protective agreements under the same terms that apply to other reforestation or afforestation areas as described in subtitle 12 of this title.
- (e) *Street Trees and Right-of-Way Plantings:*
- (1) Street trees with a minimum of at least two and one-half-inch caliper shall be required in all districts. Street tree plantings shall be provided on new internal roads and on existing roads

involving road improvements as described in the Landscape Manual. Existing trees to be preserved in or adjacent to the right-of-way may be approved and may be granted up to 100 percent credit towards meeting this requirement.

- (2) Street trees shall not be counted towards reforestation or afforestation requirements of the Forest Conservation Program. Street trees shall not be counted towards the landscape requirements of subsection (b) of this section.
 - (3) Street trees requirements shall be shown on the final plan or the site development plan if required by the State Highway Administration.
- (f) *Landscape Installation:*
- (1) Required landscaping shall be included in the developer's agreement for the subdivision or development; additional surety is required.
 - (2) When there is no developer's agreement required for a subdivision or site development plan with landscaping, the grading permit application and surety shall be modified to incorporate landscaping requirements.
 - (3) All landscaping shown on the approved final plan or site development plan shall be completed in accordance with the approved landscape plan before a release of surety. Prior to such release, the developer shall submit to the County evidence that a one-year guarantee has been executed.
- (g) *Maintenance:*
- (1) The owner, tenant, and their respective agents, if any, shall jointly and severally be responsible for the maintenance of the required landscaping. All required plantings shall be maintained in good growing condition and, whenever necessary, replaced with comparable new plant materials to ensure continued compliance with applicable regulations.
 - (2) No plant material shall be allowed to encroach on road rights-of-way so that sight distance is impeded.
 - (3) Required berms, fences and walls shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

(C.B. 121, 1992; C.B. 20, 1996; C.B. 52, 2001, § 2)

Sec. 16.125. - Protection of scenic roads.

- (a) *Application of Regulations.* The Subdivision and Land Development Regulations, Zoning Regulations, Forest Conservation ordinance and Landscape Manual shall be applied to development along a scenic road in a manner which helps to preserve the scenic character of the landscape viewed from these roads and the features of the road right-of-way that contribute to the road's scenic character.
- (b) *Guidelines for Development of Land Abutting a Scenic Road.* Because scenic landscapes vary greatly, design solutions for development will vary. The following guidelines provide direction for the development of land abutting a scenic road. They are to be applied as appropriate, given the constraints of the particular site and the relative priority of other County policies and requirements such as public safety, farmland preservation, forest conservation, protection of sensitive environmental features and the need to construct public facilities.
 - (1) *General.*
 - (i) Use the cluster subdivision provisions of the zoning regulations to site buildings and roads in locations that minimize the impact of the subdivision on views from the scenic road. Generally structures and uses should be located away from the right-of-way for scenic roads unless screened by topography or vegetation.

- (ii) Minimize tree and vegetation removal. In addition to requirements for protection of forests, steep slopes, streams and wetlands, emphasize the protection of vegetation adjacent to the scenic road, as well as mature trees and hedgerows visible from the road.
 - (iii) Minimize grading; retain existing slopes along the scenic road frontage.
 - (iv) Orient lots so that houses do not back up to a scenic road. If this cannot be avoided, houses should be sited as far as possible from the road and well screened.
 - (v) Locate and design utilities, stormwater management facilities, drainage structures, bridges, lighting, fences and walls to be unobtrusive and to harmonize with the surroundings to maintain existing view corridors. Subdivision entrance features should be low, open, and in keeping with the scenic character of the area in accordance with section 128 of the zoning regulations.
 - (vi) Locate parking lots, loading areas and storage areas so that these uses are screened from the scenic road.
 - (vii) Use vegetation commonly found on the site or in the area for landscaping.
 - (viii) For density receiving subdivisions in the RC and RR zoning districts, achieving the maximum possible density is not sufficient justification to allow impacts on scenic roads.
- (2) *Forested or wooded areas.* Any new developments located along scenic roads must maintain at least a 35-foot buffer of existing forest or wooded area between the road and the new development. The buffer shall be wide enough to maintain the road's visual character with a minimum width of at least 35 feet from the road right-of-way.
- (3) *Areas with open views.*
- (i) Cluster development to retain as much as possible of the open character of the site and to minimize interference with panoramic views from the road.
 - (ii) Where possible, site new buildings behind natural screening or cluster development in or along the edges of forests, at the edges of fields and hedgerows, or near existing buildings.
 - (iii) Preserve the foreground meadow, pasture or cropland and place development in the background as viewed from the road.
 - (iv) Avoid placing structures on the tops of prominent ridges.
 - (v) If new construction cannot be made unobtrusive through siting or the use of natural screening, use landscaping, including berms, to buffer development from the scenic road.
- (4) *Administrative waivers.*
- (i) A developer seeking an administrative waiver from the scenic road requirements shall give written notice within one week of the filing date of the waiver petition, via first-class mail to:
 - a. All adjoining property owners identified in the records of the State Department of Assessments and Taxation; and
 - b. All attendees of record of the presubmission community meeting; and
 - c. All interested parties on file with the Department of Planning and Zoning.
 - (ii) The Department shall not approve any petition for a scenic road requirement waiver within 30 days of meeting the written notice requirement to allow for public comment.

(C.B. 51, 1994; C.B. 52, 2001, § 2; C.B. 14, 2006, § 1; C.B. 37, 2006, § 1)

Sec. 16.126. - Protection of agricultural land and rural character.

- (a) *Sewage Disposal.* Potential conflicts between prime agricultural soils and the location of lots and sewage disposal system easements shall be minimized by:
 - (1) Requiring that all subdivisions in the RC and RR zoning districts be submitted as a preliminary equivalent sketch plan in accordance with the requirements of section 16.145 of this subtitle; and
 - (2) Encouraging the use of shared sewage disposal systems in accordance with subsection 16.131(c)(3)(ii) of this subtitle.
- (b) *Well Setbacks.* Wells located on residential lots must be located at least 50 feet from existing off-site agricultural land preservation easements and other farms and have a complete soil conservation and water quality plan approved by the Howard County Soil Conservation District.
- (c) *Landscape Buffers.* In the RC and RR zoning districts, landscaping required for rural cluster and density receiving subdivisions shall be calculated in accordance with section 16.124 of this subtitle and the Landscape Manual, but shall be located to optimize the landscape buffer between cluster lots and developed noncluster lots, designated scenic roads or agricultural preservation easements, depending on the surrounding context.

(C.B. 52, 2001, § 2)

Sec. 16.127. - Residential infill development.

- (a) *Purpose:*
 - (1) Accommodate growth within the context of existing communities in areas that already have infrastructure and public facilities;
 - (2) Ensure development occurs in a manner that protects the environment, achieves high quality design and strengthens existing communities; and
 - (3) Encourage investment in older established communities.
- (b) *Presubmission Community Meeting.* A presubmission community meeting is required prior to the initial submittal of plans for new residential infill developments submitted after November 15, 2001, according to the procedures established in section 16.128 of this title.
- (c) *Design of Infill Development:*
 - (1) The design of a residential infill development shall be compatible with an existing adjacent residential neighborhood as determined by DPZ by:
 - (i) Consisting of the same unit types (e.g., detached single family homes, attached single family homes, apartments) as the surrounding residential neighborhood; or
 - (ii) Enhancing perimeter landscaping adjacent to existing homes using either Type B landscaping within a 20-foot setback or Type C landscaping within a ten-foot setback.
 - (2) The design of a residential infill development shall, if practical, be integrated with the surrounding residential development by:
 - (i) Interconnecting proposed on-site streets, sidewalks, paths, protected environmental lands, and other open space, with those located off-site; and
 - (ii) Incorporating and preserving significant site features, such as historic structures, unique topographic features, specimen trees, or other existing, healthy landscaping.
 - (3) Lots, buildings, and site improvements shall be configured to maximize privacy by:
 - (i) Positioning structures in accordance with subsection 16.120(b)(6)(v) of these regulations; and

- (ii) Increasing landscaping in combination with berms, fences or walls, to screen views of rear yards and decks from proposed and existing residences and from roads.
- (4) The following compatibility standards shall apply to residential infill developments in or adjoining existing R-20 and R-12 zoned subdivisions:
 - (i) Limit on adjoining driveway entrances: A shared use-in-common driveway must be provided in accordance with the Design Manual within a minimum 24-foot-wide access easement for all proposed residential infill development lots. Any existing driveway entrances onto the public road right-of-way must be connected to a single use-in-common driveway or abandoned;
 - (ii) Front Yard Setbacks: The required front yard setback shall be established as the average of the existing front yard setbacks of the block face area or the area within 500 feet in either direction of the subject property, whichever is less. The block face area consists of the area between the subject property and the intersection of any two streets measured along the side of the street that the subject property is located.

Where there is a vacant lot in the block face area, the required front yard setback for the zoning district shall be used for that lot in calculating the average front yard setback. If the setback established in this section conflicts with the setback established in the zoning regulations, then the more restrictive setback shall apply;

- (iii) Drainage: The Environmental Concept Plan shall address potential adverse drainage impacts on adjacent properties. Impacts shall be evaluated based on requirements in Design Manual Volume I, Chapter 4, Drainage Swales and Surface Drainage Easements. After exhausting all alternatives to address the impact with the affected neighbor(s), impacts may be mitigated by quantitative management based on the appropriate design year storm for the geographical area and proposed conveyance system; and
- (iv) Stormwater Management: Stormwater practices shall be based on the most current guidelines accepted by the Maryland Department of the Environment (MDE). Nonstructural practices shall be implemented to the maximum extent practicable. Stormwater compliance for environment site design shall only be received for the design and construction of micro-scale practices, alternative surfaces, or other practices accepted by MDE that retain or infiltrate runoff based on a quantitative measurement.

(C.B. 52, 2001, § 2; C.B. 45, 2003, § 1; C.B. 29, 2005, § 1; C.B. 15, 2016, § 1)

Sec. 16.128. - Presubmission community meetings; exceptions.

Presubmission community meeting. The following procedures are required for a presubmission community meeting:

- (a) *Definitions.* The initial plan submittal shall be as defined in section 16.108 of this subtitle.
- (b) *Purpose.* The presubmission community meeting is for the developer/petitioner to provide information to the community regarding the proposed initial plan submittal and to allow community residents to ask questions and make comments before the initial plan submittal for the subject property. While the developer/petitioner is encouraged to work with the community to achieve a mutually acceptable solution to any concerns, unless a change is required by this subtitle or the zoning regulations, the developer/petitioner is not required to change the proposed development in response to comments made at the presubmission community meeting.
- (c) *Meeting locations, dates and times.* The meeting shall be:
 - (1) Held at a location within the community of the proposed development, in a public or institutional building located within approximately five miles of the subject property; and

- (2) Scheduled to start between 6:00 p.m. and 8:00 p.m. on a weekday evening, or to be held between 9:00 a.m. and 5:00 p.m. on a Saturday, excluding all official county holidays, Rosh Hashanah, Yom Kippur, Eid Ul Fitr, Eid Ul Adha, and Chinese New Year.

(d) *Types of notice; timing of notice; who must be notified.*

- (1) Notice shall be sent, three weeks prior to the presubmission community meeting, by first class mail to:
 - (A) All adjoining property owners identified in the records of the State Department of Assessments and Taxation;
 - (B) Any community association that represents either the geographic area of the subject property or any adjoining properties; and
 - (C) The "principals" and "parent teacher association presidents" through a mailing to each school with an attendance area that includes the subject property.
- (2) Notice shall be sent, three weeks prior to the presubmission community meeting, electronically to:
 - (A) Any community association, person, or organization registered with the county to be notified about projects in a certain area;
 - (B) The Howard County Council; and
 - (C) The Department of Planning and Zoning, which shall place the meeting notice prominently on the Department's web site.
- (3) *Posting.* In accordance with the content requirements listed in subsection (e) of this section, the property shall be posted for at least three weeks immediately before the meeting. The Department of Planning and Zoning shall determine the number of posters required and their location and the petitioner shall bear the expense of posting.

The posters shall be erected in a prominent location that is visible to the general public and that is as close as possible and perpendicular to the road which serves or will serve as the mailing address of the subject property. If the property is adjoining parkland, a community center, or other County-owned buildings that are frequently visited by citizens to obtain services including, without limitation, County offices, schools, or libraries, the Department of Planning and Zoning may require an additional poster that it is visible to the general public in the closest useable portion of the park, community center, or facility. The Department of Planning and Zoning shall supply the posters. The petitioner shall properly erect and maintain the posters for at least three weeks following the initial presubmission community meeting.

- (e) *Content of notice.* The developer/petitioner shall provide three weeks advance notice regarding the date, time, and location of the presubmission community meeting to be held for an initial plan submittal. Each notice shall contain the following:
 - (1) First class mail and mail sent electronically shall contain:
 - (i) Time, date and place of initial presubmission community meeting;
 - (ii) Address and a map of the location of the subject property;
 - (iii) Type of initial plan submittal;
 - (iv) Type and amount of development, including number of residential units proposed, if applicable;
 - (v) Website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching all projects assigned a three-digit alphanumeric code; and
 - (vi) Information about how to sign-up to receive minutes and subsequent correspondence if unable to attend the pre-submission community meeting.

- (2) The poster shall:
 - (i) Be double-sided and at least 30 inches by 36 inches in size;
 - (ii) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster; and
 - (iii) Contain:
 - (A) Time, date and place of initial presubmission community meeting;
 - (B) Address of the subject property, if available;
 - (C) Type of initial plan submittal;
 - (D) Type and amount of development, including number of residential units proposed, if applicable; and
 - (E) Website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching all projects assigned a three-digit alphanumeric code.
- (f) *Procedure during and following the presubmission community meeting:*
 - (1) The developer/petitioner shall distribute at the presubmission community meeting a summary of the county's subdivision and development review process, zoning or conditional use process, if applicable, prepared by the Department of Planning and Zoning.
 - (2) Developers/petitioners shall:
 - (i) Send a representative who is knowledgeable of the project;
 - (ii) Maintain a record of the names, addresses and electronic mail addresses, if available, for all attendees to the presubmission community meetings and anyone unable to attend the meeting who contacts the developer/petitioner requesting to be added to the list;
 - (iii) Compile comprehensive minutes of these meetings which include a written response to all questions not verbally answered at the meeting;
 - (iv) Send the minutes to all meeting attendees within 30 days of the meeting either electronically or by first class mail. Upon submission of the plan, this list must be included; and
 - (v) Within 7 days after filing the initial plan submittal for the project with the Department of Planning and Zoning, send notice of the submittal to each person who attended the project's presubmission community meeting, and to any other person who has requested that the developer/petitioner provide such notice. The notice shall be sent to each address and electronic mail address submitted at the project's presubmission community meeting, and shall include instructions on how to be notified when future submissions for the project are filed or when the Department of Planning and Zoning acts on any submittal for the project.
 - (3) Certification by the developer/petitioner that the meeting notices and minutes, which include written responses to questions not answered verbally at the meeting, were sent, together with attendees' contact information, shall be transmitted to the Department of Planning and Zoning when initial plans are filed and shall become part of the official record.
 - (4) Citizens may request a meeting with a staff member of the Department of Planning and Zoning to review the initial plan submittal after the initial plan has been formally submitted to the Department.
 - (5) Additional presubmission meetings: another presubmission community meeting may be required, at the discretion of the Director of the Department of Planning and Zoning, if the

developer/petitioner fails to comply with the requirements in subsections (2) and (3) above, or if plans are submitted that are significantly different from what was presented at the presubmission community meeting, unless the changes are in response to community input. If an additional presubmission meeting is held, the notification sign shall be marked by the developer with a contrasting colored "updated" attachment or overlay sticker provided by the Department of Planning and Zoning to inform the public that a subsequent meeting is being held on an altered proposal.

- (6) If the developer/petitioner does not submit plans to the Department of Planning and Zoning within one year of the presubmission community meeting, another presubmission community meeting and notification in accordance with this section shall be required.

(C.B. 29, 2005, § 1; C.B. 58, 2005, § 1; C.B. 8, 2006, § 1; C.B. 57, 2006; C.B. 4, 2007, § 1; C.B. 5, 2007, § 1; C.B. 6, 2007, § 1; C.B. 16, 2007, § 1; C.B. 36, 2009, § 1; C.B. 39, 2009, § 2; C.B. 6, 2011, § 1; C.B. 33, 2014, § 1; C.B. 69, 2018, § 1)

Sec. 16.129. - Golf course redevelopment.

- (a) *Definitions.* In this section, the following terms have the meanings indicated.

- (1) *Golf course* means the portion of property:

- (i) Used, at any time, as a tee box, fairway, or green;
- (ii) Where a maintenance building was located, at any time, for the storage of chemicals, equipment, vehicles, or fuel for use on the golf course or where equipment for use on the golf course was maintained; or
- (iii) Adjoining any maintenance buildings used to maintain the property.

- (2) *Redevelopment* means a change in use to a nongolf course use for the portion of property that is being used or was used at any time as a golf course.

- (b) *Condition of Grading Permit.* An applicant for a grading permit submitted or approved on or after December 15, 2007 for the redevelopment of a golf course shall comply with this section prior to approval of the application.

- (c) *Required Testing.* Unless the applicant complies with subsection (e) of this section, the developer of a golf course redevelopment shall:

- (1) Provide certification to the Director of Planning and Zoning and the Director of Inspections, Licenses and Permits that the developer will test in accordance with this subsection and the certification shall be provided:

- (i) Prior to an initial application for a site development plan, sketch plan, preliminary plan, or final subdivision plan submitted on or after December 15, 2007; or
- (ii) Prior to plan approval for an application for a site development plan, sketch plan, preliminary plan, or final subdivision plan submitted before December 15, 2007;

- (2) Perform a phase I environmental site assessment for the redevelopment that is or will be included in the application for a grading permit:

- (i) In accordance with Standard E 1527-05, or the most recently adopted standard for phase I assessments of the American Society for Testing and Materials; and
- (ii) That shall also include legal boundaries; the location of tees, fairways and greens; any prior development plans approved by the County and the specific types and strength of chemicals used or stored for each area of the golf course;

- (3) To the extent required by the guidance, practices and procedures of the voluntary cleanup program of the Maryland Department of the Environment;

- (i) Perform a phase II environmental site assessment in accordance with Standard E 1903-97(2002), or the most recently adopted standard for phase II assessments of the American Society for Testing and Materials;
 - (ii) Perform testing of environmental media in accordance with the Maryland Department of the Environment's policies and regulations; and
 - (iii) Prior to application for a grading permit, forward a copy of the summary reports completed pursuant to this section to the Health Officer.
- (d) *Laboratory Requirements.* A laboratory performing a test under subsection (c) of this section shall follow the requirements of ISO Guide 17025 "General Requirements for the Competence of Calibration and Testing Laboratories" and:
 - (1) Be certified in the State to perform the test in accordance with this section; or
 - (2) Be accredited by the National Environmental Laboratory Accreditation Conference.
- (e) *Voluntary Cleanup Program.* If the redevelopment that is or will be included in the application for a grading permit is in, or is the subject of an application for, the voluntary cleanup program of the Maryland Department of the Environment, the developer shall:
 - (1) Provide certification to the Director of Planning and Zoning that a complete application to enter the voluntary cleanup program was filed and the certification shall be provided:
 - (i) Prior to an initial application for a site development plan, sketch plan, preliminary plan, or final subdivision plan submitted on or after December 15, 2007; or
 - (ii) Prior to plan approval for an application for a site development plan, sketch plan, preliminary plan, or final subdivision plan submitted before December 15, 2007;
 - (2) At the time of application for a grading permit, provide to the Health Officer, the Director of Inspections, Licenses and Permits, and the Director of Planning and Zoning, a copy of:
 - (i) The certificate of completion issued under section 7-513 of the Environment Article of the Annotated Code of Maryland;
 - (ii) Notice from the Maryland Department of the Environment of no further requirements related to the investigation of controlled hazardous substances at the site; or
 - (iii) A response action plan approved by the Maryland Department of the Environment that includes the grading proposed in the application for a grading permit; and
 - (3) If a response action plan was approved by the Maryland Department of the Environment:
 - (i) Certify that work covered by the grading permit will complete the remediation required by the Maryland Department of the Environment as part of the response action plan; and
 - (ii) Within 60 days after completion of the grading, submit a certificate of completion from the Maryland Department of the Environment showing that the response action plan has been completed.
- (f) *Final Comments.* After testing in accordance with subsection (c) of this section, the developer shall obtain, and provide to the Director of Planning and Zoning and to the Director of Inspections, Licenses and Permits, comments from the Health Officer regarding compliance with this section before approval of an application for a grading permit made on or after December 15, 2007.

(C.B. 60, 2007, § 2)

ARTICLE III. - REQUIRED IMPROVEMENTS

Sec. 16.130. - General.

- (a) *Construction Pursuant to Design Manual.* Sections 16.131—16.139 of this subtitle set forth the minimum improvements required for subdivision and site development plan approval. Construction of these required improvements shall be pursuant to the requirements of the Design Manual.
- (b) *Financial Responsibility; Developer's Agreement.* The developer, at the developer's expense, shall be responsible for the installation of public improvements or private stormwater management facilities required by this subtitle. Developers shall execute appropriate developer's agreements pursuant to that responsibility. After final plat approval and prior to the submission of the original final plat, the developer shall post all necessary monies and pay all required fees. A waiver to this requirement may not be granted, but modification of the timing of final plat submission may be granted under subsection 16.147(e) of this subtitle.
- (c) *Inspection; Release of Surety:*
 - (1) Upon installation of the required improvements, as provided in the developer agreement, the developer may request the County to inspect the improvements prior to the release of surety.
 - (2) The Department of Public Works shall inspect the improvements.
 - (3) The developer's agreement regarding the installation of improvements may provide that the developer may be partially released from the surety requirements of the agreement upon partial completion of the work in accordance with criteria established by the Department of Public Works.

(C.B. 121, 1992; C.B. 15, 1998; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1)

Sec. 16.131. - Sewage disposal and water supply.

- (a) *Definitions:*
 - (1) *Adequate* means having unused capacity available for allocation.
 - (2) *Community sewer system* means the public sewerage system owned and operated by Howard County for the purpose of collecting and treating sewage, excluding shared sewage disposal systems.
 - (3) *Community water system* means the public water system owned and operated by Howard County for the purpose of distributing water.
 - (4) *Metropolitan district* means that part of the planned service area which is required to pay ad valorem charges for water and sewer.
 - (5) *No planned service area* means an area designated in the Howard County master plan for water and sewerage as not being planned to be served:
 - (i) By a community sewer system; and/or
 - (ii) With a community water system.
 - (6) *Planned service area* means an area designated in the Howard County master plan for water and sewerage as being planned to be served:
 - (i) By a community sewer system; and/or
 - (ii) With a community water system.
- (b) *Sewage Disposal and Water Supply Required Pursuant to Regulations.* Subdivision and site development plans shall provide for sewage disposal and for an appropriate supply of potable water in accord with the provisions of the Howard County master plan for water and sewerage, the regulations of the Maryland Department of Environment and the regulations of the Howard County Health Department. Community water systems and community sewer systems may be constructed and operated only in the metropolitan district. No waiver may be granted to these requirements. Provision shall be made for an adequate supply of water for fire protection.

(c) *Disposal of Sewage:*

(1) *Requirements regarding on-site sewage disposal systems:*

- (i) The lot size for an on-site sewage disposal system shall be at least the minimum size, based on percolation test rates or other criteria specified by the regulations of the Maryland Department of Environment and the Howard County Health Department.
- (ii) Preliminary soil tests may be performed and submitted to the Howard County Health Department to determine preliminary lot areas prior to final testing. At the option of the Howard County Health Department, a hydrogeological study of the proposed development may be required.

(2) *Required sewer improvements for lots in the "planned service area".* A proposed subdivision shall be approved for sewage disposal if one of the following provisions is made:

- (i) Where an adequate community sewer system is currently available or where contracts have been let to make an adequate community sewer system available:
 - a. Each lot shall connect to the community sewer system.
 - b. The developer shall install sanitary sewers to serve all lots, including a sewer connection for each lot.
- (ii) Where an adequate community sewer system will be available within two years:
 - a. The final subdivision plat shall include a statement that interim individual on-site sewage disposal systems may be utilized in the subdivision for a maximum of one year after an adequate community sewer system becomes available.
 - b. The developer shall install capped sanitary sewers to serve all lots, including a connection for each lot.
 - c. The developer shall install an interim individual on-site sewage disposal system on each lot when improved. The interim system shall be located so as to allow future connection to the community sewer system in the most economical and convenient manner.
- (iii) Where an adequate community sewer system will be available within three to five years:
 - a. The final subdivision plat shall include a statement that interim individual on-site sewage disposal systems may be utilized in the subdivision for a maximum of one year after an adequate community sewer system becomes available.
 - b. The developer shall install an interim individual on-site sewage disposal system on each lot when improved. The interim system shall be located so as to allow future connection to the community sewer system in the most economical and convenient manner.
- (iv) In a planned service area for sewer, but where an adequate community sewer system will not be available within five years:
 - a. The developer shall install a permanent individual on-site sewage disposal system on each lot when improved.
 - b. When an adequate community sewer system becomes available, the lots may be connected to the community system.
- (v) In the planned service area for sewer, regardless of when adequate community sewer system will be available, if the minimum lot size is three acres a developer may utilize permanent on-site sewage disposal systems. These shall be installed on each lot when improved.

(3) *Required sewer improvements for lots in the "no planned service area":*

- (i) The developer shall install a permanent individual on-site sewage disposal system on each lot when improved.
- (ii) Shared sewage disposal systems serving more than one lot may be permitted pursuant to the provisions of the zoning regulations, the master plan for water and sewerage, and subtitle 12, "Shared Sewage Disposal Systems," of title 18, "Public Works," of the Howard County Code. Concurrent review by the Maryland Department of the Environment, the Howard County Health Department and the Department of Public Works is required. For shared sewage disposal systems, early consultation on design with the approving agencies is encouraged.

(d) *Water Supply:*

- (1) *Required water supply for lots in the "planned service area".* A proposed subdivision or site development plan shall be approved for water supply if one of the following provisions is made:
 - (i) Where an adequate community water system is currently available or where contracts have been let to make an adequate community water system available:
 - a. Each lot shall connect to the community water system.
 - b. The developer shall install a water distribution main to serve all lots, including a water connection for each lot.
 - c. And for appropriately spaced fire hydrants.
 - (ii) Where an adequate community water system will be available within two years:
 - a. The final subdivision plat shall include a statement that interim individual on-site water wells may be utilized in the subdivision for a maximum of one year after an adequate community water system becomes available.
 - b. The developer shall install capped water mains to serve all lots, including a connection for each lot and appropriately spaced fire hydrants.
 - c. The developer shall install an interim individual on-site water well on each lot when improved. Whenever possible the interim water well shall be located so as to allow future connection to the community water system in the most economical and convenient manner.
 - (iii) Where an adequate community water system will be available within three to five years:
 - a. The final subdivision plat shall include a statement that interim individual water wells may be utilized in the subdivision for a maximum of one year after an adequate community sewer system becomes available.
 - b. The developer shall install an interim individual water well on each lot when improved. Whenever possible the interim water well shall be located so as to allow future connection to the community water system in the most economical and convenient manner.
 - (iv) In a planned service area for water, but where an adequate community water system will not be available within five years:
 - a. The developer shall install a permanent water well on each lot when improved.
 - b. When an adequate community water system becomes available, the lots may be connected to the community system.
 - (v) In the planned service area for water, regardless of when an adequate community water system will be available, if the minimum lot size is three acres, a developer may utilize permanent water wells. A well shall be installed on each lot when improved.
- (2) *Required water supply for lots in the "no planned service area".* In the "no planned service area" the developer shall install a permanent water well on each lot when improved.

- (3) *Fire protection.* Where a community water system is not currently available, provisions for a fire protection water supply may be required for nonresidential development.

(C.B. 121, 1992; C.B. 80, 1993; C.B. 20, 1996)

Sec. 16.132. - Road construction.

(a) *Road Construction:*

(1) *Responsibility for road construction:*

- (i) *County roads.* The developer shall construct or provide for the construction of roads fronting or within a proposed subdivision, including required connections to adjacent properties unless the adjacent properties are precluded from development by law or agreement. The construction of roads shall be in accordance with paragraphs (2) through (6) of this subsection and in accordance with the Design Manual.
- (ii) *State roads.* The developer shall construct or provide for construction along existing State roads fronting on and providing access to a proposed subdivision in accordance with paragraphs (3) and (6) of this subsection and in accordance with the requirements of the State Highway Administration.
- (iii) *Agriculture preservation subdivisions and minor subdivisions:*
 - a. Road improvements are not required in agriculture preservation subdivisions or minor subdivisions where zoning regulations prohibit further subdivision of the lot or parcel, unless the proposed minor subdivision creates a sight distance or other traffic safety problem or if construction of a sidewalk is required under subsection 16.134(a)(1) of this subtitle.
 - b. If the road serving a minor subdivision is deficient and lies within a capital project in the County's approved capital budget or capital improvement program, road improvements will be required or funds will be contributed to the County in accordance with paragraph (2) of this subsection.
- (iv) *Subdivision of property which was part of a previous minor subdivision.* Where a major subdivision occurs within the original tract or parcel of land upon which a minor subdivision has been recorded, the developer of the major subdivision shall provide road improvements or contribute funds in accordance with paragraphs (2) through (6) of this subsection which would normally have been required for the original road frontage of the parcel of land existing prior to the recordation of the minor subdivision plat.
- (v) *Private roads in multifamily development.* Internal roads serving multifamily development may be private rather than public but must be designed and constructed in accordance with the Design Manual. Private roads shall be maintained by the owners.

(2) *Local or minor collector roads:*

- (i) *Owner owns land on only one side of road.* Where the property owner owns land on only one side of a local or minor collector road, the owner shall:
 - a. Construct one side of the road up to one-half of the full designated pavement width; or (at the County's sole option)
 - b. Contribute to the County the funds necessary to do such construction.
- (ii) *Owner owns land on both sides of road.* Where the property owner owns land on both sides of local or minor collector road, the owner shall:
 - a. Construct the entire length of the road within the subdivision to the full designated pavement width; or (at the County's sole option).

b. Contribute to the County the funds necessary to do such construction.

(3) *Major collector and minor or intermediate arterial roads:*

(i) *Benefits to the subdivision.* Notwithstanding the requirements of paragraph (1) of this subsection, no construction of a major collector road or a minor or intermediate arterial road shall be required of a property owner pursuant to this section, unless one or more of the following benefits to the subdivision shall be deemed to presently exist or may reasonably be expected to exist upon development of the proposed subdivision:

- a. The road serves the proposed subdivision;
- b. The use of the subdivision gives rise to traffic or other conditions reasonably related to the need for the road construction; or
- c. The road construction would otherwise benefit the subdivision and is reasonably related to the protection of the health, safety and general welfare of the residents in the subdivision.

(ii) *Requirement to construct minimum usable width:*

a. *Applicability.* Paragraph (3) of this subsection applies where a subdivision is either divided by or adjacent to:

1. A major collector road; or
2. A minor or intermediate arterial road which performs a regional function and therefore carries traffic requiring a greater pavement width than that required by the subdivision traffic upon the completion of the subdivision.

b. *Design standards.* County roads shall be improved in accordance with the Design Manual. State roads shall be improved in accordance with the requirements of the State Highway Administration.

c. *Owner owns land on only one side of road.* Where the property owner owns land on only one side of the road, the owner shall, at the County's or State's sole option:

1. Construct one side of the road improvements up to one-half of the minimum usable pavement width for the subdivision road which would have been applicable if the road were not a major collector road or a minor or intermediate arterial road;
2. Contribute to the County or State the funds necessary to do such construction; or
3. Enter into an agreement with the County or the State whereby the owner shall construct the entire full width of the road. The County or State shall pay for that portion in excess of the amount required of the property owner by paragraph (1) of this subsection.

d. *Owner owns land on both sides of road.* Where the property owner owns land on both sides of the road, the owner shall, at the County's or State's sole option:

1. Construct the entire length of the road within the subdivision to the minimum usable pavement width for the subdivision road which would have been applicable if the road were not a major collector road or a minor or intermediate arterial road;
2. Contribute to the County or State the funds necessary to do such construction; or
3. Enter into an agreement with the County or the State whereby the owner shall construct the entire full width of the road. The County or State shall pay for that portion in excess of the amount required of the property owner by paragraph (1) of this subsection.

- (4) *County maintained scenic roads.* Notwithstanding paragraphs (1) through (3) of this subsection, the property owner shall not be required to construct or provide for the construction of improvements to County maintained scenic roads fronting a proposed subdivision, except as required by this paragraph.
 - (i) Improvements to scenic roads shall be in accordance with the scenic road standards of the Design Manual and designed to minimize alterations to scenic features of the road right-of-way such as roadside vegetation and topography.
 - (ii) For a scenic road with current traffic volumes of less than 6,000 average daily trips (ADT), the following improvements may be required.
 - a. Access improvements such as sight distance improvements, acceleration and deceleration lanes or turn lanes at the intersection of subdivision streets with the scenic road. Turn lanes should be provided by restriping existing pavement when possible.
 - b. Improvements to correct safety problems at locations where there is a documented accident history, via signage, lighting, clearing vegetation, grading within the right-of-way, or, if other improvements will not be effective, changes in road alignment.
 - c. Road widening to provide a minimum 18-foot pavement width.
 - (iii) For a scenic road with current traffic volumes of 6,000 ADT or higher, the following improvements may be required:
 - a. The improvements listed under subparagraph (ii) of this paragraph.
 - b. Other frontage improvements, including construction of the road to full Design Manual standards, when such improvements are deemed necessary because of deficient roadway capacity or will implement planned road improvements included in the County's approved capital budget or capital improvement program.
 - (iv) At the County's sole option, the property owner may construct the road improvements required by this subsection or contribute to the County the funds necessary to do the construction.
 - (5) *Continuation to nearest public road intersection.* At the County's sole option, a developer may be required to extend the road improvement up to 250 feet beyond the proposed development to the nearest public road intersection or pay the cost of such construction if:
 - (i) The necessary rights-of-way exist or have been acquired by the developer or the County;
 - (ii) The continuation of the improvements is necessary to make the required improvements functional or to provide for safe traffic movements; and
 - (iii) The Director of Planning and Zoning, after consultation with the Director of Public Works, has determined that the nearest public road is in close proximity to the proposed subdivision.
 - (6) *Responsibility for off-site road construction.* The property owner shall construct or provide for the construction of improvements to off-site road facilities required as mitigation pursuant to subtitle 11 "Adequate Public Facilities," of this title and in accordance with an approved traffic study. Off-site intersection improvements involving a scenic road shall be designed with consideration for the scenic features of the road right-of-way.
- (b) *Acceptance.* The approval of a final subdivision plat shall not be deemed to constitute or imply the County's acceptance of any street shown on the approved plat. Acceptance of streets shall be pursuant to Title 18 of this Code.

(C.B. 121, 1992; C.B. 51, 1994; C.B. 16, 1995; C.B. 20, 1996; C.B. 15, 1998; C.B. 52, 2001, § 2; C.B. 15, 2006)

Sec. 16.133. - Storm drainage.

- (a) *Requirement to Construct Storm Drainage.* Where deemed necessary by the Director of Planning and Zoning, after consultation with the Director of Public Works:
 - (1) The developer shall construct storm drains to handle on-site runoff; and
 - (2) The developer shall provide on-site drainage easements; however, these may not encroach on required perimeter landscaping unless approved by the Department of Planning and Zoning; and
 - (3) The developer shall provide off-site drainage easements; and
 - (4) The developer shall provide for the handling of off-site runoff to an acceptable outlet in the same watershed pursuant to subsection (c) below.
- (b) *Watersheds:* For the purposes of this subtitle, there are 4 major outlets: the Patapsco Watershed, the Middle Patuxent Watershed, the Main Patuxent Watershed, and the Little Patuxent Watershed.
- (c) *Options for Handling Off-site Runoff:* Developers shall do one of the following for all subdivisions:
 - (1) Provide for the construction of all necessary drainage structures through and between the developer's subdivision and an acceptable outlet in the same watershed; or
 - (2) If all or part of the necessary drainage structures between the developer's subdivision and an acceptable outlet in the same watershed has been provided by another developer, the developer of the proposed subdivision shall pay the County an off-site drainage fee prior to recordation of the plat; or
 - (3) Pay the County an off-site drainage fee prior to recordation of the plat.
- (d) *Restriction on Construction in 100-Year Floodplain.* Construction on land within the 100-year floodplain shall be subject to the restrictions of section 16.115, "Floodplain Preservation."
- (e) *Use of the Off-site Drainage Fees.* The County may expend off-site drainage fees paid by the developers of subdivisions in a given watershed only for the construction of drainage facilities in that watershed.
- (f) *Deleted.*

(C.B. 121, 1992; C.B. 16, 1995; C.B. 52, 2001, § 1)

Sec. 16.134. - Sidewalks and walkways.

- (a) *Sidewalks Required.* The developer shall provide for the construction of sidewalks pursuant to this section and the Design Manual.
 - (1) *Residential development.* In residential subdivisions and site developments the developer shall construct sidewalks on both sides of all streets in the project and along the project frontage except that:
 - (i) Sidewalks are required on only one side of cul-de-sacs and local streets of single-family detached subdivisions.
 - (ii) No sidewalks are required on cul-de-sacs or private streets of any development with ten or fewer dwelling units except along the portion of the development that fronts on a County or State road. For minor subdivisions, if a developer chooses not to construct sidewalks along the portion of the development that fronts on a County or State road, the developer shall pay a fee-in-lieu of sidewalk construction. The fee-in-lieu shall be based on the unit prices for the cost to construct the sidewalk, including the associated curb and gutter, and shall be spent on sidewalks in the same general plan planning area as the development.

The Department of Planning and Zoning may accept a fee-in lieu from developers for developments of five to ten dwelling units located on local roads if there are:

1. No existing adjacent sidewalks; or
2. No institutional, school, public or retail facilities, within 1,000 feet.

Any residential sidewalk requirement that was satisfied by paying a fee-in-lieu may be subsequently constructed by the County through the capital budget process.

- (iii) No sidewalks are required in the RC or RR zoning district.
 - (iv) Sidewalks on State roads may not be required if the State Highway Administration determines that sidewalks are not appropriate in a specific location.
- (2) *Nonresidential developments.* In nonresidential subdivisions and site developments the developer shall construct sidewalks on one or both sides of the street, if the Department of Planning and Zoning deems it necessary to serve anticipated internal pedestrian traffic, to provide access to transit stops, or to make connections to surrounding land uses.
- (b) *No Sidewalks Required.* The Department of Planning and Zoning may eliminate all or part of the sidewalk requirement where:
- (1) One side of a street adjoins a landscaped parking island, park, golf course or other type of use which does not require a sidewalk and where continuity is not essential.
 - (2) Adjacent development (recorded plat) has been substantially completed without sidewalks, pursuant to prior approvals, and there is no need for sidewalks to serve commercial or institutional uses, schools, parks, or other public facilities, or make connections to nearby streets or transit service.
 - (3) Sidewalks would be detrimental to the character of a scenic road and are not needed to serve school, shopping or active recreation areas.
 - (4) Sidewalks on State roads may not be required if the State Highway Administration determines that sidewalks are not appropriate in a specific location.
- (c) *Sidewalks beyond Subdivision.* At the County's sole option, a developer may be required to extend the sidewalk construction up to 250 feet beyond the proposed development to the nearest public sidewalk or pathway or pay the cost of such construction if:
- (1) The continuation of the sidewalk is necessary to provide safe pedestrian travel or to complete a sidewalk or pathway system;
 - (2) The Director of Planning and Zoning has determined that the nearest public sidewalk or pathway is in close proximity to the proposed subdivision; and
 - (3) The necessary rights-of-way exist or have been acquired by the developer or the County.
- (d) *Walkways:*
- (1) *Residential development.* If the Department of Planning and Zoning determines that construction of sidewalks is infeasible or insufficient, an on-site pedestrian walkway to provide access to commercial or institutional uses, schools, or other public facilities such as parks, nearby streets or connections to transit service may be required.
 - (2) *Nonresidential development.* The design of site development plans for nonresidential development shall incorporate on-site pedestrian circulation.

(C.B. 121, 1992; C.B. 51, 1994; C.B. 15, 1998; C.B. 52, 2001, § 2; C.B. 15, 2006, § 1; C.B. 69, 2007, § 1)

Sec. 16.135. - Street lighting.

Unless the Department of Planning and Zoning, after consultation with the Director of Public Works, determines that adequate street lighting already exists, the developer of subdivisions and site developments shall provide street lighting in accordance with the Design Manual and in locations approved by the Director of Planning and Zoning, after consultation with the Director of Public Works. Street lighting is not required in RC, RR and BR zoning districts.

(C.B. 121, 1992; C.B. 51, 1994; C.B. 16, 1995)

Sec. 16.136. - Street trees and landscaping requirements.

The developer shall provide street trees and landscaping in accordance with section 16.124 and the Landscape Manual.

(C.B. 121, 1992; C.B. 20, 1996)

Sec. 16.137. - Street name signs and traffic-control devices.

The developer shall erect street name signs and traffic-control devices at each street intersection. These signs and devices shall be consistent with this Code and the Design Manual and shall be approved by the Department of Planning and Zoning, after consultation with the Director of Public Works.

(C.B. 121, 1992; C.B. 16, 1995)

Sec. 16.138. - Gas, electric, and communication facilities.

- (a) *Requirement to Extend Underground Utilities.* The developer shall provide for underground extensions of gas, electric, and communication utilities, including service provided by the cable television franchise holder(s) to serve the subdivision or development in accordance with applicable Howard County and Public Service Commission underground extension rules.
- (b) *Agreements with Utilities.* Prior to submission of the final plat or site development plan to the Department of Planning and Zoning for signature approval, the developer shall execute agreements for underground telephone and electric services for the development with the public service companies in whose service territory the development is located. These agreements shall provide that the developer is responsible for all Public Service Commission rules and company service tariffs, even though building lots of the subdivision may be sold, developed or improved by third parties.
- (c) *Electric vehicle charging stations .* Communal parking areas for residential units shall include electric vehicle charging stations in accordance with section 3.105(c) of the Howard County Code.

(C.B. 121, 1992; C.B. 76, 2018, § 1)

Sec. 16.139. - Monuments and markers.

(a) *Monuments Required:*

- (1) The developer shall construct and place a monument at each street intersection. Monumentation shall be in accordance with the requirements of COMAR.
- (2) Monuments shall be set so that the top is level with the surface of the surrounding ground at final finished grade.

- (3) Monuments shall be concrete, four inches by four inches top, six inches by six inches bottom, three feet long and strengthened by a three-eighths inch or greater steel reinforcing rod, at least 30 inches long, through their centers.
- (b) *Markers Required.* The developer shall construct and place a marker on all points of curvature and points of tangency along the street line and at all angle breaks. Markers shall be steel bars or iron pipes at least three-eighths of an inch in diameter and 30 inches long.
- (c) *Setting of Monuments and Markers.* Monuments and markers shall have been installed at the time the developer applies to the County for inspection and acceptance of the streets in his subdivision. Monuments and markers shall each have an identifying cap bearing the Maryland registration number of the licensed professional land surveyor, property line surveyor, corporation, or partnership responsible for setting the monuments and markers in accordance with the Annotated Code of Maryland. Markers and monuments shall be identified as described in the Annotated Code of Maryland, title 9, subtitle 13, chapter 3, section 3.
- (d) *Geodetic Control Survey Stations.* The developer shall mark and protect all County geodetic control survey stations on the site, including those located in the public right-of-way, for the duration of construction activity. Control stations disturbed or damaged during the construction period shall be reset by the Department of Public Works at the developer's expense. Geodetic control survey stations on the site that require relocation shall be relocated by the Department of Public Works prior to issuance of a building permit.

(C.B. 121, 1992; C.B. 16, 1995; C.B. 52, 2001, § 2)

Secs. 16.140—16.143. - Reserved.

ARTICLE IV. - PROCEDURES FOR FILING AND PROCESSING SUBDIVISION APPLICATIONS

Sec. 16.144. - General procedures regarding the subdivision process.

Except as provided in section 16.102 of this subtitle, all proposals to subdivide land shall be processed in accordance with the following procedures:

- (a) *Presubmission Community Meeting.* A presubmission community meeting is required prior to the initial submission of residential sketch plans or preliminary equivalent sketch plans in accordance with section 16.128 of this article.
- (b) *Submission of Sketch Plan or Preliminary Equivalent Sketch Plan.* The subdivision process begins when the developer of land submits to the Department of Planning and Zoning a sketch plan or preliminary equivalent sketch plan which shall be in accordance with the requirements of section 16.145, "Sketch Plan; Preliminary Equivalent Sketch Plan," of this subtitle.
- (c) *Review Process.* The Department of Planning and Zoning shall transmit the sketch plan or preliminary equivalent sketch plan for review and recommendation to the Review Committee and such other agencies of the County and State as the Department deems appropriate. The Department of Planning and Zoning may schedule a meeting of the Review Committee to review the plan.
- (d) *Report of Review Committee; Additional Information:*
 - (1) Within 60 days of active processing time from submission of the sketch plan or preliminary equivalent sketch plan the Department of Planning and Zoning shall provide the developer with a written report of the findings of the review committee, including the comments of the Review Committee and its recommendations.
 - (2) If the Department of Planning and Zoning or the Review Committee indicates that additional information is needed in order to decide whether to approve the plan, the developer shall provide the information within 45 days of receiving such indication.

- (e) *Approval/Denial of Sketch Plan or Preliminary Equivalent Sketch Plan:*
 - (1) Within 60 days of active processing time from submission of the sketch plan or preliminary equivalent sketch plan or if additional information was requested, within 45 days of receiving the information, the Department of Planning and Zoning shall indicate to the developer in writing whether the sketch plan or preliminary equivalent sketch plan is approved, approved with modifications or denied.
 - (2) If the sketch plan is approved or approved with modifications, this notice shall serve as authority to proceed to submission of the preliminary plan, except for subdivisions which require Planning Board approval. If the preliminary equivalent sketch plan is approved or approved with modifications, this notice shall serve as authority to proceed to submission of the final plan, except for subdivisions which require Planning Board approval.
- (f) *Planning Board Approval:*
 - (1) If the subdivision requires Planning Board approval, the Department of Planning and Zoning shall advise the developer of the location, time and date of the Planning Board meeting after the Department notifies the developer that the sketch plan or preliminary equivalent sketch plan has been approved or approved with modifications by the Department.
 - (2) The Planning Board shall indicate to the developer in writing whether the sketch plan or preliminary equivalent sketch plan is approved, approved with modifications or denied.
- (g) *Submission of Preliminary Plan.* If the sketch plan is approved or approved with modifications, the developer shall submit to the Department of Planning and Zoning a preliminary plan which shall be:
 - (1) In accordance with the approved sketch plan;
 - (2) In accordance with the requirements of section 16.146, "Preliminary Plan," of this subtitle; and
 - (3) Within the following milestones:
 - (i) Four months of sketch plan approval (subdivisions of 50 or fewer housing units);
 - (ii) Six months of sketch plan approval (subdivisions of 51—100 housing units);
 - (iii) Nine months of sketch plan approval (subdivision of 101 or more housing units);
 - (iv) Nine months of sketch plan approval for nonresidential subdivisions.
- (h) *Review Process.* The Department of Planning and Zoning shall transmit the preliminary plan for review and recommendation to the review committee and such other agencies of the County and State as the Department deems appropriate. The Department of Planning and Zoning may schedule a meeting of the review committee to review the preliminary plan.
- (i) *Report of Review Committee; Additional Information:*
 - (1) Within 60 days of active processing time from submission of the preliminary plan, the Department of Planning and Zoning shall provide the developer with a written report of the findings of the review committee, including the comments of the review committee and its recommendations.
 - (2) If the Department of Planning and Zoning or the review committee indicates that additional information is needed in order to decide whether to approve the preliminary plan, the developer shall provide the information within 45 days of receiving such indication.
- (j) *Approval/Denial of Preliminary Plan:*
 - (1) Within 60 days of active processing time from submission of the preliminary plan, or if additional information was requested, within 45 days of receiving the information, the Department of Planning and Zoning shall indicate to the developer in writing whether the preliminary plan is approved, approved with modifications or denied.

- (2) If the preliminary plan is approved or approved with modifications, this notice shall serve as authority to proceed to submission of the final plan.
- (k) *Submission of Final Plan.* If the preliminary plan or preliminary equivalent sketch plan is approved or approved with modifications, the developer shall submit to the Department of Planning and Zoning a final plan which shall be:
- (1) In accordance with the approved preliminary plan or preliminary equivalent sketch plan;
 - (2) In accordance with the requirement of section 16.147, "Final Subdivision Plan and Final Plat," of this subtitle;
 - (3) Within the following milestones:
 - (i) Four months of preliminary plan approval or preliminary equivalent sketch plan approval (subdivisions of 50 or fewer housing units);
 - (ii) Six months of preliminary plan approval or preliminary equivalent sketch plan approval (subdivisions of 51—100 housing units);
 - (iii) Nine months of preliminary plan approval or preliminary equivalent sketch plan approval (subdivisions of 101 or more housing units);
 - (iv) Nine months of preliminary plan approval or preliminary equivalent sketch plan approval for nonresidential subdivisions.
- (l) *Review Process.* The Department of Planning and Zoning shall transmit the final plan for review and recommendation to the review committee. The Department of Planning and Zoning may schedule a meeting of the review committee to review the final plan.
- (m) *Report of Review Committee; Additional Information.* The Department of Planning and Zoning shall provide the developer with a written report of the findings of the review committee, including the comments of the review committee and its recommendations. If the Department of Planning and Zoning or the review committee indicates that additional information is needed in order to decide whether to approve the final plan, the developer shall provide the information within 45 days of receiving such indication.
- (n) *Approval/Denial of Final Plan:*
- (1) Within 60 days of active processing time from submission of the final plan, or if additional information was requested, within 45 days of receiving the information, the Department of Planning and Zoning shall indicate to the developer in writing whether the final plan is approved, approved with modifications or denied.
 - (2) If the final plan is approved or approved with modifications, this notice shall serve as authority to proceed to submission of final construction drawing originals, payment of fees, developer agreement, etc., preparatory to recordation.
- (o) *Submission of Final Construction Drawings.* Within 60 days of receiving approval of the final plan the developer shall submit the final construction drawing originals to the Department of Planning and Zoning for signature. If a subdivision has a forest conservation obligation, the final forest conservation plan shall be submitted within 60 days.
- (p) *Payment of Fees; Posting of Financial Obligations.* Within 120 days of receiving approval of the final plan the developer shall:
- (1) Pay all required fees to the County; and
 - (2) If subject to a developer agreement or major facility agreement, shall post all monies and file appropriate surety covering the developer's financial obligations for the required public or private improvements.
- (q) *Final Subdivision Plat.* Within 180 days of final plan approval, the developer shall submit the final subdivision plat to the Department of Planning and Zoning for signatures and recordation.

- (r) *Status of Plans Which Do Not Meet Deadlines, or Which Fail to Provide Information in a Timely Manner:*
- (1) *Milestones:*
- (i) *Miss the milestone for preliminary plan submission.* Except where delay is caused by government action, a project which misses the deadline for preliminary plan submission shall be voided and the application for plan approval shall be considered withdrawn. The developer may resubmit the subdivision plan for sketch plan approval.
- (ii) *Miss the deadline for final plan submission.* Except for a conditionally exempt project which is the subject of subparagraph (iii) of this paragraph, or where delay is caused by government action, a project which misses the deadline for final plan submission shall be voided and the application for plan approval shall be considered withdrawn. If there has been no change in the requirements of the subdivision regulations since the project's sketch plan approval, the subdivision plan may be resubmitted for approval at the preliminary plan stage. Otherwise, it may be resubmitted for approval at the sketch plan or preliminary equivalent sketch plan stage.
- (iii) *Projects with conditional exemptions from tests for adequate public facilities.* A project with conditional exemption from the test for adequate public facilities pursuant to subtitle 11, "Adequate Public Facilities," of this title which has preliminary plan approval and misses the milestone for submission of a final plan shall be voided and the application for approval of the plan shall be considered withdrawn unless the plan has approval for adequate facilities and housing unit allocations while the preliminary plan approval is still valid pursuant to the subdivision regulations in effect at the time the preliminary plan was approved. The plan may be resubmitted for approval at the sketch plan or preliminary equivalent sketch plan stage.
- (2) *Submission of final plan.* A project with preliminary plan approval prior to March 12, 1993 which fails to submit a final plan while the preliminary plan approval is still valid pursuant to the subdivision regulations in effect at the time the preliminary plan was approved shall be voided and the application for plan approval shall be considered withdrawn.
- (3) *Providing additional information.* If additional information needed for plan approval is not provided within 45 days of request, the plan shall be denied.
- (4) *Failure to submit final construction or forest conservation drawings.* Except where delay is caused by government action, failure to submit final construction drawing originals or any required forest conservation plan originals within 60 days of final plan approval shall void previous approvals and the application shall be considered withdrawn.
- (5) *Failure to pay fees, sign developer's agreement, provide surety.* Except where delay is caused by government action, failure to pay fees, post monies, sign developer agreements and major facilities agreement, and provide appropriate surety within 180 days of final plan approval shall void previous approvals and the application shall be considered withdrawn.
- (6) *Failure to submit final plat.* Except where delay is caused by government action, failure to submit the final plat within 180 days of final plan approval shall void previous approvals and the application shall be considered withdrawn.
- (s) *Processing Subsequent Sections of Subdivisions in Default.* If any section of a subdivision is ruled in default on the developer's agreement or major facilities agreement, the County may:
- (1) Stop the active processing of subsequent sections of the subdivision or physically related projects owned by the developer in default until all requirements to remove the default are accomplished; or
- (2) Deny subsequent sections of a subdivision in default or physically related projects owned by the developer in default.
- (t) *Subdivision Name, Street Name, and Property Numbers:*

- (1) *Subdivision name.* The subdivision name approved and recorded by the Department of Planning and Zoning shall constitute the subdivision's official name. No other name may be used for advertising or sales purpose unless an approved and amended plat is recorded bearing the revised name. Where a subdivision name has been changed, all subsequent plans submitted for processing shall reference the original subdivision name, and the Department of Planning and Zoning file numbers.
- (2) *Street name.* Street names shall be approved by the Department of Planning and Zoning. Such names shall not duplicate those used elsewhere in Howard County, or adjacent jurisdictions and they shall be approved before the submission of any final plats. Changes in existing street names shall be in accordance with section 16.400 of the Howard County Code.
- (3) *Property numbers.* Property numbers shall be assigned:
 - (i) On the final plat to all lots or parcels within a subdivision of single-family dwellings.
 - (ii) On the site development plan to all buildings or entrances within an apartment development or nonresidential development.
- (u) *Compliance with Green Neighborhood Allocation.* An applicant who receives a green neighborhood allocation under section 16.1102 of this subtitle shall comply with the standards adopted by resolution of the County Council. The initial plan submission shall be a preliminary equivalent sketch plan for major subdivisions, final plan for minor subdivisions, or site development plan, whichever is applicable.

(C.B. 121, 1992; C.B. 52, 2001, § 2; C.B. 29, 2005, §§ 1, 2; C.B. 48, 2007, § 2; C.B. 36, 2009, § 1; C.B. 39, 2009, § 2)

Sec. 16.145. - Sketch plan; preliminary equivalent sketch plan.

- (a) *Purpose.* The purpose of the sketch plan or preliminary equivalent sketch plan is to indicate to the County the intent, scope and timing of the subdivision and to familiarize the developer with County and State plans which may affect the subdivision. The subdivision will also be tested at this stage for the adequacy of public facilities in accordance with the provisions of subtitle 11, "Adequate Public Facilities," of this title. Preliminary equivalent sketch plans, which proceed directly from preliminary equivalent sketch plan approval to final plan submission, also provide the information required with preliminary plans. A preliminary equivalent sketch plan is required for all major subdivisions in the RC, RR and R-ED zoning districts.
- (b) *Procedures:*
 - (1) *Informational meeting prior to plan submission.* The developer, especially the developer of a large or complex project, is encouraged to contact the Department of Planning and Zoning to schedule an informational meeting with the Department and other appropriate agencies prior to submitting the sketch plan or preliminary equivalent sketch plan so that requirements for adequate public facilities testing, the general plan, the capital improvement program and other information can be provided prior to formal submission of the plan application.
 - (2) *Presubmission community meeting.* If the initial plan submittal for a residential subdivision is a sketch plan or preliminary equivalent sketch plan, the developer of the subdivision is required to hold a presubmission community meeting in accordance with section 16.128 of this subtitle.
 - (3) *Design Advisory Panel review:*
 - (i) *Review.* If required by subparagraphs (ii), (iii), and (iv) of this paragraph, a developer shall submit a project for review by the Design Advisory Panel and the Director of the Department of Planning and Zoning may consider recommendations made by the Design Advisory Panel in accordance with section 16.1504 of this subtitle as a condition of plan approval for projects located on property subject to Design Advisory Panel review as set forth in section 16.1501 of this subtitle.

- (ii) *Sketch plans submitted on or after November 3, 2008.* For sketch plans submitted on or after November 3, 2008. A developer shall submit the project for Design Advisory Panel review prior to submission of the sketch plan.
 - (iii) *Sketch plans submitted before November 3, 2008.* For sketch plans submitted before November 3, 2008, a developer shall submit the project for Design Advisory Panel review prior to a determination that the plan is technically complete.
 - (iv) *Sketch plans technically complete before November 3, 2008.* For sketch plans that are technically complete before November 3, 2008, a developer shall submit the project for Design Advisory Panel review as a condition of approval of subsequent preliminary and site development plan approval.
- (4) *Submit application, pay fees.* A developer applies for approval of a sketch plan or preliminary equivalent sketch plan by submitting the following items to the Department of Planning and Zoning for the entire parcel being subdivided:
- (i) An application form and checklist;
 - (ii) The required number of copies of the plan, which shall be:
 - (a) In accordance with the provisions of subsection (c), "Required Information for Sketch Plan," of this section; or
 - (b) If this is a preliminary equivalent sketch plan, in accordance with subsection (c), "Required Information for Preliminary Plan," of Section 16.146, "Preliminary Plan," of this subtitle; and
 - (iii) The appropriate application fee.
- (5) *Notice of new residential developments:*
- (i) *Requirement to give public notice.* If the sketch or preliminary equivalent sketch plan is the initial plan submittal for new residential development and is submitted after November 15, 2001, within three working days the developer shall post public notice on the property.
 - (ii) *Location.* The posters provided by the Department of Planning and Zoning shall be posted at the site of the proposed roadway entrances so that local residents may reasonably be expected to see them.
 - (iii) *Duration.* The notice shall remain in place at least 30 days.
 - (iv) *Content.* The notice shall:
 - a. State that a new residential development is proposed to be constructed at the site.
 - b. Give the sketch or preliminary equivalent sketch plan number.
 - c. Indicate that the sketch or preliminary equivalent sketch plan is available for inspection at the Department of Planning and Zoning.
 - (v) *Notification to persons who comment.* Any person commenting on a sketch plan or preliminary equivalent sketch plan within 14 days of plan submission shall be notified by the Department of Planning and Zoning that changes have occurred to the proposed plans at any stage of the review process.
 - (vi) *No delay.* The notification requirements of this subsection shall not be construed to delay the normal processing of the sketch or preliminary equivalent sketch plan.
- (6) *Processing of application.* Processing of the application for approval of the sketch or preliminary equivalent sketch plan will follow the general procedures outlined in section 16.144 "General Procedures Regarding the Subdivision Process," of this subtitle.

- (7) A developer who is proposing the redevelopment of a golf course shall comply with section 16.129 of this subtitle, and, for purposes of this section, the terms "redevelopment" and "golf course" shall have the meaning set forth in section 16.129 of this subtitle.
- (8) *Approval binding on County:*
- (i) Approval of a sketch plan is binding on the County for seven years provided that the subdivision is processed in accordance with the schedule included in the approved plan and:
- a. A preliminary plan is submitted within:
 1. Four months of sketch plan approval (subdivisions of 50 or fewer housing units);
 2. Six months of sketch plan approval (subdivisions of 51—100 housing units);
 3. Nine months of sketch plan approval (subdivisions of 101 or more housing units);
 4. Nine months of sketch plan approval for nonresidential subdivisions; and
 - b. A final plan is submitted within:
 1. Four months of preliminary plan approval (subdivisions of 50 or fewer housing units);
 2. Six months of preliminary plan approval (subdivisions of 51—100 housing units);
 3. Nine months of preliminary plan approval (subdivisions of 101 or more housing units);
 4. Nine months of preliminary plan approval for nonresidential subdivisions.
- (ii) Approval of a preliminary equivalent sketch plan is binding on the County for seven years provided that the subdivision is processed in accordance with the schedule included in the approved plan and a final plan is submitted within:
- a. Four months of preliminary equivalent sketch plan approval (subdivisions of 50 or fewer housing units);
 - b. Six months of preliminary equivalent sketch plan approval (subdivisions of 51—100 housing units);
 - c. Nine months of preliminary equivalent sketch plan approval (subdivisions of 101 or more housing units);
 - d. Nine months of preliminary equivalent sketch plan approval for nonresidential subdivisions.
- (9) *File original tracings of approved plan.* The developer shall file original tracings of the approved sketch or preliminary equivalent sketch plan with the Department of Planning and Zoning prior to the submission of the next plan stage. The original tracing shall be on a durable, reproducible of Mylar or comparable material approved by the Department of Planning and Zoning.
- (c) *Required Information.* A checklist specifying the required information format for sketch plan submission is to be provided by the Department of Planning and Zoning. For all types of subdivisions, except for apartments, the sketch plan, drawn on 24-inch by 36-inch sheets to scale one inch equals 200 feet, or as approved by the Department of Planning and Zoning shall be submitted on a topographic map, accompanied by an application form, checklist, and fee and the following items. Apartment developments shall be drawn at a scale of one inch equals 100 feet or one inch equals 50 feet and shall also provide the information required in paragraph (16) of this subsection. The Department of Planning and Zoning will provide a separate submission checklist for a preliminary equivalent sketch plan that incorporates appropriate requirements from the checklists for both sketch and preliminary plans.
- (1) Name and address of developer, owner, engineer, and/or surveyor.

- (2) Adjoining property owners, deed references and recorded subdivision names, recording references and adjoining property structures within 200 feet of the proposed property line. Provide information regarding any adjoining undeveloped parcel that is landlocked or has insufficient frontage which may need access through the proposed subdivision.
- (3) Development data, including land characteristics, availability of public utilities, existing and proposed individual wells, individual septic systems, and shared sewage disposal facilities, existing and proposed recreation, park and conservation areas, existing and proposed street systems, scenic roads, existing and proposed stormwater management systems, preliminary lot layout, approximate 100-year floodplain limits, wetlands and streambanks, wetland and stream buffers or steep slopes, if any.
- (4) Vicinity map.
- (5) North arrow.
- (6) The title block shall be in the lower right-hand corner and include:
 - (i) Proposed subdivision name which shall not be a duplicate of any other subdivision or development name in the Baltimore Metropolitan Area;
 - (ii) Scale of plan;
 - (iii) Location by election districts, County, and State;
 - (iv) Tax map, parcel number; and
 - (v) Date.
- (7) List of street names which, if approved by the Department of Planning and Zoning, will be reserved for that subdivision.
- (8) Existing zoning, number of acres and proposed lots.
- (9) Soils map at the scale of the subdivision plan with the boundary plotted and the mapping symbols indicated within the mapping boundaries.
- (10) Forest stand delineation as described in subtitle 12 of this title.
- (11) Whenever the sketch plan covers only a part of an applicant's contiguous holdings, the applicant shall submit, at the same scale as above, a sketch of the proposed subdivision area, with its proposed street system and an indication of the probable future street and drainage system of the remaining portion of the tract.
- (12) The location and approximate age of any burial grounds or existing structures and whether structures are to be retained or removed. A cemetery boundary documentation and accommodation plan shall be submitted, if applicable pursuant to the requirements of subtitle 13, "Cemetery Preservation," of this title.
- (13) The phasing schedule, if the subdivision is to be phased.
- (14) A traffic study pursuant to the requirements of subtitle 11, "Adequate Public Facilities," of this title.
- (15) Additional information which may be required by the review committee to evaluate the plan.
- (16) For apartment developments, the sketch plan shall be submitted for the entire acreage of contiguous ownership in accordance with paragraphs (1) through (15) of this subsection and shall include the following additional items:
 - (i) Approximate location of each building, setbacks from all streets (public or private), property lines, and distances between buildings.
 - (ii) Number of apartment units in each building.

- (iii) Number of parking spaces in each off-street parking area, and total number of parking spaces.
 - (iv) Interior road or street access, whether public or private, and total area of each.
- (17) For development of a site abutting a scenic road, the following are required:
- (i) Location of views and viewsheds as seen along the entire frontage of the scenic road, indicated on the plan.
 - (ii) Photographs, perspective sketches or elevations of the property as necessary to adequately portray the visual character of the scenic road right-of-way and the site as viewed from the scenic road.
 - (iii) Perspective sketches, elevations or cross-sections of the proposed development as viewed from the scenic road, showing the relationship of development to the scenic character of the landscape as viewed from the road.
- (18) Location of overhead utility line maintenance easements that would conflict with proposed landscaping or forest buffers, if any.
- (19) For cluster and density receiving subdivisions in the RC or RR zoning districts, a written explanation of how the proposed design meets the objectives set forth in sections 104.F.2, 105.F.2, or 106.F.3 of the zoning regulations.
- (20) For residential developments required to hold presubmission community meetings in accordance with section 16.128 of this subtitle, a certification that meeting notices were mailed and a summary of the comments made at the meeting.
- (21) For residential development projects requesting green neighborhood allocations, the preliminary equivalent sketch plan shall demonstrate how the project will comply with the green neighborhood site portion of the green neighborhood checklist.
- (22) A developer who is proposing the redevelopment of a golf course shall comply with section 16.129 of this subtitle, and, for purposes of this section, the terms "redevelopment" and "golf course" shall have the meaning set forth in section 16.129 of this subtitle.

(C.B. 121, 1992; C.B. 13, 1993; C.B. 80, 1993; C.B. 51, 1994; C.B. 20, 1996; C.B. 52, 2001, §§ 1, 2; C.B. 45, 2003, § 1; C.B. 29, 2005, § 1; C.B. 48, 2007, § 2; C.B. 60, 2007, § 3; C.B. 24, 2008, § 3)

Sec. 16.146. - Preliminary plan.

(a) *In General:*

- (1) *Purpose.* The purpose of the preliminary plan is to present detailed data which will enable the County to determine whether the proposed layout of the subdivision is in accordance with the approved sketch plan, the requirements of this section and the requirements of this subtitle.
- The preliminary plan is not intended to be a record plat, but shall be designed by a qualified technician trained and experienced in the layout of subdivisions and shall be sealed and signed by a registered engineer or other professional person qualified by law and licensed in the State of Maryland to seal and sign such plans.
- (2) *Preliminary equivalent sketch plan.* The preliminary plan stage may be omitted if the developer indicates intent to do so at the sketch plan stage and submits a preliminary equivalent sketch plan in accordance with the provisions of subsection (c), "Required Information for Preliminary Plan," of this section.
- (3) *Phased subdivisions.* Typically, a preliminary plan will cover only a portion of a phased subdivision and will provide more detailed data for the particular phase. The extent of a

subdivision included in each preliminary plan shall be consistent with the phasing schedule included in the approved sketch plan.

(b) *Procedures:*

- (1) *Submit application; pay fees.* A developer may apply for approval of a preliminary plan by submitting to the Department of Planning and Zoning:
 - (i) An application form;
 - (ii) The required number of copies of the preliminary plan, which shall be in accordance with the provisions of subsection (c), "required information for preliminary plan," of this section; and
 - (iii) The appropriate application fee.
- (2) *Processing of application.* Processing of the application for approval of the preliminary plan will follow the general procedures outlined in section 16.144, "General Procedures Regarding the Subdivision Process," of this subtitle.
- (3) *Design Advisory Panel review:*
 - (i) *Applicability.* This paragraph shall apply:
 - a. If the Department of Planning and Zoning determines that a preliminary plan is not consistent with an approved sketch plan; or
 - b. If a sketch plan is technically complete before November 3, 2008.
 - (ii) If applicable, a developer shall submit a project for review by the Design Advisory Panel and the Director of the Department of Planning and Zoning may consider recommendations made by the Design Advisory Panel in accordance with section 16.1504 of this subtitle as a condition of plan approval for projects located on property subject to design advisory panel review as set forth in section 16.1501 of this subtitle.
- (4) *Approval binding on County:*
 - (i) *Applicability.* This paragraph applies only to:
 - a. Subdivisions which:
 1. Are conditionally exempt from the requirement for testing of adequate public facilities pursuant to subtitle 11. "Adequate Public Facilities," of this title; and
 2. Had sketch plan approval prior to March, 1993; and
 3. Met the milestone for submission of the preliminary plan.
 - b. Subdivisions which missed the milestone for submission of the final plan and have been resubmitted for approval at the last plan stage which had been approved before the milestone was missed.
 - (ii) *Binding for seven years.* The preliminary plan is binding on the County for seven years provided that the subdivision is processed in accordance with the schedule included in the approved plan and a final plan is submitted within:
 - a. Four months of preliminary plan approval (subdivisions of 50 or fewer housing units);
 - b. Six months of preliminary plan approval (subdivisions of 51—100 housing units);
 - c. Nine months of preliminary plan approval (subdivisions of 101 or more housing units);
 - d. Nine months of preliminary plan approval for nonresidential subdivisions.
- (5) *File original tracings of approved preliminary plan.* The developer shall file original tracings of the approved preliminary plan with the Department of Planning and Zoning prior to the

submission of the final plan. The original tracing shall be on a durable, reproducible of Mylar or comparable material approved by the Department of Planning and Zoning.

- (c) *Required Information for Preliminary Plan.* A checklist specifying the format for preliminary plan submission shall be provided by the Department of Planning and Zoning. The following information shall be required for all preliminary plans:
- (1) The preliminary plan shall be submitted at a scale of one inch equals 100 feet, one inch equals 50 feet or as approved by the Department of Planning and Zoning and shall be clear and legible. The size of a sheet shall be 24 inches by 36 inches. When more than one sheet is required, an index sheet of the same size shall be submitted showing the entire subdivision drawn to scale.
 - (2) Vicinity map indicating the location of the property with respect to surrounding property and streets to an accurate scale.
 - (3) The names, liber, and folio of all adjoining unsubdivided property. If a recorded subdivision adjoins the land to be developed, the subdivision name, lot number, block number, and recording number shall be indicated with dashed lines.
 - (4) Title block shall be in the lower right-hand corner and include:
 - (i) Proposed subdivision name, which shall not be a duplicate of any subdivision or development name in the Baltimore Metropolitan Area;
 - (ii) Section number;
 - (iii) Scale of plan;
 - (iv) Location by election district, County, and State;
 - (v) Date; and
 - (vi) Tax map and parcel number.
 - (5) Name and address of the owner and/or developer and registered engineer or other professional person licensed in the State of Maryland responsible for the preparation of the plan; signature, and seal of engineer, or other professional person qualified by law and licensed in the State of Maryland to sign and seal the preliminary plan and corporation (if corporate developer) is required.
 - (6) North arrow.
 - (7) Boundary of proposed subdivision clearly indicated by a heavy line with bearings and distances.
 - (8) All existing pertinent features, either natural or manmade, on-site or within 200 feet of the project property line that may influence the design of the subdivision, including streambanks, wetlands, floodplains, required buffers, soil characteristics, forests or important trees, utility rights-of-way including maintenance easements, individual well and septic systems and shared sewage disposal systems, or existing buildings, structures, and burial grounds. Indicate the approximate age of any structure and whether it is to be retained or removed. A cemetery boundary documentation and accommodation plan shall be submitted, if applicable pursuant to the requirements of subtitle 13, "Cemetery Preservation," of this title.
 - (9) Existing topography at two-foot contour intervals. Contour lines shall be indicated 200 feet beyond subdivision boundary.
 - (10) Location, widths, and names of all streets or alleys on or adjoining the subdivision. Existing easements and streets which have been preliminarily approved or recorded but remain unimproved shall be indicated with dashed lines.
 - (11) The layout of all proposed streets, including widths of rights-of-way and pavements, widths and locations of sidewalks or paths, and general location of street trees.

- (12) Location of existing and proposed utilities on or adjoining the tract, indicating approximate pipe sizes and directions of slopes. Include electric and telephone poles, street lights, and fire hydrants. If no hydrants, indicate provisions for fire protection.
- (13) The layout of all proposed and existing lots with appropriate dimensions and minimum area in square feet (acres if lot size is greater than 60,000 square feet), section number and area number, and required front, side, and rear setbacks except in the New Town district.
- (14) All subdivisions shall be tied to the Maryland Coordinate System if control points and information are within one mile of proposed subdivision. Coordinate values needed on all points on the boundary of the preliminary plan shall be presented in tabular form. Original monument references may be obtained from the Department of Public Works.
- (15) Lot numbers in numerical order throughout the entire subdivision for single-family lots. Apartment, condominium, commercial, industrial and bulk parcels will be designated by letters in alphabetical order.
- (16) The approximate location, dimensions, and area of all property proposed to be reserved or temporarily reserved for public use, or reserved for the use of all property owners in the subdivision and the location, dimensions, and purposes of any proposed easements.
- (17) Zoning district classification governing the subject tract and adjoining properties.
- (18) Proposed drainage and stormwater management systems including the type of structures, drainage easements, proposed changes in topography, the 100-year floodplain, and any deviations from standards. Justification shall be provided for rejecting preferred stormwater management measures in favor of less preferred methods unless predetermined by the Department of Planning and Zoning, after consultation with the Director of Public Works, and in accordance with the Design Manual.
- (19) If a private sewage or water supply system or shared sewage disposal system is to be used, location and results of soil percolation tests and locations of water wells are to be indicated in accordance with the specifications of the Maryland State Department of Environment. Signature block for County Health officer should be provided on the percolation plan or the plan sheets showing required well and septic information. No other sheets require signature by the Health Officer.
- (20) Total number of lots, area of lots, and parcels, area of public roadway and open space dedications, and total area of subdivision should be listed.
- (21) Locations and extent of proposed erosion and sediment control measures, as required, by the Howard County Soil Conservation District shall be shown.
- (22) Soil map at the scale of the subdivision plan, with the boundary plotted and the mapping symbols indicated within the mapping boundaries.
- (23) Preliminary forest conservation plan as described in subtitle 12 of this title.
- (24) The following information shall accompany the submission of the preliminary plan in accordance with requirements contained in the design manual:
 - (i) Tentative profiles of each street center line and typical cross section of each type of street.
 - (ii) Preliminary drainage area map and preliminary storm drainage study for the entire area covered by the preliminary subdivision plan. The storm drainage study shall include an evaluation of drainage structures and/or drainage systems, both upstream and downstream, affected by the drainage from the area covered by the preliminary plan as required by section 16.133 of this subtitle.
 - (iii) Preliminary grading plan showing limits of disturbance, grading for subdivision improvements and mass grading, if proposed. Schematic grading, for residential lots smaller than 20,000 square feet in area shall be shown to demonstrate that units can be

accommodated without adverse drainage impacts or disturbance of floodplains, wetland and stream buffers, or proposed forest conservation easements.

- (25) A traffic study shall accompany all preliminary plans for subdivisions which are required to pass the test for adequate road facilities pursuant to subtitle 11, "Adequate Public Facilities," of this title and have not yet been tested or have to be tested because of failure to meet a milestone.
- (26) Preliminary landscape plan as described in subsection 16.124(a)(3)(i) of this title.
- (27) In addition, preliminary plans for apartments shall include:
 - (i) Approximate location of each building, setbacks from all streets (public or private), property lines, and distances between buildings.
 - (ii) Number of apartment units in each building.
 - (iii) Number of parking spaces in each off-street parking area, and total number of parking spaces.
 - (iv) Interior road or street access, whether public or private, and total area of each.
- (28) A developer who is proposing the redevelopment of a golf course shall comply with section 16.129 of this subtitle, and, for purposes of this section, the terms "redevelopment" and "golf course" shall have the meaning set forth in section 16.129 of this subtitle.

(C.B. 121, 1992; C.B. 13, 1993; C.B. 80, 1993; C.B. 16, 1995; C.B. 20, 1996; C.B. 52, 2001, § 2; C.B. 3, 2005, § 3; C.B. 60, 2007, § 3; C.B. 24, 2008, § 3)

Sec. 16.147. - Final subdivision plan and final plat.

- (a) *Purpose.* The final subdivision plan is the culmination of the subdivision process and shall include all information necessary to comply with subsection (c), "required information for final plat"; (d) "construction drawings, documents and specifications"; (e), "developer's agreement"; and (f), "major facilities agreement," of this section. The final plat becomes the official record of the division of land, and no lot within the subdivision may be sold legally until a final plat has been approved and recorded by the Department of Planning and Zoning. The extent of a phased subdivision included in each final subdivision plan shall be consistent with the phasing schedule included in the approved sketch plan.
- (b) *Procedures:*
 - (1) *Presubmission community meeting for minor subdivisions.* If the initial plan submittal for a residential subdivision is a final plan located in the planned service area for water and sewer, the developer of the subdivision is required to hold a presubmission community meeting in accordance with section 16.128 of this subtitle.
 - (2) *Design Advisory Panel review.* In the Department of Planning and Zoning determines that a final plan is not consistent with an approved sketch or preliminary plan, a developer shall submit the project for review by the Design Advisory Panel and the Director of the Department of Planning and Zoning may consider recommendations made by the Design Advisory Panel in accordance with section 16.1504 of this subtitle as a condition of plan approval for projects located on property subject to Design Advisory Panel review as set forth in section 16.1501 of this subtitle.
 - (3) *Submit application pay fees.* A developer applies for approval of a final plan by submitting the following items to the Department of Planning and Zoning for the entire parcel or for phased subdivisions, the phase being subdivided:
 - (i) An application form;

- (ii) The required number of copies of the final plan, which shall be in accordance with the provisions of this section; and
 - (iii) The appropriate application fee.
- (4) *Notice of new residential minor subdivisions and resubdivisions:*
- (i) *Requirement to give public notice.* If the final plan submission is the initial plan submittal for new residential development and is submitted after November 15, 2001, within three working days of the plan's submission the developer shall post public notice on the property.
 - (ii) *Location.* The poster provided by the Department of Planning and Zoning shall be posted at the site of the proposed development entrance so that community residents may reasonably be expected to see it.
 - (iii) *Duration.* The notice shall remain in place at least 30 days.
 - (iv) *Content.* The notice shall:
 - a. State that a new residential development is proposed to be constructed at the site, including number of residential units proposed.
 - b. Give the final plan number.
 - c. Be double-sided and at least 30 inches by 36 inches in size.
 - d. Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
 - e. Give the address of the subject property, if available.
 - f. Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.
 - (v) *No delay.* The notification requirements of this subsection shall not be construed to delay the normal processing of the plan.
- (5) *Processing of application.* Processing of the application for approval of the final plan will follow the general procedures outlined in section 16.144, "General procedures regarding the subdivision process," of this subtitle.
- (6) A developer who is proposing the redevelopment of a golf course shall comply with section 16.129 of this subtitle, and, for purposes of this section, the terms "redevelopment" and "golf course" shall have the meaning set forth in section 16.129 of this subtitle.
- (7) *Fee simple dedication of open space.* If dedication of open space to the County or a homeowners' association is proposed, the developer shall submit an original deed to the County prior to recordation of the final plat, granting good and sufficient fee simple title to all open space required to be dedicated.
- (8) *Dedication of Easements.* If dedication of easements for water, sewer, storm drainage, public stormwater management facilities, shared septic facilities, other public utilities, forest conservation, floodplains or preservation parcels is proposed, the developer shall submit original deeds (or declaration of covenants in the case of shared septic facilities) to the County prior to the recordation of the final plat, granting the required easements.
- (9) *Recordation.* The Department of Planning and Zoning shall record the final plat in the land records of Howard County and shall notify the developer by mail of the date of recording and the plat number. For resubdivisions and correction plats, the Department of Planning and

Zoning shall also record a notation in the form of a resolution that references the revised plat to be affixed to the previously recorded lot or lots.

- (c) *Required Information for Final Plat.* A checklist specifying the required format for final plat submission shall be provided by the Department of Planning and Zoning. The final plat shall be clearly and legibly drawn in black waterproof ink on a reproducible linen of good quality or comparable material approved by the Howard County Department of Planning and Zoning and shall conform to the plat requirements of the Annotated Code of Maryland, as amended. The size of the plat shall be 18 inches by 24 inches, including a one and one-half-inch margin for binding along the left-hand edge and one-half-inch margins on all other sides. Scale shall be one inch equals 100 feet, one inch equals 50 feet, one inch equals 30 feet, or as approved by the Department of Planning and Zoning. Where necessary, the final plat may be on several sheets accompanied by an index sheet showing the entire subdivision submitted. Information to be shown on the final plat shall include:
- (1) The title block shall appear in the lower right-hand corner and include:
 - (i) Name of the subdivision. The name approved by the Department of Planning and Zoning and recorded in the land records shall constitute the subdivision's official and only name. No other name may be used for advertising or sales purpose unless an approved and amended plat is recorded bearing the revised name.
 - (ii) Section, area (if any), and lot numbers.
 - (iii) Scale and date of application.
 - (iv) Location by election district, County, State, tax map reference.
 - (v) Current zoning and previous Department of Planning and Zoning subdivision file numbers.
 - (2) An approval block in the form required by the Department of Planning and Zoning shall be provided in the lower left-hand corner of the plat for signature of County Agencies.
 - (3) Tabulation of final plat (above approval block) showing the following:
 - (i) Total number of lots and/or parcels to be recorded;
 - (ii) Total area of lots and/or parcels;
 - (iii) Total area of roadways to be recorded including widening strips; and
 - (iv) Total area of subdivision to be recorded.
 - (4) A heavy line indicating the boundary of the final plat with lengths of courses to hundredths of a foot and bearings relating to the Maryland State Plane Coordinate System to a minimum accuracy of 15 seconds, if Howard County geodetic survey control points and information are within one mile of proposed subdivision. A note shall be placed on the plat indicating the source of the Maryland State Plane Coordinate System.
 - (5) Coordinate information for all property lines, streets, public right-of-way lines, outside boundary of plat and all other locations as required by the Department of Planning and Zoning and shall be in tabular form.

The lengths of all arcs, radii, points of curvature, and cord and tangent bearings and distances in table form.
 - (6) Howard County geodetic control survey stations located on the site shall be accurately located. Any geodetic control stations that need relocation shall be identified.
 - (7) Exact locations, widths, bearings, and names of all streets and widths of all alleys and pedestrian ways within the subdivision or adjoining subdivision abutting on the outline of the subdivision.
 - (8) All rights-of-way, easements, and reservations, including:

- (i) Easements to fulfill the requirements of the final forest conservation plan as required by subtitle 12 of this title; as well as
 - (ii) Preservation parcel easements for cluster subdivisions in the RC or RR zoning districts and, where a shared sewage disposal facility is to be used, access and maintenance easements for all components of the facility, including easements for septic tanks and piping on private lots and easements for a subsurface wastewater disposal area. All existing and proposed easements shall be shaded and indicated with recording references if existing.
 - (iii) Easements for water, sewer, storm drainage, public stormwater management facilities, other public utilities, floodplains, and maintenance of use-in-common driveways.
 - (iv) All existing and proposed easements shall be shaded and indicated with recording references if existing.
- (9) All lot lines with dimensions in feet and hundredths, and with bearings to a minimum accuracy of 15 seconds.
 - (10) Minimum area of each lot in square feet or in acres if lot size is greater than 60,000 square feet. Steep slopes shall be calculated using existing topography.
 - (11) Lot numbers in numerical order throughout the entire subdivision. For a resubdivision, resubdivided lots shall be numbered numerically, beginning with number following the highest original lot number with the original lot lines shown dashed and original lot number dotted. Apartment, condominium, nonresidential and bulk parcels will be lettered in alphabetical order. For a resubdivision of any parcel, the letter will be retained with a number to follow the letter (example "A-1"); the original parcel lines shown dashed; and original parcel letter dotted.
 - (12) Front, rear, and side building setback or restriction lines shown graphically with dimensions for each lot except in the New Town district.
 - (13) Vicinity map, indicating the location of the property with respect to surrounding property and streets and the location of nearby survey monuments of the Howard County geodetic control.
 - (14) The names, liber, and folio of all adjoining unsubdivided property. Where a recorded division adjoins the land to be developed, the subdivision name, lot number, and recording reference of the recorded division should be indicated with dashed line.
 - (15) North arrow drawn through one of the property corners of the subdivision.
 - (16) Accurate outlines of any open space to be dedicated to the County or reserved for common use by occupants of the subdivision with ownership noted.
 - (17) The location of floodplains, wetlands, wetland buffers, stream buffers and proposed wetlands creation, if any. Floodplain and wetlands delineations are not required for agricultural preservation subdivisions or rural cluster subdivisions if the owner submits a certification by an authorized professional that lots and driveways will not impact wetlands, wetland buffers, or floodplains. A cemetery boundary documentation and accommodation plan shall be submitted, if applicable pursuant to the requirements of subtitle 13, "Cemetery Preservation," of this title.
 - (18) The location and approximate age of any burial grounds or existing structures and whether structures are to be retained or removed.
 - (19) If a private sewage system or a shared sewage disposal facility is to be used, locations of soil percolation tests are to be indicated in accordance with the specifications of the Maryland State Department of the Environment. A cross-hatched area will be noted on the final plat to indicate the private sewage easement area along with the following statement:

"This area designates a private sewage easement of at least 10,000 square feet (or 10,000 square feet per lot for shared drain fields associated with a shared sewage disposal facility) as required by the Maryland State Department of the Environment Subdivision Regulations (COMAR 26.04.03). Improvements of any nature in this area are restricted unless public

sewage becomes available. These easements shall become null and void upon connection to a public sewage system. The County Health Officer shall have the authority to grant variances for encroachments into the private sewage easement. Recordation of a modified sewage easement shall not be necessary."

- (20) A certification that the developer is the owner or equitable owner of the land proposed to be subdivided shall be noted on the final plat as follows:

SURVEYOR'S CERTIFICATE

"I hereby certify that the final plat shown hereon is correct; that it is a subdivision of part of/all of the lands conveyed. By (previous owner) to (present owner) by deed dated (date) and recorded in the land records of Howard County in liber , folio , and that all monuments are in place or will be in place prior to the acceptance of the streets in the subdivision by Howard County as shown, in accordance with the Annotated Code of Maryland, as amended.

<u> </u> Date	<u> </u> Registered Land Surveyor/Property Line Surveyor"
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- (21) A certification by the owner or owners of property to the effect that the subdivision as shown on the final plat is made with his consent and that it is the owner(s) desire to record the same and shall be noted on the final plat as follows:

DEDICATION FOR INDIVIDUALS

"We , and owners, of the property shown and described hereon, hereby adopt this plan of subdivision, and in consideration of the approval of this final plat by the Department of Planning and Zoning, establish the minimum building restriction lines and grant unto Howard County, Maryland, its successors and assigns:

- (1) The right to lay, construct and maintain sewers, drains, water pipes and other municipal utilities and services, in and under all roads and street rights-of-way and the specific easement areas shown hereon;
- (2) The right to require dedication for public use the beds of the streets and/or roads and floodplains and open space where applicable, and for good and other valuable consideration, hereby grant the right and option to Howard County to acquire the fee simple title to the beds of the streets and/or roads and floodplains, storm drainage facilities and open space where applicable;
- (3) The right to require dedication of waterways and drainage easements for the specific purpose of their construction, repair and maintenance; and
- (4) That no building or similar structure of any kind shall be erected on or over the said easements and right-of-ways.

"Witness my/our hands this day of , 19 ."

DEDICATION FOR CORPORATIONS

" (Name of corporation) , a (name and State) corporation by _____ authorized agent _____, secretary, owner of the property _____ shown and described hereon, hereby adopted this plan of subdivision, and in consideration of the approval of this final plat by the Department of Planning and Zoning, establish the minimum building restriction lines and grant unto Howard County, Maryland, its successors and assigns:

- (1) The right to lay, construct and maintain sewers, drains, water pipes and other municipal utilities and services, in and under all roads and street rights-of-way and the specific easement shown hereon;
- (2) The right to require dedication for public use the beds of the streets and/or roads, and floodplains and open space where applicable and for good and other valuable consideration, hereby grant the right and option to Howard County to acquire the fee simple title to the beds of the street and/or roads and floodplains, storm drainage facilities and open space where applicable; and
- (3) The right to require dedication of waterways and drainage easements for the specific purpose of their construction, repair and maintenance; and
- (4) That no building or similar structure of any kind shall be erected on or over the said easements and right-of-ways.

"Witness my/our hands this _____ day of _____, 19____.

	_____ (Name of corporation)
(Corporate seal) By:	_____ (Authorized agent)
Attest:	_____ (Secretary)"

(Note: Names shall be located on plat so that the seal can be affixed.)

- (22) When a division of land is a minor subdivision or resubdivision and there are no public dedications involved, the following owners' certification may be noted on the plat as follows:

**ALTERNATE DEDICATION
CERTIFICATE**

"We, _____ and _____, owners of the property shown and described hereon, hereby adopt this plan of subdivision; and in consideration of the approval of this plat by the Department of Planning and Zoning establish the minimum building restriction lines. All easements of [or] rights-of-way affecting the property are included in this plan of subdivision.

"Witness my/our hand/s this _____ day of _____, 19____."

- (23) References for protective covenants, including covenants governing the maintenance of undedicated public spaces, reservations, or forest conservation areas.

- (24) Where appropriate, open space dedication to a homeowner's association shall be noted on the final plat in accordance with subsection 16.121(c) as follows:

OPEN SPACE DEDICATION

"The open space shown hereon is hereby dedicated to a property owners association for the residents of this subdivision and recording references of the Articles of Incorporation and restrictions are shown hereon."

- (25) For cluster subdivisions in the RC or RR zoning districts, reference the protective covenants governing the use of preservation parcels.
- (26) For a density exchange or a cluster exchange subdivision in the RC or RR zoning districts, provide:
- (i) References on the receiving subdivision plat for the sending parcel subdivision(s).
 - (ii) References on the sending subdivision plat(s) to the receiving subdivision plat(s), the number of lots exchanged and whether any density remains on the sending plat.
 - (iii) The following certification on the sending parcel easement plat:

SURVEYOR'S CERTIFICATE FOR DEO SENDING PARCEL

I hereby certify that the final easement plat shown hereon is correct; that it defines a preservation parcel easement of _____ acres on (all/part) of the land conveyed by (previous owner) to (present owner) by deed dated (date) and recorded in the land records of Howard County in liber _____, folio _____. All monuments are in place.

_____	_____
Date	Registered Land Surveyor/ Property Line Surveyor

- (27) If a subdivision consisting of lots smaller than three acres each is in a planned service area for sewer as specified in the Howard County Master Plan for Water and Sewerage, and individual on-site sewage disposal systems are used but an adequate community sewer system will be available within a five-year period, the following statement shall appear on the final plat:

"Interim individual on-site sewage disposal systems may be utilized in the subdivision for a maximum of one year after an adequate community sewer system becomes available."

- (28) If a subdivision consisting of lots smaller than three acres each is in a planned service area for water as specified in the Howard County Master Plan for Sewerage, and individual interim water wells are used, but an adequate community water system will be available within a five-year period, the following statement shall appear on the final plat:

"Interim individual water wells may be utilized in the subdivision for a maximum of one year after an adequate community water system becomes available."

- (29) A certification by the developer that there are no burial grounds on the property being subdivided, or if there are burial grounds on the property being subdivided, a certification that the burial grounds have not and will not be disturbed except as permitted by State law.
- (30) Certification by a qualified professional that:
- (i) There are no wetlands on-site that will be disturbed and require 401 and 404 wetlands permits from the State of Maryland; or
 - (ii) Reference the numbers of 401 and 404 wetlands permits that have been approved and any wetlands mitigation requirements.
- If mitigation is required indicate the type, amount and proposed location.
- (31) Parcel and right-of-way boundaries in a digital format that meets County standards to be submitted with the final plat original Mylar.
- (32) For residential developments required to hold a presubmission community meeting in accordance with section 16.128 of this title, a certification that meeting notices were mailed and a summary of the comments made at the meeting.
- (33) For residential development projects requesting green neighborhood allocations. The final plan shall demonstrate how the project will comply with the green neighborhood site portion of the green neighborhood checklist. The final plat shall indicate that the development has obtained green neighborhood allocations and shall indicate that during the building permit process all buildings within the residential development project shall comply with the green neighborhood home portion of the green neighborhood checklist.
- (34) A developer who is proposing the redevelopment of a golf course shall comply with section 16.129 of this subtitle, and, for purposes of this section, the terms "redevelopment" and "golf course" shall have the meaning set forth in section 16.129 of this subtitle.
- (d) *Construction Drawings, Documents and Specifications.* The developer shall file concurrent with the submission of the final plat all of the construction drawings and documents to complete construction of streets, storm drains, and stormwater management facilities, together with all necessary appurtenances thereto in accordance with procedures and criteria contained in the Design Manual. The developer shall prepare and submit copies as required to the Department of Planning and Zoning:
- (1) A forest conservation plan, including the locations and specifications for forest retention, reforestation or afforestation.
 - (2) A landscape plan, including locations and specifications for required landscape planting and street trees.
 - (3) A final drainage area map.
 - (4) A final storm drainage plan.
 - (5) A final stormwater management plan.
 - (6) A final grading plan, showing grading for all subdivision improvements, and, where applicable, mass grading and the location of sewage disposal easements within 25 feet of the limits of disturbance.
 - (7) A final sediment control plan for the entire project area to be recorded and for any adjacent area affected by the area to be recorded, including:
 - (i) The location of forest protection measures, temporary and permanent sediment control measures and vegetative stabilization.
 - (ii) The construction sequence for providing forest protection measures and adequate sediment control measures to prevent off-site damage.

- (iii) Specifications for seeding or sodding and fertilizing, a schedule for grading, seeding or sodding and planting, and applicable structural measures, such as ponds.
 - (8) Wetlands mitigation plan and specifications, if required.
 - (9) Complete project specifications when they differ from Howard County standards.
 - (10) The developer shall furnish any design data and computations as required and in the form and procedures established by the Department of Planning and Zoning and the Howard Soil Conservation District.
 - (11) A tabulated estimate of all quantities and costs, including contingent items related to the construction of all required public improvements.
 - (12) A traffic study shall accompany all final plans for subdivisions which are required to pass the test for adequate road facilities pursuant to subtitle 11, "Adequate Public Facilities," of this title and have not yet been tested or have to be tested because of failure to meet a milestone.
 - (13) A final shared sewage disposal facility plan, where shared sewage disposal facility is to be used for cluster subdivisions in the RR and RC districts.
 - (14) For developments where the required open space will be owned and managed by a home owner's association, articles of incorporation and covenants for the home owner's association are required, as well as the deed granting fee simple ownership of the open space to the home owner's association.
- (e) *Developer Agreements.* After final plan approval and signature approval of all construction drawings and prior to the submission of the original final plat, the developer shall post with the County all necessary monies and file a developer's agreement and if required, a major facilities agreement and/or a shared sewage disposal facility developer agreement. The developer's agreement(s) shall cover financial obligations with appropriate security guaranteeing installation of all required improvements, including APFO improvements, installation and warranty of a shared sewage disposal facility on a cluster subdivision in the RR or RC zoning district, and fulfillment of the protection and management requirements of the approved forest conservation plan. The agreement may provide that the developer may be partially released from the surety requirements of the agreement upon partial completion of the work in accordance with criteria established by the Department of Public Works. The agreement shall provide when either the onsite or offsite road improvements that are the responsibility of the developer to build are required to be started in the sequence of construction. The sequence of construction, as set forth in the approved plans and specifications, shall be incorporated into the agreement by reference. Failure to construct road improvements in accordance with the developer agreement, and incorporated approved plans and specifications, may result in default in accordance with the agreement and building permits shall not be issued. The Director of the Department of Planning and Zoning may authorize submission of the original final plat if the developer agreement is not complete, but is in process and can be fully executed in a timely manner.
- (f) *Major Facilities Agreement.* After final plat approval and prior to the submission of the original final plat, the developer shall post with the County all necessary monies and file a major facilities agreement covering the installation of all public improvements included as mitigation to road facilities pursuant to subtitle 11, "Adequate Public Facilities" of this title.

(C.B. 121, 1992; C.B. 13, 1993; C.B. 80, 1993; C.B. 16, 1995; C.B. 20, 1996; C.B. 15, 1998; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1; C.B. 29, 2005, § 1; C.B. 48, 2007, § 2; C.B. 60, 2007, § 3; C.B. 24, 2008, § 3; C.B. 1, 2018, § 1; C.B. 69, 2018, § 1)

Secs. 16.148—16.153. - Reserved.

ARTICLE V. - PROCEDURES FOR FILING AND PROCESSING SITE DEVELOPMENT PLAN APPLICATIONS

Sec. 16.154. - Purpose.

The purpose of the site development plan is to indicate the location and construction specifications for buildings, structures, paved areas, grading, drainage, on-site utilities, sidewalks, trails, required forest conservation area, landscaping and other improvements within a site proposed for development.

(C.B. 121, 1992)

Sec. 16.155. - Applicability.

(a) A site development plan, approved by the Department of Planning and Zoning, is required for:

(1) *Nonresidential*:

- (i) New or expanded nonresidential development, including commercial, industrial, institutional and utility development, plus public buildings, schools and other public facilities, but excluding road, water, sewer or drainage improvements and development associated with a use permit approved by the Department in accordance with section 128 of the zoning regulations.
- (ii) Any establishment of a use or change in use, unless the Department of Planning and Zoning determines that the establishment or change in use will cause less than 5,000 square feet of site disturbance, that no significant alteration to access, parking, circulation, drainage, landscaping, structures, or other site features is required, and that the proposed use does not qualify as redevelopment that requires stormwater management in accordance with the design manual.

(2) *Residential*. New residential development as follows:

- (i) Single-family attached, apartment, and mobile home residential development;
- (ii) Development of single-family detached residential lots and deeded parcels within the planned service area for both public water and sewer, except that lots in recorded subdivisions created before February 7, 1976 are exempt from site development plan requirements unless more than 5,000 square feet of disturbance is proposed and the lots have not been reconfigured or merged through the recordation of a plat recorded on or after February 7, 1976; and
- (iii) Residential lots with new town zoning, not meeting the requirements of subparagraphs (i) or (ii) of this paragraph, where the final development plan criteria require submission of a site development plan.

(3) *Conditional use*. All conditional uses in commercial or industrial districts. In other districts, the Department of Planning and Zoning may require a site development plan for conditional uses which require exterior site improvements.

(b) For residential development not listed in subsection (a) above, a plot plan shall be submitted in conjunction with the building permit application and in accordance with the requirements of the Department of Inspections, Licenses and Permits.

(C.B. 121, 1992; C.B. 20, 1996; C.B. 29, 2001, § 1; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1)

Sec. 16.156. - Procedures.

(a) *Presubmission Community Meetings, Required*. Presubmission community meetings in accordance with section 16.128 of this subtitle are required for the following site plan submittals:

- (1) If the initial plan submittal for a residential development is a site development plan; or
- (2) If the site development plan submittal is for:

- a. A new nonresidential development except that a presubmission community meeting is not required for County Capital Projects for which a community outreach meeting has been held by the County or the Howard County Public School System; or
 - b. An existing nonresidential development proposed for a floor area expansion of more than 25 percent except that a presubmission community meeting is not required for County Capital Projects for which a community outreach meeting has been held by the County or the Howard County Public School System.
- (b) *Design Advisory Panel:*
 - (1) *Review.* If required by paragraphs (2), (3), and (4) of this subsection, a developer shall submit a project for review by the Design Advisory Panel and the Director of the Department of Planning and Zoning may consider recommendations made by the Design Advisory Panel in accordance with section 16.1504 of this subtitle as a condition of plan approval for projects located on property subject to design advisory panel review as set forth in section 16.1501 of this subtitle.
 - (2) *Site development plans submitted on or after November 3, 2008.* For site development plans submitted on or after November 3, 2008, a developer shall submit the project for Design Advisory Panel review prior to submission of the site development plan.
 - (3) *Sketch plans technically complete before November 3, 2008.* For sketch plans that are technically complete before November 3, 2008, a developer shall submit the project for Design Advisory Panel review as a condition of approval of the site development plan.
 - (4) *Further review required.* If the Director of Planning and Zoning determines that a site development plan is not consistent with the plan initially reviewed by the panel, the Director of Planning and Zoning may require additional review by the panel prior to plan approval.
- (c) *Application.* The applicant for a site development plan shall submit the following to the Department of Planning and Zoning:
 - (1) Completed application form.
 - (2) The required number of copies of the site development plan, in accordance with the information requirements of section 16.157.
 - (3) For commercial or industrial plans:
 - (4) Compliance with green buildings law. A site development plan application for a project that is required to comply with the Howard County Green Buildings Law, set forth in title 3, subtitle 10 of this Code, shall comply with subsection 3.1005(a) of this Code prior to approval of the plan.
 - (i) Completed wastewater questionnaire.
 - (ii) At the specific request of the Department of Public Works, additional information regarding proposed industrial processes and wastewater characteristics.
 - (iii) A statement signed by the applicant agreeing to abide by the requirements of section 18.122A, "Regulation of Discharges to the Public Sewerage System" of this Code.
- (d) *Fees.* The applicant for a site development plan shall pay an appropriate fee pursuant to the fee schedule adopted by resolution of the County Council.
- (e) *Notice of New Residential Developments:*
 - (1) *Requirement to give public notice.* If the site development plan is the initial plan submittal for a new residential development and is submitted after November 15, 2001, within three working days of the plan's submission the developer shall post public notice on the property.
 - (2) *Location.* Posters provided by the Department of Planning and Zoning shall be posted at the site of the proposed roadway entrances so that local residents may reasonably be expected to see them.

- (3) *Duration.* The notice shall remain in place at least 30 days.
- (4) *Content.* The notice shall:
 - (i) State that a roadway entrance is proposed to be constructed at the site.
 - (ii) Give the site development plan number.
 - (iii) Be double-sided and at least 30 inches by 36 inches in size.
 - (iv) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
 - (v) Give the address of the subject property, if available.
 - (vi) Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.
- (f) *Notice to Nonconforming Residential Properties.* Whenever a site plan is submitted for nonresidential development which adjoins nonconforming residential properties, the owner of the nonconforming residential properties shall be notified within 14 working days by the Department of Planning and Zoning, by registered mail, that the proposed site plan is available for inspection at the Department of Planning and Zoning. The notification letter shall state that owner of adjoining nonconforming residential properties may appeal the decision of the Department of Planning and Zoning on the site plan to the Board of Appeals of Howard County within 30 days.
- (g) *Report of Review Committee; Additional Information:*
 - (1) Within 60 days of active processing time from submission of the site development plan, the Department of Planning and Zoning shall provide the developer with a written report of the findings of the Review Committee including the comments of the Review Committee and its recommendations.
 - (2) If the Department of Planning and Zoning or the Review Committee indicates that additional information is needed in order to decide whether to approve the plan, the developer shall provide the information within 45 days of receiving such indication.
- (h) *Golf Course Redevelopment.* A developer who is proposing the redevelopment of a golf course shall comply with section 16.129 of this subtitle, and, for purposes of this section, the terms *redevelopment* and *golf course* shall have the meaning set forth in section 16.129 of this subtitle.
- (i) *Approval/Denial of Site Development Plan:*
 - (1) Within 60 days of active processing time from submission of the site development plan or, if additional information was requested, within 45 days of receiving the information, the Department of Planning and Zoning shall indicate to the developer in writing whether the site development plan is approved, approved with modifications or denied.
 - (2) If the site development plan is approved or approved with modifications, this notice shall serve as authority to proceed to submission of the site development plan originals, except for projects which require Planning Board approval.
- (j) *Planning Board Approval:*
 - (1) When the site development plan also requires Planning Board Approval, the Department of Planning and Zoning shall advise the developer of the location, time and date of the Planning Board meeting when it notifies the developer that the site development plan has been approved or approved with modifications by the Department.
 - (2) The Planning Board shall indicate to the developer in writing whether the site development plan is approved, approved with modifications or denied.

- (k) *Developer Agreements; Major Facilities Agreements.* Concurrent with the approval of the site development plan, the developer shall execute the developer agreement(s) and major facilities agreement, if any, for required improvements, including APFO improvements, and, where applicable, for fulfillment of the protection and management requirements of the approved forest conservation plan. The agreement may provide that the developer may be partially released from the surety requirements upon partial completion of the work in accordance with criteria established by the Department of Public Works. The agreement shall provide when either the onsite or offsite road improvements that are the responsibility of the developer to build are required to be started in the sequence of construction. The sequence of construction, as set forth in the approved plans and specifications, shall be incorporated into the agreement by reference. Failure to construct road improvements in accordance with the developer agreement, and incorporated approved plans and specifications, may result in default in accordance with the agreement and building permits shall not be issued.
- (l) *Payment of Fees; Posting of Financial Obligations.* Within 180 days of receiving approval of the site development plan the developer shall:
- (1) Pay all required fees to the County; and
 - (2) If subject to a developer agreement or major facility agreement. Post all monies and/or file appropriate surety covering the developer's financial obligations for the required improvements.
- (m) *Submission of Originals for Signature.* Within 180 days of approval of the site development plan, the developer shall submit the original Mylar plans corrected to meet the requirements of the various State and County agencies and the Planning Board (if required by the zoning regulations). The Department of Planning and Zoning shall coordinate the signature process associated with approval of the site development plan. If the corrected originals are not submitted within 180 days of approval of the site development plan, the approval will expire and a new site development plan submission will be required.
- (n) *Retention of Originals.* Once signed, the site development plan originals will be retained in the files of the Department of Public Works.
- (o) *Building Permits:*
- (1) *Application time limits:*
 - (i) Within one year of signature approval of the site development plan original, the developer shall apply to the Department of Inspections, Licenses and Permits for building permits to initiate construction on the site.
 - (ii) For single-family attached, apartment and nonresidential developments involving multiple buildings or staged construction, the developer shall apply for building permits for all construction authorized by the approved site development plan within two years of signature approval.
 - (iii) For single-family detached site development plans involving multiple lots, the developer shall apply for building permits for all construction authorized by the approved site development plan within five years of approval.
 - (2) *Expiration of plan approval.* If the developer does not apply for building permits as required by paragraph (1) of this subsection, the site development plan shall expire and a new site development plan submission will be required.
 - (3) *Prerequisites for building permit.* No building permit shall be issued unless:
 - (i) Signature approval of the site development plan original is complete.
 - (ii) The permit is in accordance with the approved site development plan.
 - (iii) The proposed uses and the related site improvements as shown on the site development plan do not create a violation of the Howard County Zoning Regulations.

- (p) *Certificate of Use and Occupancy.* Where grading has occurred which requires a grading permit, the Department of Inspections, Licenses and Permits shall not issue a certificate of use and occupancy unless a certification from a registered land surveyor has been submitted which certifies that the site has been graded and the drainage courses have been developed in accordance with the approved site development plan or, if none, the approved grading plan and sediment control plan.
- (q) *Signs.* Approval of a site development plan does not constitute approval of the erection of any signs shown on the plan.

(C.B. 121, 1992; C.B. 15, 1998; C.B. 52, 2001, §§ 1, 2; C.B. 45, 2003, § 1; C.B. 29, 2005 § 1; C.B. 47, 2007, § 2; C.B. 60, 2007, § 4; C.B. 24, 2008, §§ 4, 5; C.B. 36, 2009, § 1; C.B. 39, 2009, § 2; C.B. 1, 2018, § 1; C.B. 40, 2018, § 1; C.B. 69, 2018, § 1)

Sec. 16.157. - Required information for site development plans.

Applications for site development plans shall conform to a checklist prepared by the Department of Planning and Zoning which shall indicate the format of the plan, the information to be provided, etc. The site development plan shall show the existing information and proposed improvements with sufficient detail for agency review and approval and subsequent construction. A checklist may include, but shall not be limited to, the following requirements:

- (a) *General:*
 - (1) Plan shall be prepared on base sheets 24 feet by 36 feet of a material approved by the Department of Planning and Zoning.
 - (2) The scale of the drawings shall be from one inch equals ten feet to one inch equals 50 feet, or as approved by the Department of Planning and Zoning.
 - (3) There shall be a title block including:
 - (i) Tax map number and lot or parcel numbers;
 - (ii) Plat, parcel, or property name;
 - (iii) Section and area, if appropriate;
 - (iv) Election district;
 - (v) Owner's name, address, and telephone number;
 - (vi) Scale; and
 - (vii) Date.
 - (4) Howard County approval signature blocks on all sheets.
 - (5) Seal and original signature of authorized registered professional designing the plans.
 - (6) Name, address and telephone number of the plan designer.
- (b) *Information about Existing Conditions:*
 - (1) Vicinity map showing property location in relation to access roads with scale and north arrow;
 - (2) Existing topography two-foot contour intervals for proposed parcel and adjacent properties;
 - (3) Coordinate grids and ticks;
 - (4) One-hundred-year floodplains;
 - (5) Wooded areas and major trees, including a forest stand delineation, if required;
 - (6) Buildings and structures, including sewage pretreatment structures;
 - (7) Utilities and fire hydrants;

- (8) Existing roads and/or rights-of-way and other paving, scenic roads, trails, and proposed State or County rights-of-way;
- (9) Existing and proposed County parks, schools, or other public facilities;
- (10) Easements of record with recording reference;
- (11) Ponds, wetlands, wetlands buffers, streams and stream buffers;
- (12) Howard County survey control stations shall be plotted accurately, identifying any that require relocation;
- (13) Accurately plotted lot or parcel showing property lines with bearings and distances;
- (14) North arrow;
- (15) Identification and zoning of adjacent properties;
- (16) The location and approximate age of any existing structure and whether the structure is to be retained or removed;
- (17) The boundaries of burial grounds with a certification by the developer that the burial grounds have not and will not be disturbed except as permitted by law, or a certification that there are no burial grounds on the property being developed; a cemetery boundary documentation and accommodation plan shall be submitted, if applicable pursuant to the requirements of subtitle 13, "Cemetery Preservation," of this title;
- (18) Legend; and
- (19) General information, to include:
 - (i) Existing zoning;
 - (ii) Subdivision or final development plan reference, if appropriate;
 - (iii) Total area of submission;
 - (iv) Approved street names and numbers; and
 - (v) Other specific information as may be required by the zoning ordinance, including structure and use setbacks.
- (20) A developer who is proposing the redevelopment of a golf course shall comply with section 16.129 of this subtitle, and, for purposes of this section, the terms *redevelopment* and *golf course* shall have the meaning set forth in section 16.129 of this subtitle.

(c) *Information Concerning Proposed Improvements:*

- (1) Locations, size, and height of all proposed buildings and structures, including sewage pretreatment structures. Indicate if buildings will have an automatic fire protection sprinkler system.
- (2) Location and type of all proposed paving, parking, driveways, roads, trails and walkways.
- (3) Location and size of all proposed utilities, including fire hydrants or provisions for a static fire protection system, if required.
- (4) Proposed easements including utility or use-in-common driveway maintenance easements and State or County rights-of-way.
- (5) Proposed County parks, schools, or other public facilities.
- (6) Proposed grading with all pertinent elevations, proposed contours, drainage areas, stormwater management measures, drainage arrows, and wetlands creation if any.
- (7) Sediment and erosion control measures.
- (8) Existing topographic features to be retained.

- (9) Forest conservation plan, if required, and all proposed landscaping.
- (10) Construction details for proposed improvements or reference to approved standard construction details.
- (11) Howard County reference numbers to information from other approved plans, such as water and sewer contracts or road construction plans.
- (12) Additional notes, computations, dimensions in compliance with laws and regulations.
- (13) A traffic study for all site development plans which are required to pass the test for adequate road facilities pursuant to subtitle 11, "Adequate Public Facilities," of this title.
- (14) For development of a site abutting a scenic road, perspective sketches, elevations or cross sections of the proposed development as viewed from the scenic road, showing the relationship of development to the scenic character of the landscape as viewed from the road, unless this information was submitted during the subdivision process.
- (15) For developments required to hold a presubmission community meeting in accordance with section 16.128 and subsection 16.156(a) of this subtitle, a certification that meeting notices were mailed and a summary of the comments made at the meeting.
- (16) For residential development projects requesting green neighborhood allocations, the site development plan shall demonstrate how the project will comply with the green neighborhood site portion of the green neighborhood checklist. The site development plan shall indicate that the development has obtained green neighborhood allocations and shall indicate that during the building permit process all buildings within the residential development project shall comply with the green neighborhood home portion of the green neighborhood checklist.

(C.B. 121, 1992; C.B. 13, 1993; C.B. 51, 1994; C.B. 20, 1996; C.B. 15, 1998; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1; C.B. 29, 2005, § 1; C.B. 48, 2007, § 3; C.B. 60, 2007, § 4)

SUBTITLE 2. - ZONING¹³

Footnotes:

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Note— Zoning Regulation, County of Howard, Maryland, §§ 100—134, is published under separate cover.

Sec. 16.200. - Zoning authority; definitions; short title.

- (a) *Zoning Authority.* This subtitle provides that the Zoning Authority of Howard County for comprehensive zoning and for amendments to the text of the Howard County regulations shall be the County Council of Howard County and the Zoning Authority of Howard County for piecemeal zoning map amendments and decisions on development plans shall be the Howard County Zoning Board. The Howard County Council, acting as a legislative body, reserves unto itself the authority to grant variances from the strict application of the zoning regulations with regard to governmental uses of land. This authority shall be exercised by passage of a resolution after a public hearing and a finding that the action is in the public interest.
- (b) *Definitions.* For the purposes of this subtitle, the following definitions apply:
 - (1) *Adjoining* means land which is touching or would be touching in the absence of an intervening utility or road right-of-way, other than a principal arterial highway.

- (2) *Comprehensive zoning* means zoning:
- (i) Involving both maps and regulations;
 - (ii) Which is legislative in nature;
 - (iii) Which concerns legislative facts;
 - (iv) Which is adopted after extensive study;
 - (v) Which covers a substantial area of the County; and
 - (vi) Which has an impact on the general welfare of the County in that it is designed to control and direct the use of land and buildings according to present and planned future conditions so as to accomplish, as far as possible, the most appropriate uses of land consistent with the public interest and the safeguarding of the interests of individual property owners.
- (3) *Department* means the Department of Planning and Zoning.
- (4) *Development plan* means a development plan that, as provided in the zoning regulations, the Zoning Board approves or disapproves.
- (5) *Piecemeal map amendment* means rezoning:
- (i) Involving only zoning maps;
 - (ii) Which is quasi-judicial in nature;
 - (iii) Which concerns individual applications to change the zoning of particular pieces of property; and
 - (iv) Is based on findings as to administrative facts regarding specific criteria for change in zoning.
- (c) *Short Title*. This subtitle may be cited as the "Zoning Enabling Act of Howard County."
- (C.B. 3, 1969; C.B. 107, 1994; C.B. 54, 1996; C.B. 72, 2003; C.B. 25, 2012, § 1)

Sec. 16.201. - Authority.

- (a) *Piecemeal Map Amendments and Development Plan Approvals*. It is the intention of the County Council of Howard County, in the enactment of this subtitle, to establish a legislative agency of the County Council which shall be the Zoning Authority of Howard County for piecemeal map amendments and for decisions on development plans. The Zoning Authority so created shall be known as the Howard County Zoning Board and shall consist of the members of the County Council. The Chairperson of the County Council may be the Chairperson of the Zoning Board; the vice Chairperson of the County Council may be the Vice Chairperson of the Zoning Board. The County Council may, at its discretion, designate other members of the County Council to be the Chairperson of the Zoning Board and vice Chairperson of the Zoning Board. This shall be accomplished annually in December. An administrative assistant to the Zoning Board shall be appointed by the Board.
- (b) *Comprehensive Zoning and Zoning Text Matters*. It is also the intent of the County Council to reserve comprehensive zoning and zoning text amendment matters with the County Council of Howard County.

(C.B. 39, 1971; C.B. 61, 1983; C.B. 107, 1994; C.B. 54, 1996; C.B. 25, 2012, § 2)

Editor's note— C.B. 25, 2012, § 2, adopted July 6, 2012, amended § 16.201 title to read as herein set out. Former § 16.201 title pertained to policy.

Sec. 16.202. - Purpose; establishment of zoning districts and regulations.

- (a) *County Council Authority.* For the purpose of promoting the health, safety, morals and general welfare of Howard County, the County Council is hereby empowered to:
- (1) Regulate and restrict the height, number of stories and size of buildings and other structures; the location, construction, alteration and use of buildings and other structures; the percentage of lot area that may be occupied by structures; the size of yards, courts and other open spaces; the density of population; and the location and use of land for trade, industry, government, residence or other purpose;
 - (2) Regulate the construction, alteration, reconstruction, moving and demolition of structures of historic, architectural and archeological value through the establishment of historic districts.
- (b) (1) *Establishment of districts and regulations.* For many or all of the purposes of this subtitle, the County Council may divide the County into zoning districts of a number, shape and area as may be deemed best suited to carry out the purposes of this subtitle. In addition, for many of the purposes of this subtitle and all the purposes of title 16, subtitle 6 of this Code relating to historic preservation and protection of historic structures, the County may establish historic districts as may be deemed best suited to carry out those purposes. The criteria for the County Council's establishment of an historic district in the nature of comprehensive zoning, multiple site historic districts, are as provided in the Howard County Zoning Regulations, and these districts are established by the County Council. The criteria for the Zoning Board's establishment of an historic district on a piecemeal basis, single-site historic districts, are as provided in title 16, subtitle 6 of the Howard County Code, and these districts are established by the Zoning Board.
- (2) *Purpose of districts and regulations.* The zoning district boundaries and regulations shall be made in accordance with a comprehensive zoning plan and shall be designed to:
- (i) Implement the policies and goals of the general plan;
 - (ii) Promote health, safety, and the general welfare;
 - (iii) Provide for the best use of land and the stewardship of our environmental resources;
 - (iv) Lessen congestion in the streets;
 - (v) Secure safety from fire and other dangers;
 - (vi) Provide adequate light and air;
 - (vii) Avoid undue concentration of population; and
 - (viii) Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
- (3) *Suitability and appropriateness.* The zoning district boundaries and zoning regulations shall be made with reasonable consideration to, among other things, the character of the zoning district and its suitability for particular uses and types of development, and with a view to conserving property values and encouraging the most appropriate use and enjoyment of land throughout the County based upon the purposes, policies and goals of the general plan.
- (4) *Uniformity.* The zoning regulations shall be uniform for each class or kind of building or structure or use throughout each district, but the regulations in one district may differ from those in other districts.

(C.B. 1, 1969; C.B. 1, 1974; C.B. 54, 1974; C.B. 11, 1975; C.B. 107, 1994; C.B. 25, 2012, § 3; C.B. 46, 2018, § 1)

Editor's note— C.B. 25, 2012, § 3, adopted July 6, 2012, amended § 16.202 title to read as herein set out. Former § 16.202 title pertained to purpose.

Sec. 16.203. - Comprehensive zoning.

- (a) The County Council, in order to fulfill its zoning purposes under this subtitle, may from time to time, only upon its own petition or that of the Department of Planning and Zoning, exercise the Zoning Authority of Howard County on a comprehensive basis, so as to adopt and enact zoning regulations and district boundaries which shall apply to the entire geographic area of Howard County or to substantial or significant portions thereof.
- (b) *Department of Planning and Zoning and Planning Board Procedures.*
- (1) The Department of Planning and Zoning or the County Council shall prepare a petition for a comprehensive zoning plan, including zoning maps and zoning regulations. The comprehensive petition may include map proposals from individual property owners.
 - (2) Prior to preparing the petition for the comprehensive zoning plan, the Department shall give at least 60 days' public notice of its intent to compile a comprehensive zoning plan. The public notice shall:
 - (i) Be advertised within two newspapers of general circulation in Howard County;
 - (ii) Be made and appropriately maintained in a prominent manner on the County's website;
 - (iii) Be sent electronically to all Individuals and Organizations who registered with the Department;
 - (iv) Specify the deadline by which requests for zoning map and zoning regulation amendments must be submitted; and
 - (v) State that requests not submitted by the deadline will not be considered in the preparation of the Department's comprehensive zoning plan.
 - (3) Within 45 days of the comprehensive zoning petition submittal, the Department shall submit to the Planning Board for its consideration:
 - (i) The petition with its recommended zoning maps and zoning regulations;
 - (ii) A technical staff report detailing the significant issues of the proposed comprehensive zoning plan; and
 - (iii) A list of zoning map proposals received from individual property owners that the Department does not support, along with an explanation of why each is not supported.
 - (4) For each zoning map proposal the Department shall, at least 30 days before the Planning Board hearing:
 - (i) Send written notice of the date, time, and location of the hearing by first class mail to all owners of property that is the subject of a rezoning proposal, or whose property adjoins property that is the subject of a rezoning proposal; and
 - (ii) Post the property with a sign listing the date, time, and location of the hearing, but provided that if multiple, adjoining properties are the subject of zoning map proposals, the Department may post such signs at intervals it deems appropriate.
 - (a) *Content.* The notice shall:
 - i. Give the address of the subject property, if available.
 - ii. Be double-sided and at least 30 inches by 36 inches in size.
 - iii. Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
 - iv. State that the subject property is proposed to be rezoned and include the existing zoning and proposed rezoning.
 - v. Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for

additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.

- (5) Noncompliance with the notice requirements of paragraph (4) of this subsection does not constitute a basis for setting aside a zoning decision.
- (6) The Planning Board shall:
 - (i) Hold a public hearing on the petition and additional map proposals not included in the petition by the Department, at which interested persons shall have a reasonable opportunity to be heard; and
 - (ii) Give at least 30 days' notice of the time and place of the public hearing on the County's website. Such notice shall advise the general public that the comprehensive zoning plan documents are available for review both in person at the Department's office and online at a specified website;
 - (iii) Consider requests for zoning map and zoning regulation amendments which were received on or before the deadline established by the Department, but shall not consider subsequent requests unless they involve modifications to map or text amendments submitted prior to the deadline or are proposals submitted by the Department; and
 - (iv) Within 60 days of the Planning Board's first public hearing on the comprehensive zoning petition, submit its recommendations to the County Council.
- (c) *County Council Procedures.* When exercising the Zoning Authority of Howard County with respect to the consideration and enactment of a comprehensive zoning plan, the County Council, notwithstanding any other sections, provisions or requirements of this subtitle or of other laws, regulations or rules of procedure, shall proceed in the following manner:
 - (1) After the County Council has received a final report of the Planning Board recommending adoption of a comprehensive zoning plan, the County Council may hold one or more public hearings at which parties in interest and citizens shall have an opportunity to be heard on the comprehensive zoning plan petition submitted by the Department and the Planning Board recommendations. The County Council may not hold meetings which include an opportunity for public testimony on any day listed in section 6.305(b) of this Code.
 - (2) If a zoning map proposal that was not part of the Department's petition is incorporated into the Planning Board's recommendation, the Department shall, at least 30 days before the County Council hearing on the comprehensive zoning plan:
 - (i) Send written notice of the date, time, and location of the hearing by first class mail to all owners of property that is the subject of a rezoning proposal, or whose property adjoins property that is the subject of a rezoning proposal;
 - (ii) Post the property with a sign listing the date, time, and location of the hearing, but provided that if multiple, adjoining properties are the subject of zoning map proposals, the Department may post such signs at intervals it deems appropriate.
 - (a) *Content.* The notice shall:
 - i. Give the address of the subject property, if available.
 - ii. Be double-sided and at least 30 inches by 36 inches in size.
 - iii. Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
 - iv. State that the subject property is proposed to be rezoned and include the existing zoning and proposed rezoning.
 - v. Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for

additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.

- (3) Noncompliance with the notice requirements of paragraph (2) of this subsection does not constitute a basis for setting aside a zoning decision.
- (4) The County Council shall give at least 30 days' notice of the time and place of the public hearing on the County's website. Such notice shall advise the general public that the County Council is to consider a comprehensive zoning plan for Howard County and shall advise the general public of the location or locations at which the entire text and map or maps constituting the proposed comprehensive zoning plan may be reviewed. The notice shall also advise that the comprehensive zoning plan documents are available for review both in person at the Department and online at a specified website.
- (5) The County Council shall establish the specific procedures which shall govern the hearing on the proposed comprehensive zoning plan. In establishing such procedures, the Council may:
 - (i) Place time limitations on presentations to be made;
 - (ii) State the manner in which written materials may be submitted for consideration by the County Council.
- (6) Following any public hearing(s) held by the County Council on the comprehensive zoning petition, the County Council shall introduce a County Council bill proposing the adoption of a comprehensive zoning ordinance which shall include final proposed zoning regulations and maps.
- (7) The County Council shall adopt the comprehensive zoning plan by ordinance according to County Council Legislative procedures.
- (8) Any proposed amendment to the proposed zoning map as part of the adoption of a Comprehensive Zoning Ordinance which was not previously proposed, considered or recommended by the Department of Planning and Zoning or the Planning Board shall only be considered by the County Council upon an affirmative vote of two-thirds of the members of the Council.
- (9) The County Council shall provide for copies of the comprehensive zoning plan to be published and made available at cost to any person.

(C.B. 25, 2012, § 4; C.B. 69, 2018, § 1)

Editor's note— C.B. 25, 2012, § 4, adopted July 6, 2012, repealed former § 16.203, and enacted a new § 16.203 as set out herein. Former § 16.203 pertained to adoption of zoning districts and zoning regulations by comprehensive rezoning. See the Code Comparative Table—Council Bills for complete derivation.

Sec. 16.204. - Piecemeal map amendments and development plan approvals.

- (a) *Zoning Board.* The Zoning Board may exercise the Zoning Authority delegated to it by this subtitle to make decisions on piecemeal map amendments and development plans in pursuance of a petition filed in accordance with section 16.205 of this subtitle and shall establish procedures for doing so.
- (b) *Mediation.* The Zoning Board may refer an applicant and other persons affected by a pending application, other than piecemeal map amendment cases based on the change/mistake rule as established by Maryland Case Law, to the Mediation and Conflict Resolution Center, Inc., of Howard County or a conflict resolution or mediation service which has been deemed acceptable by the Board. The purpose of such referral shall be to resolve conflicts between these parties, but the results thereof shall not bind the Board to any result. Any resolution that is agreed upon by both

parties shall be subject to findings of the Board required by law. Petition approval may not be granted solely on the basis of mediation resolution.

A referral may be made either before or after a public hearing on a pending petition decision, but only after an application is deemed complete. Mediation shall not occur after the Zoning Board votes on a petition. The cost of the mediation service shall be incurred by the petitioner.

If no agreement is reached between the parties within 45 days, or at anytime the mediator deems any further meetings futile, the Board shall continue with its proceedings or deliberations on the matter. If both parties agree, mediation may be extended past 45 days to a period of time as agreed to by the parties.

Nothing in this section shall preclude the parties from meeting on their own at any time, with or without a mediator, in an attempt to resolve their differences. It is the policy of the County to encourage applicants and neighbors to have early discussions on proposed projects so that differences may be resolved prior to the submission of an application.

- (c) *Public Hearing Required.* The Zoning Board shall hold a public hearing on these piecemeal map amendments and development plan petitions at which parties in interest and citizens shall have an opportunity to be heard. The Zoning Board shall be prohibited from holding meetings which include an opportunity for public testimony on any day on which Rosh Hashanah, Yom Kippur, Eid Ul Fitr or Eid Ul Adha is observed. The Zoning Board shall not take final action on piecemeal map amendments or development plan petitions until after the public hearing.
- (d) *Advertising.* At least 30 days prior to the initial public hearing on the piecemeal map amendment or development plan petitions, the petitioner, at its own expense, shall advertise the date, time, place and subject matter of the petition in at least two newspapers of general circulation in Howard County.
- (e) *Posting and Mail Notice:*
 - (1) At least 30 days prior to the initial public hearing on the piecemeal map amendment or development plan petitions, the petitioner shall:
 - (i) Post the property which is the subject of the hearing with the date, time, place and subject matter of the hearing. The sign shall include the address of Department of Planning and Zoning's website. The poster shall be double-sided and at least 30 inches by 36 inches in size. The poster shall include a three digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be posted by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster. The Department of Planning and Zoning shall determine the number of posters required and their location and the petitioner shall bear the expense of posting. The Department of Planning and Zoning shall supply the posters. The petitioner shall properly erect and maintain the posters; and
 - (ii) Send a certified letter to all persons whose property is adjoining to the property which is the subject of the petition, according to the most recent State taxation and assessment records, notifying those persons of the date, time, place and subject matter of the hearing in accordance with subsection 16.203(c)(7) and of this subtitle.
 - (2) Noncompliance with the mailing requirements of paragraph (1) of this subsection does not constitute a basis for appeal or the setting aside of piecemeal zoning or development plan decisions.
- (f) *Report of the Planning Board.* Petitions for piecemeal map amendments or development plan approvals shall be submitted to the Planning Board. At least 30 days prior to a Planning Board meeting on any piecemeal map amendment or development plan, the petitioner shall send notice of such meeting to the relevant subscribers on the list maintained by the Department of Planning and Zoning in accordance with subsection 16.145(b)(3). The Zoning Board shall consider the report of the Planning Board on such petitions before the Zoning Board takes final action on them.
- (g) *Department of Planning and Zoning's Findings and Recommendations.* The Department of Planning and Zoning shall transmit its findings and recommendations concerning a petition for piecemeal map

amendments or development plans in a technical staff report to the Planning Board at least two weeks prior to the public meeting on a petition.

- (h) *Questioning Departmental Findings.* At any time any individual may submit a question to the staff of the Department of Planning and Zoning or related agencies concerning the findings and recommendations of the Department or related agencies. If a written response is requested, the question should be submitted in writing to the Department or agency. If the written request is submitted at least 30 days prior to the Zoning Board hearing, the Department or agency shall respond to such requests in writing and send a copy of the response to the Zoning Board at least two weeks prior to the Zoning Board hearing. A response from a related agency to a question concerning its findings and recommendations may be considered by the Zoning Board only if the response is in writing, unless a representative of the agency is present at the hearing to answer questions.
- (i) *Presentation of Departmental Findings and Recommendations .* At least 30 days prior to a Zoning Board Hearing, the Board Administrator shall send a written notice to the Director of the Department of Planning and Zoning as to the date, time, and place of the hearing. The Director of the Department of Planning and Zoning, or the Director's Designee, shall attend a Zoning Board public hearing concerning a petition for piecemeal map amendment or development plan and, under oath and subject to cross-examination, summarize the Department's findings, explain the development process, and answer any related questions.
- (j) *Findings.* Before the Zoning Board makes a decision on any piecemeal map amendment or development plan petition it shall make those findings of fact and conclusions of law required by law.
- (k) *Documentation.*
 - (1) A petition for a piecemeal amendment of the zoning map may include documentation describing the proposed development and use of the property under petition. The zoning regulations and Zoning Board's rules of procedure shall govern the nature of the documentation and its review.
 - (2) A piecemeal map amendment shall be based on findings required by law. A piecemeal map amendment petition may not be granted solely on the basis of documentation relating to proposed development and use of the property.
 - (3) If the petition for a piecemeal map amendment includes documentation describing the proposed development and use of the property under petition and the petition is granted:
 - (i) The property may be developed and used only in accordance with the documentation, notwithstanding any provision requiring uniformity of zoning requirements; and
 - (ii) Unless the comprehensive zoning plan changes the zoning district of the property, subsequent adoption of a comprehensive zoning plan shall not affect the requirement that the property be used in accordance with the documentation.

(C.B. 3, 1969; C.B. 61, 1983; C.B. 68, 1988; C.B. 83, 1993; C.B. 107, 1994; C.B. 54, 1996; C.B. 52, 2002, §§ 1, 2; C.B. 72, 2004; C.B. 81, 2004; C.B. 56, 2006, § 1; C.B. 58, 2006, § 1; C.B. 59, 2006; C.B. 16, 2007; C.B. 16, 2018, § 1)

Sec. 16.205. - Procedure.

- (a) Any person owning an interest in the property affected may petition the Zoning Board for approval of a development plan, and a person owning an interest in the property affected, the Director of the Department of Planning and Zoning or members of the Zoning Board may petition the Zoning Board for piecemeal map amendment. The form and number of copies of the petition shall be as prescribed by law or by the Zoning Board's rules of procedure.
- (b) *Presubmission Community Meeting.* Prior to the initial submittal of a petition, the petitioner shall hold a presubmission community meeting that provides information to the community regarding the

petition and allows community residents to ask questions and discuss any issues. The meeting must be held in accordance with the procedures in section 16.128.

- (c) The petition shall be filed with the Department of Planning and Zoning, which shall check the same for form, check that notice has been provided, as required by law or by the Zoning Board's rules of procedure, collect the proper fees, and refer the petition to the Planning Board for its report.
- (d) Citizens may request a meeting with a staff member of the Department of Planning and Zoning to review the development proposal after the petition has been formally submitted to the Department.
- (e) No later than two days following the release of the report of the Planning Board on the petition, the Department of Planning and Zoning shall submit the petition with all of its supporting documents to the administrative assistant to the Zoning Board, who shall set a hearing date. The Zoning Board shall be prohibited from holding meetings which include an opportunity for public testimony on any County holiday, Rosh Hashanah, Yom Kippur, Eid Ul Fitr, Eid Ul Adha, and Chinese New Year is observed.
- (f) Notice of the place, time and date of the beginning of the hearing shall be published as required by law or the Zoning Board's rules of procedure.

(C.B. 3, 1969; C.B. 105, 1980; C.B. 61, 1983; C.B. 107, 1994; C.B. 54, 1996; C.B. 52, 2002, § 3; C.B. 72, 2004; C.B. 81, 2004; C.B. 45, 2005; C.B. 57, 2006; C.B. 31, 2007, § 1; C.B. 33, 2014, § 1)

Sec. 16.206. - Conduct of hearings.

All public hearings on piecemeal map amendment or development plan petitions shall be conducted in accordance with the rules of procedure adopted by the Zoning Board insofar as they do not conflict with the Howard County Administrative Procedure Act. The Board shall prepare an official record of its proceedings in each case, which shall include testimony and exhibits; but it shall not be necessary to transcribe the testimony unless requested for court review. Every decision and final order in a piecemeal map amendment or development plan case shall be in writing, signed by a majority of the entire board, attested by the administrative assistant to the Board, and shall be accompanied by findings of fact and conclusions of law and shall be made a part of the record of proceedings. The final order of the Zoning Board denying or granting the petition for a piecemeal map amendment, or approving or disapproving a development plan, shall be filed with the Department of Planning and Zoning, which shall maintain it as part of the official records of the County.

(C.B. 3, 1969; C.B. 98, 1980; C.B. 105, 1980; C.B. 61, 1983; C.B. 107, 1994; C.B. 54, 1996)

Sec. 16.207. - Judicial review.

- (a) Within 30 days after any final decision and order of the Zoning Board is entered on a piecemeal map amendment or development plan petition, any person, Officer, Department, Board or Bureau of the County or State, jointly or severally aggrieved by any such decision and order, and a party to the proceeding below, may appeal to the Circuit Court for Howard County, in accordance with the Maryland Rules of Procedure providing for appeals from administrative agencies. The Zoning Board shall be a party to all appeals and shall be represented on appeal by the Office of Law.
- (b) The review of the record of proceedings made before the Zoning Board shall be conducted by the court without a jury. In cases of alleged irregularities in procedure before the Zoning Board amounting to a denial of due process, not shown on the record, testimony thereon may be taken in the court. The court shall, upon request, hear oral argument and receive written briefs. Upon the hearing of such appeal, the action of the Zoning Board shall be presumed by the court to be proper and to best serve the public interest. The court may affirm the decision of the Zoning Board or remand the case for further proceedings, or it may reverse or modify the decision if the substantial

rights of the appellants to a fair hearing before the Board and a fair decision by the Board may have been prejudiced because the Zoning Board's findings, inferences, conclusions or decisions were or are:

- (1) In violation of constitutional or Charter provisions; or
- (2) Beyond the statutory authority or jurisdiction of the Board; or
- (3) Made upon unlawful procedure; or
- (4) Fraudulent; or
- (5) So grossly erroneous as to imply bad faith; or
- (6) Unsupported by competent, material and substantial evidence in view of the entire record as submitted; or
- (7) Arbitrary or capricious; or
- (8) Affected by other error of law.

(C.B. 3, 1969; C.B. 39, 1975; C.B. 67, 1991; C.B. 107, 1994; C.B. 54, 1996)

Sec. 16.208. - Zoning regulation text amendments.

- (a) *Petition.* Any person, the Director of the Department of Planning and Zoning, the members of the County Council or any duly appointed county board may petition the County Council for an amendment, repeal, or change to the text of the zoning regulations.
- (b) *Copy of petition to Department of Planning and Zoning and Planning Board; Recommendations.* The County Council shall deliver a copy of the proposed zoning regulation text amendment to the Department of Planning and Zoning and to the Planning Board. The Department of Planning and Zoning shall prepare and submit a technical staff report and recommendation to the County Council on the proposed text amendment petition. The Planning Board shall also prepare and submit a recommendation to the County Council on the proposed text amendment petition.
- (c) *Consideration of proposed text amendment.* When exercising the Zoning Authority of Howard County with respect to the consideration of and decision on a proposed zoning regulation text amendment, the County Council shall proceed in the following manner:
 - (1) The County Council shall introduce a bill proposing the adoption of the text amendment as submitted by the petitioner or as amended pursuant to recommendations of the Department of Planning and Zoning, the Planning Board or the County Council.
 - (2) A bill proposing the adoption of the text amendment shall not be added to the Council's legislative agenda until the County Council has received:
 - (i) A final technical staff report and recommendation from the Department of Planning and Zoning; and
 - (ii) A recommendation and report from the Planning Board.
 - (3) The County Council shall vote on the proposed bill according to County Council bill procedures.

(C.B. 107, 1994; C.B. 26, 2008, §§ 1, 2; C.B. 73, 2017, § 1)

Sec. 16.209. - Enforcement.

The Director of Planning and Zoning or the Director's duly authorized representative may enter upon open land where the violation allegedly exists or has occurred. Any violation of the rules, regulations and restrictions adopted pursuant to this subtitle shall be a misdemeanor punishable by a fine not to exceed

\$100.00. Alternatively or in addition to and concurrent with all other remedies, the Department of Planning and Zoning may enforce the provisions of this subtitle with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of this Code and subtitle 16 of this title. A violation shall be a Class B offense under title 24 of this Code or an offense subject to a fine in the amount set forth in section 16.1608 of this title.

(C.B. 3, 1969; C.B. 38, 1973; C.B. 105, 1980; C.B. 32, 1985; C.B. 107, 1994; C.B. 3, 2008, § 3)

Sec. 16.210. - Severability.

If any clause, sentence, part or parts of this subtitle, or of any section thereof, shall be held unconstitutional or invalid such unconstitutionality or invalidity shall not affect the validity of the remaining parts of this subtitle or of any section thereof. The County Council hereby declares that it would have passed the remaining parts of this subtitle or any section thereof if it had known such clause, sentence, part or parts or any section thereof should be declared invalid or unconstitutional.

(C.B. 3, 1969; C.B. 107, 1994)

Sec. 16.211. - Councilmanic election years.

In any year in which members of the County Council are elected, the incumbent Councilmembers, shall not take final action on any zoning application after the date of the primary election as set by law and until the newly elected County Councilmembers have qualified and taken office. The enactment of this section shall not in any way prevent the Zoning Board or the County Council from acting on zoning matters which are considered, in the discretion of the Council or the Board, to be emergency matters that could be injurious to the County or any of its citizens.

(C.B. 23, 1970; C.B. 107, 1994)

Sec. 16.212. - Fees.

The County Council shall establish a fee schedule for petitions for piecemeal map amendments and zoning regulation text amendments. The amount of the fees shall be sufficient to cover the costs of handling these petitions.

(C.B. 107, 1994)

SUBTITLE 3. - BOARD OF APPEALS^[4]

Footnotes:

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Editor's note— C.B. 94, 1989 amended subtitle 3 to read as set out in §§ 16.300—16.303. The subtitle formerly consisted of §§ 16.300—16.306 and was derived from C.B.'s 1, 1969; 38, 1973; 3, 1974; 105, 1980; 72, 1981; 4, 1986; 18, 1987; 34, 1987; 67, 1988; 69, 1988. C.B. 49, 2001, § 1, amended § 16.301, and amended and renumbered §§ 16.302 and 16.303, specifically renumbered as §§ 16.307 and 16.308 to accommodate new §§ 16.302—16.306.

Cross reference— Forest conservation, appeals, § 16.1214.

State Law reference— Board of appeals, Ann. Code of Md. art. 25A, § 5(U).

Sec. 16.300. - Compensation.

Members of the Howard County Board of Appeals shall be paid \$5,000.00 per year plus \$110.00 per official public session, up to a maximum cumulative total payment of \$16,125.00 per year. Members of the Board shall receive reasonable and necessary expenses, as may be provided in the budget.

(C.B. 94, 1989; C.B. 9, 2000; C.B. 8, 2014, § 1)

Editor's note— Pursuant to § 2 of Council Bill No. 8-2014, the compensation adjustments in this Act shall take effect beginning on July 1, 2014.

Sec. 16.301. - Powers.

The Howard County Board of Appeals shall have the following zoning powers:

- (a) To authorize a variance from the terms of the zoning regulations as is necessary to avoid arbitrariness and to obtain substantial justice within the spirit of the zoning regulations. However, the County Council, by passage of a resolution after public hearing, shall be the sole authority to grant these variances for governmental uses of land.
- (b) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by any administrative official in the application, interpretation, or enforcement of this title or of any regulations adopted pursuant to it.
- (c) To authorize uses provided by the zoning regulations. However, the County Council, by passage of a resolution after public hearing, shall be the sole authority to issue special use variances for governmental uses of land.
- (d) To hear and decide citations issued, under subtitle 16 of this title, for a violation of the subdivision and land development regulations set forth in subtitle 1 of this title or the Howard County Zoning Regulations.

(C.B. 94, 1989; C.B. 72, 1993; C.B. 107, 1994; C.B. 49, 2001, § 1; C.B. 3, 2008, § 4)

Sec. 16.302. - Jurisdiction of Hearing Examiner.

- (a) Except as provided in subsections (b) and (c), wherever in this Code or the zoning regulations a matter is authorized to be heard and decided by the Board of Appeals, the matter will first be heard and decided by a Hearing Examiner.
- (b) Wherever in this Code or the zoning regulations a person is authorized to appeal a decision made by an administrative agency after an opportunity for a contested case hearing, the appeal will be heard and decided by the Board.
- (c) The Board will hear and decide a case if the Hearing Examiner position is vacant or the Board determines that the Hearing Examiner is unable to hear the case because of a conflict of interest or other disqualification.
- (d) If the Board hears a petition for a conditional use, nonresidential variance, or extension, enlargement or alteration of a nonconforming use under the conditions of subsection (c), then the Board will not make a final decision on the case until it has considered the report of the Planning Board.

(C.B. 49, 2001, § 1)

Sec. 16.303. - Hearing examiner procedures.

- (a) Except for a citation issued under subtitle 16 of this title, a hearing conducted by a Hearing Examiner will comply with the notice and advertising requirements of section 2.203 of this Code, as amended.
- (b) A hearing conducted by a Hearing Examiner will be held at such place and time as determined by the Hearing Examiner. The Hearing Examiner shall be prohibited from holding meetings which include an opportunity for public testimony on any day on which Rosh Hashanah, Yom Kippur, Eid Ul Fitr or Eid Ul Adha is observed.
- (c) The County Solicitor will provide legal advice and assistance to the Hearing Examiner as requested.
- (d) The Hearing Examiner will have the power to issue subpoenas to compel the attendance of witnesses and the production of documents and to administer oaths to witnesses.
- (e) Unless otherwise provided by law, the burden of proof in a case heard by a Hearing Examiner will be:
 - (1) The burden of proof set forth in subsection 2.209(c) of the Code, as amended, except as provided in paragraph (2).
 - (2) For any case coming before the Hearing Examiner as an appeal of an administrative decision, the burden of proof set forth in subsection 2.210(a)(4) of the Code, as amended.
- (f) The Hearing Examiner will adopt rules of procedure to govern the conduct of hearings. Such rules will be effective upon approval by resolution of the County Council.

(C.B. 49, 2001, § 1; C.B. 72, 2004; C.B. 81, 2004; C.B. 3, 2008, § 4)

Sec. 16.304. - Appeal to Board of Appeals.

- (a) A person aggrieved by a decision of a Hearing Examiner may, within 30 days of the issuance of the decision, appeal the decision to the Board of Appeals. Unless the appeal is of a citation issued under subtitle 16 of this title, the Board will hear the appeal de novo in accordance with section 2.209 or subsection 2.210(a) of the Code, as amended, as applicable. The Board will hear the appeal of a citation issued under subtitle 16 of this title on the record in accordance with section 2.210(b) of this Code.
- (b) On filing of the appeal, the Hearing Examiner will promptly transmit the entire record or a certified copy of the record to the Board of Appeals and notify the parties of this action.
- (c) The person filing the appeal will bear the expense of providing notice of and advertising the hearing.

(C.B. 49, 2001, § 1; C.B. 3, 2008, § 4)

Sec. 16.305. - Terms of service.

- (a) The budget for the Hearing Examiner shall be included in the Board of Appeals budget.
- (b) While holding the position of Hearing Examiner, the Hearing Examiner may not represent any client involving land use in Howard County.

(C.B. 49, 2001, § 1)

Sec. 16.306. - Termination of service.

- (a) An examiner may be removed from office by vote of two-thirds of the members of the County Council. The Board of Appeals may recommend removal of an examiner for cause.

- (b) An examiner may not represent any client before the Hearing Examiner, Board of Appeals, or Zoning Board for one year after leaving the Office of the Hearing Examiner.

(C.B. 49, 2001, § 1)

Sec. 16.307. - Enforcement.

In addition to any other remedies provided by law, the Department of Planning and Zoning may institute any appropriate action or proceedings to compel compliance with a decision of the Board of Appeals or a Hearing Examiner in any zoning matter. Alternatively or in addition to and concurrent with all other remedies, the Department of Planning and Zoning may enforce a decision of the Board of Appeals or a Hearing Examiner with civil penalties, as provided in title 24, "Civil Penalties," of the Howard County Code. A violation shall be a Class B offense.

(C.B. 94, 1989; C.B. 49, 2001, § 1)

Sec. 16.308. - Severability.

If any clause, sentence, part or parts of this subtitle, or of any section thereof, shall be held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining parts of this title or of any section thereof.

(C.B. 94, 1989; C.B. 49, 2001, § 1)

SUBTITLE 4. - STREET NAMES AND HOUSE NUMBERS

Sec. 16.400. - Street names and house numbers.

- (a) *Authority of the Planning Board.* The Planning Board may:
- (1) Name streets and highways;
 - (2) Rename streets and highways pursuant to the provisions of this section;
 - (3) Adopt a workable plan for assigning street numbers to houses and buildings;
 - (4) Make reasonable rules and regulations to implement the naming and renaming of streets and the assigning of street numbers.
- (b) *Changes in Street Names at Request of Residents.* The Planning Board may rename a street or highway on request of one or more residents of the street or highway provided that:
- (1) The change does not cause a duplication of street names; and
 - (2) Ninety percent of the residents of the street or highway agree in writing to the change; and
 - (3) The Office of Planning and Zoning notifies the residents and property owners of the change pursuant to subsection (d), "notification of change in street name," of this section.
- (c) *Changes in Street Names at Request of Department of Planning and Zoning.* The Planning Board may rename a street or highway on the request of the Department of Planning and Zoning provided that:
- (1) The request is made for a valid governmental purpose such as:
 - (i) Construction of new streets or highways;
 - (ii) Realignment of streets or highways;

- (iii) Discontinuities in existing streets;
 - (iv) Elimination of duplicate street names; and
- (2) The Planning Board holds a public hearing on the proposed change of name; and
- (3) The Department of Planning and Zoning gives notice of the public hearing by:
 - (i) Notifying each property owner along the street or highway by certified mail at least 30 days before the hearing; and
 - (ii) Advertising the time, date and place of the hearing in at least two newspapers of general circulation in the County; and
- (4) The Department of Planning and Zoning notifies the residents and property owners of the change pursuant to subsection (d), "notification of change in street name," of this section.
- (d) *Notification of Change in Street Name.* The affirmative vote of at least three members of the Planning Board is required in order to change the name of a street or highway. Within 15 days of the vote of the Planning Board, the Department of Planning and Zoning shall send a notice of the change in name and effective date of change by certified mail, return receipt requested, to all property owners and residents living along the street or highway.
- (e) *Street Numbers.* The Department of Planning and Zoning may assign or reassign street numbers to houses and buildings according to a workable plan for street numbers adopted by the Planning Board. Whenever the Department of Planning and Zoning wishes to assign new street numbers, it shall give the property owner and any resident of the property written notice of the proposed change by certified mail, return receipt requested, at least 30 days before the change in the street numbers occurs.
- (f) *Notification to Government Agencies.* The Department of Planning and Zoning shall notify all agencies of the County Government of any change in street name or house number 30 days prior to the effective date of change.
- (g) The Department of Planning and Zoning may require signs to be placed indicating the names of streets and highways or indicating the street numbers of houses and buildings.
- (h) The Board may adopt a workable plan of street names and/or numbering of houses and businesses, as a whole by a single resolution, or may, by successive resolutions, adopt successive parts of the plan, said parts corresponding with major geographical sections or divisions of the County or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereon or addition thereto. Before the adoption of the plan or any such part, amendment, extension or addition, the Board shall hold at least five public hearings thereon. Notice of the time and place of each hearing shall be given by publication in at least two newspapers of general circulation in the County. The adoption of the plan or of any such part or amendment or extension or addition shall be by resolution of the Board, carried by the affirmative votes of not less than four members of the Board. The resolution shall refer expressly to the maps and descriptive and other matter intended by the Board to form the whole or part of the plan, and the action taken shall be recorded on the map and plan descriptive matter by the identifying signature of the chairman of the Board. An attested copy of the plan or part thereof shall be certified by the Clerk of the Circuit Court for Howard County for record.
- (i) Before any rules or regulations are adopted by the Planning Board, a public hearing shall be held thereon. Notice of such hearing shall be given to the general public by proper and customary advertisements in at least two newspapers of general circulation in Howard County. When such regulations are adopted by the Planning Board, a copy thereof shall be certified by said board to the Clerk of the Circuit Court for Howard County, for record.

(C.B. 10, 1 969; C.B. 16, 1985)

Sec. 16.401. - Enforcement.

In addition to other remedies provided by law, the Department of Planning and Zoning may institute any appropriate action or proceedings to compel compliance with a decision of the Planning Board or the Department of Planning and Zoning pursuant to section 16.400, "Street Names and House Numbers," of this subtitle, including the use of civil penalties. Pursuant to title 24, "Civil Penalties," of the Howard County Code, a violation of this subtitle shall be a Class C offense.

(C.B. 16, 1985; C.B. 32, 1985)

SUBTITLE 5. - MOBILE HOME DEVELOPMENT⁵

Footnotes:

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Editor's note— Subtitle 5, of title 16, relating to mobile home park developments, was substantially revised by C.B. 34, 1978; formerly, this subtitle consisted of §§ 16.500—16.516 and was derived from C.B. 10, 1970.

State Law reference— Mobile home parks—landlord and tenant, Ann. Code of Md., Real Property article, § 8A-101 et seq.; local mobile home parks landlord and tenant regulations, Ann. Code of Md. Real Property article, § 8A-1801 et seq.

Sec. 16.500. - Definitions.

- (a) *Licensee* means any person or group of persons licensed to maintain and operate a mobile home park under the provisions of this subtitle.
- (b) *Licensing authority* means the Howard County Department of Inspections, Licenses and Permits.
- (c) *Person* means any individual, firm, trust, partnership, association or corporation.
- (d) *Owner* means one or more persons, jointly or severally, in whom is vested all or part of the legal title to property, part or all of the beneficial ownership, and a right to present use and enjoyment of the property.
- (e) *Operator* means one or more persons who exercise, or are authorized to exercise, any aspect of management or control of a mobile home park.
- (f) *Unit* means any mobile home used as a dwelling.
- (g) *Mobile home development* means any parcel or tract of land, zoned as a residential mobile home district, together with required open spaces, used, designed, maintained or held out to accommodate mobile homes, whether by rental or ownership, and all buildings and structures intended as accessory uses.
- (h) *Site* means a plot of ground within a mobile home park designated for the placement of one mobile home.
- (i) *Mobile home* means a structure:
 - (1) Transportable in one or more sections;
 - (2) Eight or more body feet in width and 30 or more body feet in length;
 - (3) Built on a permanent chassis; or consisting of two or more separately towable or portable component parts certified by the Maryland Department of Economic and Community Development and designed and constructed to be joined into one integral housing unit and located within a mobile home subdivision as defined in subsection 16.500(p); and

- (4) Designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities.

Mobile home includes the plumbing, heating, air conditioning and electrical systems contained in the structure.

- (j) *Existing mobile home park* is any mobile home park which is in existence on the date of the enactment of this subtitle.
- (k) *Resident* means the lessee of a mobile home site, to include the lessee of either the site only or of both the site and the mobile home unit.
- (l) *Rule* means any written rule established by the owner which is properly disseminated pursuant to this subtitle.
- (m) *Occupant* means each individual residing in a mobile home unit, with the exception of any individual specifically exempted as a result of qualifying as an invited guest.
- (n) *Invited guest* means a person whose stay, at the request of a mobile home park resident, does not exceed five consecutive days nor 30 days in any 12-month period.
- (o) *Mobile home park* means a mobile home development under a single ownership which is divided into individual sites, all of which are to be operated exclusively as a rental project.
- (p) *Mobile home subdivision* means a mobile home development which is subdivided into individual lots wherein each such lot shall be recorded in the land records of Howard County and held by individual owners.

(C.B. 34, 1978; C.B. 21, 1979; C.B. 71, 1983; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 16.501. - Licenses generally.

- (a) It shall be unlawful for any person to maintain or operate within the limits of Howard County, Maryland, any mobile home park, unless such person shall first obtain from the licensing authority a license therefor. Such license shall not be issued without inspection and approval by the County Health Department for conformance to applicable Department of Health and Mental Hygiene regulations. The Howard County Health Officer and the County licensing authority shall jointly sign the annual license.
- (b) All such parks in existence on or before January 10, 1971, shall obtain such license, and in all other respects comply fully with the requirements of this subtitle, except that the licensing authority may, upon written application of the park operator, waive such requirements that require prohibitive reconstruction costs, if such waiver does not adversely affect the sanitation requirements of the Health Department or create or permit to continue any hazard to the welfare and health of the community and the occupants of the park.
- (c) After 30 days' notice to the licensee of any complaint filed with the licensing authority by any Law Enforcement Officer, Health Officer, Building Inspector, Fire Inspector, Consumer Protection Investigator, or any person, the Board of Appeals may, after a public hearing and upon a finding of a violation of any provision of this subtitle or of the provisions of any health, zoning or building laws or regulations, revoke or suspend any license granted pursuant to this subtitle; or the Board may, after such notice, hearing and appropriate finding, in its lawful discretion, place such restrictions and conditions upon the continued operation of the licensee as may be in the public interest. Any party to this proceeding aggrieved by the decision of the Board shall have the right to appeal the finding, decision and order of the Board to the Circuit Court of Howard County within 30 days in accordance with the Maryland rules of procedure for appeals from administrative agencies.

- (d) Additionally or in the alternative, the licensing authority may bring an action in the circuit court requiring the licensee to conform to the provisions of this subtitle and may petition the court for the appointment of a trustee for the licensee to receive the rents, apply the same to correcting the deficiency complained of, and make a full accounting thereof to the court.
- (e) As provided in section 13.102 of the Howard County Code, any individual lot owner in a mobile home subdivision shall obtain from the Department of Inspections, Licenses and Permits a rental housing license and pay the required fee, prior to any rental of the lot and/or mobile home.

(C.B. 34, 1978; C.B. 21, 1979; C.B. 62, 1988; C.B. 12, 2016, § 1)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 16.502. - License fees.

- (a) The licensing authority shall collect from the licensee an annual license fee in an amount to be determined from time to time by County Council resolution.
- (b) The licensing authority shall collect a fee for each transfer of a license in an amount to be determined from time to time by County Council resolution.

(C.B. 34, 1978)

Sec. 16.503. - Application for license.

- (a) Prior to application for a license for a proposed mobile home park or for an addition to an existing mobile home park, the applicant must obtain an approved site development plan from the Department of Planning and Zoning.
- (b) The initial application for a license for a proposed mobile home park or for an addition to an existing mobile home park shall be filed with the licensing authority by a person owning an interest in the land sought to be used as a mobile home park. The application shall be in writing, filed in quadruplicate, signed by the applicant, and shall include the following:
 - (1) The name and address of the applicant;
 - (2) The location, legal description and ownership of the mobile home park, to include a complete listing of all partners, corporate officers and other persons having at least a ten percent financial interest in the mobile home park;
 - (3) An approved site development plan in conformity with the requirements of subsection 16.145(d) of title 16 of the Howard County Code;
 - (4) Plans, layout and specifications of all buildings, improvements and the facilities constructed or to be constructed within the mobile home park;
 - (5) Such further information as may be requested by the licensing authority to enable it to determine if the proposed park will comply with all legal requirements.
- (c) The licensing authority shall inspect the application and the approved site development plan and specifications and obtain the approval of the Health Department. If the applicant has met the requirements of this subtitle and the proposed mobile home park will be in compliance with all the provisions of this subtitle and other applicable provisions of the law, the licensing authority shall approve the application. Upon completion of the park according to the site development plan and specification, including the development of the recreation areas as referred to in subsection 16.504(b)(1), the licensing authority shall issue the license.
- (d) Each licensee shall annually, within 30 days prior to May 1, apply in writing for a renewal of the license, said renewal to include information as required in subsections 16.503(b)(1) and (2). Upon

payment of the annual license fee and after such inspection as the licensing authority may require, the license shall be renewed for another year, if the licensee is not in violation of any of the provisions of this subtitle or any zoning, health or building laws or regulations. Such license shall not be renewed without inspection and approval of the County Health Department for conformance to applicable Department of Health and Mental Hygiene regulations.

- (e) Upon application in writing for a transfer of license and payment of the transfer fee, the licensing authority shall issue a transfer, if the transferee meets the requirements of applicable law governing mobile home parks and of this subtitle and if taxes due and license fees due are not in arrears. Prior to issuance of a transfer, the transferee shall provide to the licensing authority information as required in subsections 16.503(b)(1) and (2).
- (f) The license certificate shall be conspicuously posted in the on-site office of or on the premises of the mobile home park at all times.

(C.B. 34, 1978; C.B. 46, 1996)

Sec. 16.504. - Site development plan.

- (a) The site development plan for a mobile home development shall conform to the applicable requirements set forth in the Howard County zoning and subdivision regulations.
- (b) In addition, the following requirements shall apply for mobile home parks:
 - (1) Within the open space area required by Howard County zoning regulations, adequate areas must be designated and designed for active adult recreation and child play areas, such as swimming pools, tennis courts, basketball courts and baseball fields.
 - (2) An appropriate location shall be designated on each mobile home site for the placement of a storage shed by the mobile home resident.
 - (3) The above requirements shall be reviewed and approved by the Department of Planning and Zoning as part of its site development plan process.

(C.B. 34, 1978; C.B. 21, 1979)

Sec. 16.505. - Service buildings.

- (a) Service buildings, if provided, housing sanitation facilities shall be permanent structures complying with all applicable regulations and statutes regulating buildings, electrical installations and plumbing and sanitation systems.
- (b) The service buildings shall be well lighted at all times of the day and night, shall be well ventilated with screened openings, shall be constructed of such moisture proof material as shall permit repeated cleaning and washing. The floors of the service building shall be of water impervious material.
- (c) All service buildings and the grounds of the park shall be maintained in a clean, attractive condition and kept free of any condition which may menace the health of any occupant or create a public nuisance.

(C.B. 34, 1978)

Sec. 16.506. - Refuse removal.

A refuse removal scheme must be provided as part of the site development plan and will be reviewed periodically by the licensing authority.

(C.B. 34, 1978)

Sec. 16.507. - Fire protection.

Service buildings, if provided, shall be equipped with fire extinguishers, and the development shall be equipped with water hydrants of such type, size and number and so located within the development as to satisfy all applicable regulations of the Fire Department, all National Fire Protection Association requirements and the State fire code for mobile home parks. No open fires shall be permitted. Approaches to all sites shall be kept clear for fire fighting. The rules and regulations of each mobile home park shall contain a fire-fighting plan with which all occupants shall be familiar. Each mobile home located in a mobile home park or mobile home subdivision shall be equipped with an approved smoke detector and an approved class 1A-10BC fire extinguisher mounted inside the mobile home near the exit.

(C.B. 34, 1978; C.B. 21, 1979)

Sec. 16.508. - Responsibility for supervision.

The licensee or duly authorized attendant or caretaker, shall be in charge at all times to keep the mobile home park, its facilities and equipment, in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable with the licensee for the violation of any provision of this subtitle to which the licensee is subject.

(C.B. 34, 1978)

Sec. 16.509. - Management duties and authority to promulgate rules.

- (a) It shall be the duty of the licensee to:
- (1) Keep a register containing a record of all occupants of mobile homes within the park, which register shall be available at reasonable times during ordinary working hours for inspection by Federal, State and local officials.
 - (2) Maintain the mobile home park in a clean, orderly and sanitary condition at all times.
 - (3) Control the presence of dogs or other animals, prevent animal caused hazards and nuisances, and prohibit animals running loose in the park.
- (b) A licensee may prescribe by rule:
- (1) The size, quality, or construction standards for any mobile home to be placed in the park; and/or
 - (2) The maintenance standards for any mobile home in the park or for the immediate area surrounding the mobile home, in accordance with applicable State and County health laws or regulations.

(C.B. 34, 1978)

Sec. 16.510. - Mobile home site rental taxes.

- (a) *Definitions:*
- (1) *Rent* means the amount of money or other consideration charged for the right to use, possess or occupy a mobile home site and does not include late charges or fees, special charges or fees, utility or service charges or fees and installation or hook-up charges or fees.

- (2) *Rental class* means a group of mobile home sites in which an identical rent is charged for each site.
- (b) *Tax established* means there is a tax on the amount of rent charged for the rental of mobile homes sites in mobile home parks. The tax is based on the amount of the annual rent charged for rental of the site. The mobile home site tax shall not apply to mobile homes stored and unoccupied at the mobile home park nor to property in mobile home subdivisions.
- (c) With the exception of subsection (e) of this section as to taxes paid during calendar year 2019, as of July 1, 2019, the mobile home site rental tax is repealed.
- (d) *Collected by mobile home park licensee* means the mobile home park licensee shall collect one-twelfth of the annual mobile home site rental tax each month from each renter of a mobile home site in the park.
- (e) *Receipt to renter* means:
 - (1) *Prior year's tax* —On January 31 of each year the licensee shall give the renter of the mobile home site a separate receipt for the total mobile home site rental tax paid by the renter during the previous calendar year.
 - (2) *Renter vacates—Receipt for current year's tax*: Within 30 days after a renter of a mobile home site vacates the park, the licensee shall give that renter a separate receipt for the total mobile home site rental tax paid by the renter during the current calendar year.
 - (3) *More frequent receipts* —The licensee may provide monthly, quarterly or semiannual receipts for the mobile home site rental tax in addition to the annual receipt.
- (f) *Licensee remits mobile home site rental tax to Director of Finance* means on or before the tenth of each month, the licensee shall remit to the Director of Finance of Howard County the mobile home site rental tax collected during the previous month.
- (g) *Information to be provided when mobile home site rental tax is remitted* means when the licensee remits the mobile home site rental tax collected during the previous month to the Director of Finance, the licensee shall also provide the following documentation:
 - (1) The number of sites for which the park is licensed;
 - (2) The number of sites rented during the previous month;
 - (3) For each rental class during the previous month:
 - (i) The monthly rent per unit;
 - (ii) Total rent collected, including rent unpaid from prior months; and
 - (iii) Total tax collected and remitted.
- (h) *Audit—Requirement to maintain records* means the County may audit the records of licensees to determine that the mobile home site rental tax has been correctly calculated and reported to the Director of Finance. The licensee shall maintain for two years the records of rent, charges and fees collected monthly and shall make these records available to the County upon request.
- (i) *Penalties for late remittance* means there is a penalty for late remittance of the mobile home site rental tax as follows:
 - (1) One-half percent of the total amount of the tax owed if remitted during the month when due, but after the tenth of that month;
 - (2) One percent of the total amount of the tax owed if remitted after the month when due, but before the end of the following month.
 - (3) Ten percent of the total amount of the tax owed if still unpaid after the end of the second month when due, plus one percent interest per month on the unpaid taxes.

- (j) *Enforcement* means in addition to other enforcement remedies provided by law, the following enforcement measures may be used:
 - (1) *Revocation of license.* A licensee's nonpayment of the mobile home site rental tax or frequent late remittance of the tax may constitute grounds for revocation of the license for a mobile home park.
 - (2) *Civil violation.* The Director of Finance may enforce the provisions of subsections (e), (g) and (h) of this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation shall be a Class B offense.

(C.B. 34, 1978; C.B. 21, 1979; C.B. 15, 1992; C.B. 3, 1993; C.B. 8, 2019, § 1)

Sec. 16.511. - Mobile home park refuse collection charge.

- (a) *Definition:*
 - (1) *Refuse collection service* has the meaning contained in section 20.900 of the County Code.
- (b) *Charge Established.* There is a mobile home park refuse collection charge imposed on mobile home parks for which the County provides refuse collection service. The mobile home park refuse collection charge does not apply to mobile homes stored and unoccupied at a mobile home park or to property in mobile home subdivisions.
- (c) *Amount of Charge; Level of Service:*
 - (1) The amount of the mobile home park refuse collection charge shall be adopted annually by resolution of the County Council.
 - (2) Refuse collection service provided for the mobile home park refuse collection charge is the same as provided for the uniform basic charge for residential property, as established by resolution under the authority contained in title 20, subtitle 9 of the County Code.
- (d) *Collected by Mobile Home Park Licensee.* The mobile home park licensee shall collect the mobile home park refuse collection charge from each renter of a mobile home site in the park.
- (e) *Licensee Remits Mobile Home Site Refuse Collection Charge to Director of Finance.* On or before the tenth of each month, the licensee shall remit to the Director of Finance of Howard County the mobile home park refuse collection charge owed for the previous month.
- (f) *Information to be Provided When Mobile Home Site Refuse Collection Charge is Remitted.* When the licensee remits the mobile home park refuse collection charge collected during the previous month to the Director of Finance, the licensee shall also provide the following documentation:
 - (1) The number of sites for which the park is licensed; and
 - (2) The number of sites rented during the previous month;
- (g) *Audit; Requirement to Maintain Records.* The County may audit the records of a licensee to determine that the mobile home park refuse collection charge has been correctly calculated and reported to the Director of Finance. The licensee shall maintain for two years the records of charges collected and shall make these records available to the County upon request.
- (h) *Penalties for Late Remittance.* There is a penalty for late remittance of the mobile home park refuse collection charge as follows:
 - (1) One-half percent of the total amount of the charge owed if remitted during the month when due, but after the tenth of that month;
 - (2) One percent of the total amount of the charge owed if remitted after the month when due, but before the end of the following month; and

- (3) Ten percent of the total amount of the charge owed if still unpaid after the end of the second month when due, plus one percent interest per month on the unpaid charges.
- (i) *Enforcement.* In addition to other enforcement remedies provided by law, the following enforcement measures may be used:
 - (1) *Revocation of license.* A licensee's nonpayment of the mobile home park refuse collection charge, frequent late remittance of the charge, or failure to accept proof that the charge is subject to the refuse collection assistance program may constitute grounds for revocation of the license for a mobile home park.
 - (2) *Civil violation.* The Director of Finance may enforce the provisions of subsections (f) and (g) of this section with civil penalties under title 24, "Civil Penalties," of the Howard County Code. A violation is a Class B offense.

(C.B. 46, 1996; C.B. 32, 2005; C.B. 15, 2008, § 1)

Editor's note— Section 1 of C.B. 46, 1996, repealed § 16.511 in its entirety. Formerly, § 16.511 pertained to posting of license and permit and derived from C.B. 34, 1978. Section 1 of C.B. 46, 1996, also added § 16.511 as herein set out.

Sec. 16.512. - Certain locations for placement of mobile homes unlawful.

It shall be unlawful for any person to maintain or use or permit to be maintained or used any mobile home which is occupied for dwelling or sleeping purposes on any ground or place, except in a duly licensed mobile home park, or in a duly approved mobile home subdivision, or by a special mobile home permit issued by the Department of Planning and Zoning.

(C.B. 1978; C.B. 21, 1979)

Sec. 16.513. - Requirements for disclosure and posting of rules, regulations, etc.

- (a) (1) A mobile home park owner or operator shall fully disclose in writing all fees, charges, assessments, rules and regulations prior to the assumption of occupancy in the park by a mobile home resident or acceptance of a written lease by such resident. The prospective resident shall also receive a personal copy of such rules and regulations prior to entering into a written lease.

No fees, charges or assessments so disclosed may be increased or rules and regulations changed by the park owner or operator without specifying the date of implementation of the fees, charges, assessments or rules and regulations. This date shall be no less than 60 days after written notice was given to all affected tenants. This provision for increase of fees within the term of the written lease shall not apply to rent increases.
 - (2) Failure on the part of the mobile home park owner or operator to disclose fully all fees, charges or assessments shall prevent the park owner or operator from collecting that fee, charge, or assessment.
 - (3) Refusal by the resident to pay any undisclosed charges may not be used by the park owner or operator as a cause for eviction in any court of law.
- (b) A copy of the rules and regulations shall also be posted in some conspicuous place in the mobile home park.

(C.B. 34, 1978)

Sec. 16.514. - Prohibited rental practices.

- (a) It shall be a misdemeanor punishable as provided in section 16.518 for any licensee to require the purchase of any unit from any dealer, distributor or manufacturer as a condition precedent to the availability or retention of any site in a mobile home park. Nor may any licensee require any resident or prospective resident to purchase from any dealer, distributor, installer or manufacturer the material or equipment, including equipment required by applicable law, necessary for installation of the mobile home.
- (b) No mobile home park owner or operator may charge any entrance or exit fee except those charges or expenses which are directly incurred by said park owner as a result of placing of a mobile home upon, or removal of a mobile home from, a mobile home lot. Any such fee may be described by formula based on specific services provided rather than by specific dollar amount and shall be clearly identified in writing prior to the time the rental agreement is signed or otherwise concluded. Nor may the owner charge or collect any fee from the prospective resident or current resident for the privilege of entering into an oral or written agreement for the lease, use, or occupancy of a mobile home or a lot in a mobile home park.
- (c) A mobile home park owner or operator may not make or enforce any rule which shall deny or abridge the right of any resident of such mobile home park or any owner of a mobile home located in such park to sell said mobile home within the park or which shall require the resident or owner to remove the mobile home from the park solely on the basis of the sale thereof. A park owner or operator may prescribe by rule the size, quality, or construction standards for any mobile home to be retained in the park after resale. The purchaser of said mobile home, if said purchaser would otherwise qualify with the requirements of entry into the park, may become a resident of the park, subject to the approval of the park owner or operator but such approval may not be unreasonably withheld. If such approval is withheld, the park owner or operator shall state in writing any reason for the withholding of approval of purchaser. The park may not exact a Commission or fee with respect to the price realized by the seller unless the park owner or operator has acted as agent for the mobile home owner in the sale pursuant to a written contract.
- (d) Where utilities or any other reoccurring service, such as fuel oil supply, is required by the mobile home park resident, the mobile home park owner or operator may not designate that a particular supplier must be used.

(C.B. 34, 1978; C.B. 12, 1983)

Sec. 16.515. - Leases.

- (a) The rental of each mobile home site shall be by written lease agreement between the resident and the mobile home park licensee unless the resident acknowledges in writing that he or she has been offered a written lease but prefers an oral month-to-month lease. Such written acknowledgment shall include notice of receipt of a complete and current copy of rules and regulations, disclosure of all fees and charges as required in subsection 16.513(a)(1), and notice of grounds for eviction. The mobile home park owner or operator shall be required to offer each prospective mobile home park resident, prior to his/her assuming occupancy in the park, a written lease for a period of not less than 12 months. Within 15 days of receipt of a 12-month minimum written lease agreement, the resident or prospective resident shall notify the park owner or operator of his or her decision to either accept or reject such lease offer. In the event a resident or prospective resident does not elect to accept a lease agreement for a minimum period of 12 months, the required written lease shall provide instead for an occupancy period of not less than 90 days, where the unit is owned by the resident, or for an occupancy period of not less than 30 days, where the unit is owned by the mobile home park owner.
- (b) The written lease offered by the park owner or operator shall contain or have attached the following:
 - (1) Specific identification of the lot to be rented or leased.

- (2) A period of duration of not less than one year, or of the shorter term as permitted under the conditions of subsection 16.515(a) of this subtitle.
 - (3) A stipulation of total amount of rental for a mobile home lot, together with a stipulation of the terms of payment, monthly, quarterly, annually, or semiannually, and the amount due at each installment.
 - (4) Specific amounts of any and all fees, charges, assessments, installation charges payable by the resident, in such a manner as to identify the specific service being provided for each charge, assessment, or fee.
 - (5) A complete and current copy of the park rules and regulations, together with an explanation of provisions for amendments thereto.
 - (6) Specific reference to this subtitle as the governing law regulating relations between mobile home park residents and park operators in Howard County as well as the applicable provisions of the Maryland Code.
 - (7) All responsibilities of the prospective resident and all services and facilities to be provided by the park owner or operator.
 - (8) Clear and specific identification of actions on the part of the resident which may be grounds for eviction from the mobile home park or termination of the lease or rental agreement.
- (c) The mobile [home] park resident shall receive a copy of the executed lease.
 - (d) Any provision of a lease or rental agreement in which any provision of this subtitle is waived is void as against public policy.
 - (e) *Security deposits.* A mobile home park licensee, owner, operator or landlord shall not require a resident to pay a security deposit or an increase in the amount of a security deposit as a condition of entering into a subsequent lease term or tenancy, including a month-to-month tenancy, if the resident has been a continuous resident of the mobile home park for more than 12 months without a break in residency and:
 - (1) No security deposit was required during the initial lease terms; or
 - (2) A security deposit was required for the initial lease term under a written lease agreement which was either silent or failed to put the resident on notice of the possibility of subsequent increases in the amount of the security deposit.

(C.B. 34, 1978; C.B. 12, 1984; C.B. 125, 1991)

Sec. 16.516. - Causes for eviction of residents.

Nothing in this section may be interpreted to alter either the park owner's or the resident's rights to not anew a lease pursuant to the terms of the lease. [Evictions are subject to the following:]

- (a) A mobile home park owner or operator may only evict a resident for the following reasons:
 - (1) Nonpayment of rent.
 - (2) Violation of a Federal or State law or local ordinance which is detrimental to the safety and welfare of other dwellers in the mobile home park.
 - (3) Repeated violations over a six-month period of any rule or regulation identified by the park owner or operator in the lease as grounds for eviction.
- (b) An owner or operator shall deliver to the resident a written notice of the cited violations at least 30 days before the date he or she is required to vacate the premises.

- (c) No mobile home park owner or operator shall evict or harass a resident of any mobile home park in Howard County or arbitrarily increase the rent or decrease the services to which the resident has been entitled for any of the following reasons:
- (1) Because the resident or other occupant has filed a complaint, or complaints, against the mobile home park owner or operator with any public agency or agencies;
 - (2) Because the resident or other occupant has filed a lawsuit, or lawsuits, against the mobile home park owner or operator; or
 - (3) Because the resident or other occupant is a member of any tenants' or residents' organization.

Evictions described in this subsection shall be called "retaliatory evictions." If in any eviction preceding the judgment is in favor of the resident for any of the aforementioned defenses, the court may enter judgment for reasonable attorney fees and court costs against the mobile home park owner or operator. In addition, the court may enter judgment against the mobile home park owner or operator for any and all expenses incurred by the resident in his forced move, if judgment is rendered after the resident's eviction.

(C.B. 34, 1978)

Sec. 16.517. - Residents' rights to visitors.

- (a) An invited guest of a mobile home park resident shall have ingress and egress to and from the mobile home park resident's site without the resident or his guest being required to pay a fee or any charge whatsoever. For purposes of this subsection, an "invited guest" shall be defined as a person whose stay at the request of a mobile home park resident does not exceed five consecutive days, or 30 days in any 12-month period. Guests staying in excess of five consecutive days may be required to register and obtain permission of the park management as provided by park rules.
- (b) It shall be unlawful for the owner of a mobile home park or its management to require registration for invited guests of a resident of a mobile home park in Howard County except as provided herein.

(C.B. 34, 1978; C.B. 21, 1979)

Sec. 16.518. - Violation of sections 16.513 through 16.517; enforcement; penalty.

- (a) Any person violating any provisions of sections 16.513 through 16.517 of this subtitle shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than \$100.00 nor more than \$1,000.00. Alternatively or in addition to and concurrent with all other remedies, the licensing authority may enforce the provisions of sections 16.513 through 16.517 with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A first violation shall be a Class D offense. Subsequent violations shall be Class B offenses. No waiver of the provisions of sections 16.513 through 16.517 shall be permitted except as specifically authorized.
- (b) Any appropriate law enforcement agency may bring criminal judicial proceedings to enforce the provisions of this subtitle; in addition to criminal proceedings, the Howard County Office of Law may bring civil proceedings to enforce this subtitle.

(C.B. 34, 1978; C.B. 32, 1985)

Sec. 16.519. - Requirements of mobile home park residents.

The mobile home park resident at all times shall:

- (a) Comply with all reasonable park rules, and require other persons on the premises with the resident's consent to comply with such rules;
- (b) Comply with all obligations imposed on mobile home residents by applicable provisions of building, housing and health codes;
- (c) Keep the mobile home lot which he or she leases clean and sanitary; and
- (d) Comply with reasonable park rules by acting in a manner which does not unreasonably disturb other occupants of the park or constitute a breach of the peace and requiring others on the premises with the resident's consent to act in a similar manner.

(C.B. 34, 1978)

Sec. 16.520. - Severability.

Should any section or provision of this subtitle be declared invalid by a court of competent jurisdiction, such declaration and decision shall not affect the validity of the remaining portions of this subtitle.

(C.B. 34, 1978)

Sec. 16.521. - Conflicts with other provisions.

In any case where a provision of this subtitle is found to be in conflict with a provision of any other act or code of Howard County existing on the effective date of this subtitle, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this subtitle is found to be in conflict with a provision of any other act or code of Howard County existing on the effective date of this subtitle, which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this subtitle shall be deemed to prevail, and such other acts or codes are hereby declared to be repealed to the extent that they may be found in conflict with this subtitle.

(C.B. 34, 1978)

SUBTITLE 6. - HISTORIC PRESERVATION COMMISSION

Sec. 16.600. - Purpose.

The regulations set forth in this subtitle are adopted pursuant to the authority of article 25A, Local Government Article, section 10-325 of the Annotated Code of Maryland 2013, as amended, to regulate construction, alteration, reconstruction, moving and demolition of structures of historic, architectural, and archeological value, together with their appurtenances and environmental settings within respective specified limits. These regulations are designed to safeguard the heritage of the County by preserving districts herein which reflect elements of its cultural, social, economic, political or architectural history; to stabilize and improve the property values in such districts in the County; to foster civic beauty; to strengthen the local economy; and to promote the use and preservation of such historic districts in the County for the education, welfare and pleasure of the residents of the County.

These regulations are also intended to promote the preservation of the County's historic resources by establishing the Historic Preservation Commission, which shall be the steward of the historic preservation plan and serve as a resource available to provide advice and counsel to Howard County agencies, Boards, Commissions, and property owners regarding historic sites, either within or outside the boundaries of historic districts.

(C.B. 25, 1973; C.B. 2, 1981; C.B. 81, 1993; C.B. 71, 2003, § 1; C.B. 11, 2014, § 2)

Sec. 16.601. - Definitions.

Words and phrases used in this subtitle have their usual meanings except as defined below:

- (a) *Adverse changes* means changes by intent or neglect that modify or destroy the historic character of the building or buildings.
- (b) *Appurtenances and environmental settings* mean walkways and driveways (whether paved or not), trees, waterways and rocks, and landscaping that form part of the setting for a historic structure or use on the same lot.
- (c) *Certificate of approval* means an order issued by the Commission authorizing new construction or alterations to properties within a historic district as provided in this subtitle.
- (d) *Commission* means the Historic Preservation Commission.
- (e) *Contributing structure* means a structure located within a historic district and contributing to the historic or architectural value of the district.
- (f) *Historic district* means an area in the County which is deemed to be of historic or architectural value, the boundaries of which shall be established in accordance with Howard County law. A multiple site historic district is any district consisting of more than one property. A single site historic district consists of only one property.
- (g) *Historic sites inventory* means the list of historic sites adopted by resolution of the County Council.
- (h) *Historic structure* means a structure situated within the County which, together with its appurtenances and environmental setting, has significant historic or architectural value. *Historic structure* includes a structure listed on the historic sites inventory.
- (i) *Minor alterations* means the following exterior alterations, provided the alterations comply with the guidelines adopted by the Commission pursuant to section 16.607(d) of this subtitle:
 - (1) Signs;
 - (2) The removal of materials and features that are not in compliance with the guidelines and replacement with materials and features that are in compliance with the guidelines;
 - (3) The repair and replacement of deteriorated materials and features with historically appropriate materials and features including, without limitation, siding, gutters and downspouts, roofs, chimneys, porches, railings, windows, doors and paving;
 - (4) Painting, including changes of color;
 - (5) The removal of exterior light fixtures or the installation of light fixtures;
 - (6) Other exterior modifications including, without limitation, sheds, mailboxes, house numbers, the exterior placement of utilities, and minor landscape features; or
 - (7) Minor changes to plans already approved by the Commission.
- (j) *Principal use or structure* means the main use of a lot or a structure, as opposed to an accessory use or structure.
- (k) *Routine maintenance* means work that does not alter the exterior features of a structure and has no material effect on the historic or architectural significance of the structure.

Routine maintenance includes:

- (1) Repair or replacement of roofs, gutters, siding, external doors and windows, trim, lights, and other appurtenant fixtures using the same materials and design;
- (2) Minor landscaping which will not substantially affect the character of the structure;

- (3) Paving repair using like materials of like design;
 - (4) Painting of previously painted surfaces using the same color; and
 - (5) Other minor maintenance and repair work which is described as routine maintenance in design guidelines approved by the Commission.
- (l) *Structure* means anything constructed, the use of which requires permanent location on the ground, or attached to something having permanent location on the ground. *Structure* includes buildings, porches, decks, awning, fences, gravestones, communication towers, and streetlights and other exterior lighting fixtures. Street furniture such as benches, newspaper boxes, and trash receptacles are considered structures if permanently affixed to the ground. The term *structure* shall be construed as if followed by the words "or part thereof" and to include the words "appurtenances and environmental settings."

(C.B. 25, 1973; C.B. 2, 1981; C.B. 81, 1993; C.B. 71, 2003, § 1; C.B. 11, 2014, § 2; C.B. 67, 2016, § 1; C.B. 46, 2018, § 1)

Note— Formerly, § 16.600(a).

Sec. 16.602. - Establishment of historic districts.

- (a) *Boundaries Established.* The boundaries of historic districts shall be established in accordance with title 16, subtitle 2 of the Howard County Code (the Zoning Enabling Act).
- (b) *Zoning Regulations Remain in Effect.* The Zoning Regulations of Howard County, as amended, shall remain in full force and effect within any historic district hereafter established, except as may herein be modified.
- (c) *Zoning Districts as Designated on the Zoning Map.* The zoning districts as designated on the Zoning Map of Howard County, as amended, shall remain in full force and effect within any historic district.
- (d) *Single Site Historic Districts.* Single site historic districts may only be established upon the petition of the owner of the property which is the subject of the petition.
 - (1) Procedure for Establishing Single Site Historic Districts. All petitions for Single site historic districts shall adhere to the following procedures:
 - a. Petitions shall be submitted to and reviewed by the Historic Preservation Commission following the Commission's Rules of Procedure. The Department of Planning and Zoning shall prepare and forward a Technical Staff Report on the petition and forward the report to the Commission and the Zoning Board prior to the Commission's public meeting date and post the report on the Historic Preservation Commission's webpage.
 - b. The Commission shall make recommendations to the Zoning Board on all petitions to create boundaries of single site historic districts or to amend the boundaries of historic districts on a piecemeal basis. The Commission shall make recommendations on whether to approve, approve with modifications, or deny the applications. The Historic Preservation Commission shall transmit its findings and recommendations concerning the petition to the Zoning Board prior to the Zoning Board's public hearing on a petition.
 - c. The Zoning Board shall consider petitions for single site historic districts using the following procedures:
 - i. *Public Hearing Required.* The Zoning Board shall hold a public hearing on single site historic districts at which parties of interest and citizens shall have an opportunity to be heard. The Zoning Board shall be prohibited from holding meetings which include an opportunity for public testimony on any day on which Rosh Hashanah, Yom Kippur, Eid UI Fitr or Eid UI Adha is observed.

- ii. *Rules of Procedure; Notice.* The Zoning Board public hearings on single site historic districts shall be conducted in accordance with the rules of procedure adopted by the Zoning Board except for the provisions relating to public notice, which shall be as provided in this section. The public notice required for Zoning Board hearings on single-site historic district applications shall be posted at least 30 days prior to the hearing on the County's website and shall give notice of the date, time and place of the hearing on the application.
- (2) *Criteria for Establishing Single Site Historic Districts.* A petition for a single site historic district may be granted if the Zoning Board finds affirmatively that the establishment of a single site historic district will:
- a. Serve to safeguard the heritage of the County by preserving elements of its cultural, social, economic, political or architectural history;
 - b. Protect the integrity of a historic property from adverse changes and/or demolition; and
 - c. Implement the goals set forth in the Historic Preservation Plan and General Plan.

(C.B. 25, 1973; C.B. 2, 1981; C.B. 81, 1993; C.B. 107, 1994; C.B. 71, 2003, § 1; C.B. 11, 2014, § 2; C.B. 46, 2018, § 1)

Sec. 16.603. - Certificates of approval.

- (a) *Certificate of Approval Required.* Except as provided otherwise in this section, a certificate of approval from the Commission is mandatory before the following may be undertaken within any historic district:
- (1) Construction, moving, demolition, repair or alteration of any structure in any manner affecting the exterior appearance of the structure;
 - (2) Construction or alteration of parking areas; and
 - (3) Installation or alteration of exterior signs.
- (b) *Exemptions.* A certificate of approval is not required for:
- (1) Routine maintenance; or
 - (2) Minor alterations that are determined by the Executive Secretary of the Commission to be consistent with the guidelines. The Executive Secretary's determination shall be posted on the Commission's website. The Executive Secretary shall notify each Commissioner in writing. If within five days of posting on the website, and written notification to the Commissioners, any person objects in writing to the Executive Secretary, a certificate of approval is required. Notwithstanding any provision of this Code, the determination of the Executive Secretary may not be appealed.
- (c) *Preparation for New Development.* A certificate of approval is not required for the following work when carried out in accordance with an approved subdivision plan, site development plan, forest conservation plan, or grading plan:
- (1) Construction or alteration of public streets and sidewalks, use-in-common driveways, storm drains and drainage swales, stormwater management facilities, and utility lines;
 - (2) Tree clearing and removal; or
 - (3) Installation of forest conservation plantings, street trees, and other required landscaping.
- (d) *Building Permit.* The Department of Inspections, Licenses and Permits shall not issue a building permit or a grading permit for work requiring a certificate of approval unless the Commission has issued a certificate of approval. The permit shall incorporate any requirements or modifications required by the certificate of approval.

- (e) *Sign Permit.* The Department of Inspections, Licenses and Permits shall not issue a sign permit for work requiring a certificate of approval unless the Commission has issued a certificate of approval. The sign permit shall incorporate any requirements or modifications required by the certificate of approval.
- (f) *Posted on Property.* The certificate of approval shall be posted on the property in a location visible from a public street while the work authorized by the certificate is being performed.
- (g) *Expiration of Certificate of Approval.* Unless extended by the Commission, a certificate of approval issued by the Commission shall expire automatically if:
 - (1) The work has not been substantially completed within 18 months from the date the certificate of approval was issued for an application for the alteration, repair, moving, or demolition of a structure, or for the construction of a new accessory structure.
 - (2) The work has not been substantially completed within three years from the date the certificate of approval was issued for an application for the construction of a new principal structure.
- (h) *Extension of Certificate of Approval.* An application for extension of a certificate of approval shall be treated and considered as a new application before the Commission.

(C.B. 25, 1973; C.B. 2, 1981; C.B. 81, 1993; C.B. 71, 2003, § 1; C.B. 11, 2014, § 2; C.B. 67, 2016, § 1)

Sec. 16.603A. - Review of development plans.

Prior to the initial submittal of an application for subdivision or site development plan approval on a site located in a historic district established under this subtitle, adjoining a multi-site historic district, or that contains a historic structure, the applicant shall request review by the Commission to identify all historic resources on the site and obtain advice from the Commission regarding the design of development.

(C.B. 46, 2009, § 1; C.B. 11, 2014, § 2)

Sec. 16.604. - Historic Preservation Commission.

- (a) *Establishment.* There is a Historic Preservation Commission to carry out the purposes of this subtitle.
- (b) *Membership and Appointment:*
 - (1) *General provisions.* General provisions applicable to this Commission are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
 - (2) *Number of members.* The Commission shall have a membership of seven persons.
 - (3) *Qualifications:*
 - (i) All members shall be residents of Howard County.
 - (ii) Members shall be professionals in or have special interest, knowledge, or training in such fields as history, architecture, archeology, anthropology, curation, preservation, urban design or related disciplines and shall have knowledge of and have demonstrated an interest in the preservation of historic and architectural areas of the County.
 - (iii) The Commission shall include at least one resident or property owner from each multiple site historic district in Howard County. When a new multiple site historic district is created, a resident or property owner from the new district shall be appointed to the Commission within three years of the elate the new district is created. Within three months of the creation of the new multiple site historic district, the County Executive shall appoint a

resident or property owner from the new district as a temporary additional voting member of the Commission, to serve until the permanent member of the Commission from that district is appointed and confirmed.

- (c) *Quorum.* Three members shall constitute a quorum, and the vote of the majority present shall be necessary for a decision.
- (d) *Executive Secretary.* The Director of the Department of Planning and Zoning or the Director's designee shall serve as the Executive Secretary to the Commission and shall attend all meetings of the Commission and may provide recommendations on applications before the Commission.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 107, 1994; C.B. 71, 2003, § 1; C.B. 11, 2014, § 2; C.B. 67, 2016, § 1)

Sec. 16.605. - Procedures of the Commission.

- (a) *Rules of Procedure.* The Commission shall adopt rules of procedure necessary for the discharge of its duties.
- (b) *Applications:*
 - (1) Applications for a certificate of approval and any other Commission approval or review required under this subtitle shall be filed with the Department of Planning and Zoning.
 - (2) The Department shall check the application for completeness and shall forward the application, together with all maps, plans and all other data required by the rules of the Commission, to the Commission.
 - (3) Provided that the application was filed with the Department of Planning and Zoning at least 22 calendar days before the Commission's next scheduled meeting, the Department shall place the application on the agenda for the next scheduled Commission meeting. The Commission shall hear only those applications which staff from the Department of Planning and Zoning determines are complete. Applications filed less than 22 calendar days before the Commission's next scheduled meeting shall be placed on the agenda for the following meeting.
 - (4) The Commission may hold an emergency meeting to hear an application for a certificate of approval which requires immediate action due to an immediate safety or health hazard or the need for emergency repairs.
- (c) *Standing.* Any person, or the person's duly constituted representative, shall be entitled to appear and be heard on any matter before the Commission reaches a decision.
- (d) *Records.* The Commission shall keep a record of its proceedings and action, which shall be on file for public view at the Department of Planning and Zoning.
- (e) *Notice.* Notice of Commission meetings shall appear in a newspaper of general circulation in Howard County at least seven days prior to such meeting. Each application to be heard at a Commission meeting shall be advertised in the manner provided for in the rules of the Commission. Notice of an emergency meeting is not required to be published in a newspaper, provided that the property which is the subject of an application to be heard at an emergency meeting is posted with the time, date, place, and subject matter of the meeting for at least 24 hours immediately prior to the meeting.
 - (1) The emergency notice poster shall:
 - (i) Give the address of the subject property, if available.
 - (ii) Be double-sided and at least 30 inches by 36 inches in size.

- (iii) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
 - (iv) State that the subject property is proposed to be altered and include a description of the proposed alteration.
 - (v) Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.
- (f) *Action of the Commission:*
- (1) The Commission shall file with the Department of Planning and Zoning its certificate of approval, modification or denial of all applications and plans submitted to it for review.
 - (2) No work shall begin until such certificate of approval shall have been filed.
 - (3) Failure of the Commission to vote on an application within 90 days from the date a complete application is filed shall constitute approval, unless an extension of the 90-day period is agreed upon mutually by the applicant and the Commission or the application has been withdrawn.
 - (4) The Commission shall set forth, in writing, its reason for approval or denial of an application submitted to it for review.
 - (5) If an application is denied, in the absence of a change to the structure arising from casualty, no new application for the same or similar work shall be filed within one year after the conclusion of the hearing on the denied application.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 71, 2003, § 1; C.B. 46, 2009, § 1; C.B. 11, 2014, § 2; C.B. 69, 2018, § 1)

Sec. 16.606. - Powers of the Commission.

- (a) *Review of Applications.* The Commission shall review all applications for certificates of approval. The Commission shall also review applications for alterations to historic structures outside the historic district and make any other determination when required by the zoning regulations. The Commission shall approve, approve with modifications, or deny the applications.
- (b) *Consultation with the Maryland Historical Trust.* The Commission may consult with the Maryland Historical Trust to make an analysis of and recommendation concerning the preservation of structures of historic or architectural value within the County. Such report may propose boundaries of districts as well as identify particular structures recommended to be preserved.
- (c) *Recommend Designation as Historic District.* The Commission shall make recommendations to the Howard County Council on all petitions to create or modify multiple site historic districts. The Commission shall also make recommendations to the Zoning Board on all petitions to create boundaries of single site historic districts or to amend the boundaries of historic districts on a piecemeal basis.
- (d) *Provide Advice on Historical Resources.*
 - (1) The Commission shall perform the following advisory functions:
 - (l) Advise and assist in developing plans for the preservation of historic resources within Howard County upon the request of an Agency, Board or Commission of Howard County Government.

- (II) Advise and assist the Department of Planning and Zoning in identifying historic resources on property that requires subdivision or site development plan approval and is located in a historic district established under this subtitle or contains an historic structure. Such advice shall be given prior to the initial plan submittal for either subdivision or site development plans.
 - (III) Advise an applicant for subdivision or site development plan approval for a site located in a historic district established under this subtitle, Adjoining a Multi-Site Historic District or that contains a historic structure. Such advice shall be provided prior to the initial submittal for a subdivision or site development plan. After Commission review of a plan under this paragraph, the Director of the Department of Planning and Zoning may require the applicant to resubmit the plan to the Commission for its review and advice if:
 - A. Before the subdivision application or site development plan is approved, the applicant submits a revised plan that the Director of the Department of Planning and Zoning determines is inconsistent with the Commission's comments on the previous plan; or
 - B. The subdivision plan or site development plan expires and the applicant submits a new plan.
 - (IV) Upon the request of the applicant, provide pre-application advice on the design of proposed work to persons seeking a certificate of approval.
- (2) The Commission may perform the following advisory functions:
- (I) Review applications for zoning text amendments, map amendments, conditional use, or variance approvals and make recommendations to the Zoning Board, Planning Board, County Council, or Hearing Examiner for:
 - (A) Areas located within a historic district or
 - (B) A historic structure listed on the historic sites inventory;
 - (II) Review and provide advice to the Planning Board and County Council on other proposals affecting historic preservation, including County general plans and area master plans.
 - (III) Advise in developing plans for the preservation of historic resources within Howard County upon the request of the owner of the historic resource.
- (e) *Adopt Rules to Implement Historic Tax Credit Program:*
- (1) The Commission shall adopt rules to implement the historic tax credit program under sections 20.112 and 20.113 of the County Code.
 - (2) The rules shall include:
 - (I) Procedures to be followed by a property owner in applying for the tax credit.
 - (II) Procedures to be followed by the Commission in considering an application; and
 - (III) Guidelines for the performance of eligible work.
- (f) *Approve Historic Tax Credits.* As specified in sections 20.112 and 20.113 of the County Code, the Commission may approve an application for a historic tax credit.
- (g) *Maintain the Inventory.* The Commission shall advise on updating and maintaining the historic sites inventory.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 107, 1994; C.B. 87, 1995; C.B. 71, 2003, § 1; C.B. 46, 2009, § 1; C.B. 11, 2014, § 2; C.B. 67, 2016, § 1)

Sec. 16.607. - Standards for review.

- (a) *Elements for Consideration.* In reviewing an application for a certificate of approval, the Commission shall give consideration to:
- (1) The historic, architectural, or archeological value or significance of the structure and its relationship to historic value of the surrounding area.
 - (2) The relationship of the exterior architectural features of such structure to the remainder of the structure and to the surrounding area.
 - (3) The general compatibility of exterior design, scale, proportion, arrangement, texture and materials proposed to be used.
 - (4) Whether the requested action is necessary to protect against threats to public safety.
 - (5) Any other factors, including aesthetic factors, which the Commission deems to be pertinent.
- (b) *Exterior Features Only.* The Commission shall pass only on exterior features of a structure and shall not consider interior arrangement; nor shall it disapprove applications except in regard to the considerations set forth above.
- (c) *Intent of the Subtitle.* It is the intent of this subtitle that the Commission be strict in its judgment of plans for contributing structures. It is also the intent of this subtitle that the Commission shall be lenient in its judgment of plans for structures of little historic value or plans for new construction, except where such plans would seriously impair the historic or architectural value of surrounding structures or the surrounding area. It is not the intent of this subtitle to limit new construction, alteration, or repairs to the architectural style of any one period.
- (d) *Additional Guidelines.* The Commission shall adopt guidelines for its review of applications based on the standards of this subtitle. The guidelines may include standards for identifying contributing structures.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 71, 2003, § 1; C.B. 75, 2018, § 1)

Sec. 16.608. - Structures of unusual importance.

- (a) *Structure of Unusual Importance.* In the case of an application for alteration affecting the exterior appearance of a structure or for the moving or demolition of a structure the preservation of which the Commission deems of unusual importance to the County, State or nation, the Commission shall endeavor to work out with the owner an economically feasible plan for the preservation of such structure.
- (b) *Deny Application.* Unless the Commission is satisfied that proposed construction, alteration, or reconstruction will not materially impair the historic value of the structure, the Commission shall deny the application.
- (c) *Negotiation.* If an application is submitted for alteration, moving or demolition of a structure that the Commission deems of unusual importance and no economically feasible plan can be formulated, the Commission shall have 90 days from the time it concludes that no economically feasible plan can be formulated to negotiate with the owner and other parties in an effort to find a means of preserving the building.
- (d) *Special Circumstances.* The Commission may approve the proposed alteration, moving or demolition of a structure of unusual importance despite the fact that the changes come within the provisions of subsections (a) through (c) of this section, if:
- (1) The structure is a deterrent to a major improvement program which will be of substantial benefit to the County;
 - (2) Retention of the structure would be a threat to public safety;
 - (3) Retention of the structure would cause undue financial hardship to the owner; or

- (4) Retention of the structure would not be in the interest of a majority of the persons in the community.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 71, 2003, § 1; C.B. 75, 2018, § 1)

Sec. 16.609. - Powers of Howard County.

- (a) Howard County shall have the right to accept and use gifts for the exercise of the Commission's functions.
- (b) Howard County may purchase or accept architectural easements in connection with structures located in or adjacent to an historic district. Such easement shall grant to the Commission, the residents of the historic district and the general public, the perpetual right, or the right for a specified term, to have the exterior appearance of any structure upon which it is applied retained in substantially the same character as when the easement took effect.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 71, 2003, § 1)

Note— Formerly, numbered as section 16.610. C.B. 71, 2003 repealed former section 16-609 which pertained to routine maintenance.

Sec. 16.610. - Enforcement.

When there is any violation of this subtitle or any action taken there under, the Department of Planning and Zoning may institute appropriate action to prevent, enjoin, abate or remove the violation. Alternatively and in addition to and concurrent with all other remedies, the Department of Planning and Zoning may enforce the provisions of this subtitle by the use of civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle shall be a Class C offense.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 71, 2003, § 1)

Note— Formerly numbered as § 16.611.

Sec. 16.611. - Appeals.

Any person or persons jointly or severally, or firm or corporation, aggrieved by a decision of the Commission may appeal the decision of the Commission to the Circuit Court for Howard County, provided the appeal is made within 30 days of the Commission's vote to approve or deny the application, or the date an application is approved due to the failure of the Commission to vote.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 71, 2003, § 1; C.B. 11, 2014, § 2)

Note— Formerly, numbered as 16.612.

Sec. 16.612. - Severability.

If any word, clause, paragraph or section of this subtitle shall be ruled invalid or unconstitutional by a court of competent jurisdiction, it shall not affect the validity of this subtitle as a whole or any part thereof other than that portion so judged to be invalid or unconstitutional.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 71, 2003, § 1)

Note— Formerly, numbered as 16.613.

SUBTITLE 7. - FLOODPLAIN⁶

Footnotes:

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Editor's note— Section 2 of C.B. 61, 1988, amended sub. 7 to read as herein set out in §§ 16.700—16.705. Prior to said amendment, the provisions of former sub. 7, §§ 16.700—16.704, pertained to similar subject matter and derived from C.B. 25, 1977. Subsequently C.B. 3, 2005, amended this subtitle to read as herein set out.

Sec. 16.700. - Statutory authority; purpose; abrogation and greater restrictions.

- (a) *Statutory Authority.* The Maryland General Assembly, in the Land Use Article of the Annotated Code of Maryland, has established as policy of the state that the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning control, and that planning and zoning controls shall be implemented by local government in order to, among other purposes, secure the public safety, promote health and general welfare, and promote the conservation of natural resources. Therefore, Howard County does adopt floodplain management regulations as contained in this subtitle; title 16, subtitle 1 of this Code; and the Howard County Building Code.
- (b) *Purpose.* It is the purpose of this subtitle to promote the public health, safety and general welfare, and to:
 - (1) Protect human life, health and welfare;
 - (2) Encourage the use of appropriate construction practices in order to prevent or minimize flood damage in the future;
 - (3) Minimize flooding of water supply and sanitary sewage disposal systems;
 - (4) Maintain natural drainage;
 - (5) Reduce financial burdens imposed on the community, its governmental units and its residents, by discouraging unwise design and construction of development in areas subject to flooding;
 - (6) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (7) Minimize prolonged business interruptions;
 - (8) Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
 - (9) Reinforce that those who build in and occupy special flood hazard areas should assume responsibility for their actions;

- (10) Minimize the impact of development on adjacent properties within and near flood-prone areas;
 - (11) Provide that the flood storage and conveyance functions of floodplains are maintained;
 - (12) Minimize the impact of development on the natural and beneficial functions of floodplains;
 - (13) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
 - (14) Meet community participation requirements of the national flood insurance program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.
- (c) *Abrogation and Greater Restrictions.* Regulations governing the floodplain are not intended to repeal or abrogate any existing regulations and ordinances, including Subdivision Regulations, the Howard County Zoning Regulations, the Howard County Building Code, this Code, or any existing easements, covenants, or deed restrictions. If a conflict exists between these regulations and any other Code provision, easement, covenant, or deed restriction, the more restrictive shall govern.

(C.B. 41, 2013, § 1(3))

Sec. 16.701. - Definitions.

Except as specifically defined in this section, terms used in this subtitle shall have the meanings set forth in subsection 3112, floodplain, of the Howard County Building Code:

- (a) *Base flood* means the flood having a one-percent chance of being equaled or exceeded in any given year; the base flood also is referred to as the one-percent annual chance (100-year) flood.
- (b) *Base flood elevations ("BFE")* means the water surface elevation of the base flood in relation to the datum specified on the County's FIRM. In areas of shallow flooding, the base flood elevation is the highest adjacent natural grade elevation plus the depth number specified in feet on the FIRM, or at least four feet if the depth number is not specified.
- (c) *Building code* means the Building Code of Howard County adopted pursuant to subtitle 1, "Building Code" of title 3, "Buildings," of the Howard County Code.
- (d) *Design Manual* means Howard County's Technical Standards, approved by resolution of the County Council, for design, construction and inspection of bridges, roads, storm drainage structures, stormwater management systems, sidewalks, walkways, parking areas, traffic control devices, water and sewer facilities, and other improvements.
- (e) *Development* means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, placement of manufactured homes, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (f) *FEMA* means the Federal Emergency Management Agency.
- (g) *Flood Insurance Rate Map ("FIRM")* means an official map on which FEMA has delineated special flood hazard areas to indicate the magnitude and nature of flood hazards, to designate applicable flood zones, and to delineate floodways, if applicable. FIRMS that have been prepared in digital format or converted to digital format are referred to as Digital FIRMS (DFIRM).
- (h) *Flood Insurance Study ("FIS")* means the official report in which FEMA has provided flood profiles, floodway information, and the water surface elevations.
- (i) *Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a recreational vehicle.
- (j) *MDE* means the Maryland Department of the Environment.

- (k) *NFIP* means the National Flood Insurance Program.
- (l) *Recreational vehicle* means a vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.
- (m) *Special flood hazard area ("SFHA")* means the land in the floodplain subject to a one-percent or greater chance of flooding in any given year. Special flood hazard areas are designated by FEMA in flood insurance studies and on flood insurance rate maps as Zones A, AE, AH, AO, A1-30, and A99, and Zones VE and V1-30. The term includes areas shown on other flood maps that are identified in section 16.703 of this subtitle.
- (n) *Start of construction* means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvements, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (o) *Structure* means that which is built or constructed; specifically, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
- (p) *Violation* means (i) any construction or development in a special flood hazard area that is being performed without an issued permit, (ii) the failure of a building, structure, or other development for which a permit is issued to be fully compliant with these regulations and the conditions of the issued permit, or (iii) a building, structure, or other development without the required design certifications, the elevation certificate, or other evidence of compliance required is presumed to be a violation until such time as the required documentation is provided.

(C.B. 61, 1988; C.B. 3, 2005, § 4; C.B. 41, 2013, § 1(3))

Editor's note— Renumbered from previous section 16.700.

Sec. 16.702. - Floodplain delineation.

- (a) An area to be known as "floodplain" shall include all areas subject to inundation by the waters of the one-percent annual chance flood. The source of this delineation shall be the Flood Insurance Study for Howard County, Maryland and incorporated areas, effective November 6, 2013, or the most recent revision thereof, and the accompanying Flood Insurance Rate Maps, effective November 6, 2013, and all subsequent amendments and revisions to the FIRMs prepared for Howard County by the Federal Emergency Management Agency or the floodplain studies and requirements of the Department of Public Works and the Department of Planning and Zoning, whichever is more restrictive.
- (b) The floodplain shall be comprised of three parts as follows:
 - (1) *Floodway*. That portion of the floodplain required to carry and discharge the waters of the one-percent annual chance flood without increasing the water surface elevation at any point more than one foot above existing conditions.

- (2) *Floodway fringe.* Those portions of land within the floodplain subject to inundation by the one-percent annual chance flood, lying beyond the floodway.
- (3) *Approximate floodplain.* Those portions of land within the floodplain subject to inundation by the one-percent annual chance flood, where a detailed study has not been performed, but where a 100-year floodplain boundary has been approximated.

The delineation of the floodplain may be revised, and amended by the Department of Public Works or the Department of Planning and Zoning based upon data reflecting natural or reconstructed physical changes, provided that all such revisions, amendments, and modifications shall be subject to the review and approval of the Federal Emergency Management Agency.

(C.B. 61, 1988; C.B. 3, 2005, § 4; C.B. 41, 2013, § 1(3))

Editor's note— Renumbered from previous section 16.701.

Sec. 16.703. - Basis for establishing special flood hazard areas and base flood elevations.

- (a) For the purposes of this subtitle, the minimum basis for establishing special flood hazard areas and base flood elevations is the FIS for Howard County, Maryland and incorporated areas dated November 6, 2013, or the most recent revision thereof, and the accompanying firms and all subsequent amendments and revisions to the FIRMs. The FISs and FIRMs are retained on file and available to the public at the Department of Public Works.
- (b) Where field surveyed topography or digital topography indicates that ground elevations are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard on the FIRM, the area shall be considered as special flood hazard area.
- (c) To establish base flood elevations in special flood hazard areas that do not have such elevations shown on the FIRM, the Floodplain Administrator may provide the best available data for base flood elevations, may require the applicant to obtain available information from federal, state or other sources, or may require the Applicant to establish special flood hazard areas and base flood elevations as set forth in sections 16.704 and 16.706 of this subtitle.

(C.B. 41, 2013, § 1(3))

Sec. 16.704. - Use and interpretations of FIRMs.

- (a) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries.
- (b) The following shall apply to the use and interpretation of FIRMs and data:
 - (1) Where field surveyed topography indicates that ground elevations:
 - (i) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;
 - (ii) Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the Applicant obtains a letter of map change that removes the area from the special flood hazard area.
 - (2) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified special flood hazard areas, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.

- (3) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
- (4) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMS and in FISs.
- (5) If a preliminary flood insurance rate map and/or a preliminary flood insurance study has been provided by FEMA:
 - (i) Upon the issuance of a letter of final determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - (ii) Prior to the issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to section 16.703(c) of this subtitle and used where no base flood elevations or floodway areas are provided on the effective FIRM.
 - (iii) Prior to issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change or appeal to FEMA.

(C.B. 41, 2013, § 1(3))

Sec. 16.705. - Requirements and restrictions applicable to the floodplain.

- (a) Within the floodplain, no development shall be permitted except as provided in this subtitle, the Howard County Building Code adopted at title 3, subtitle 1 of the Howard County Code and the Subdivision Regulations adopted at title 16, subtitle 1 of the Howard County Code.
- (b) Within the approximate floodplain for new subdivisions, site development plans, or single lots, the 100-year flood elevations (base flood elevations) shall be certified by a qualified design professional as determined by the Director of the Department of Public Works based on hydrologic and hydraulic analyses which include a floodway analysis. For a single lot, if no data are available, methods described in Federal Emergency Management Agency Publication No. 265, "Managing Floodplain Development in Approximate Zone A Areas", or a method approved by the Department of Planning and Zoning shall be used to determine the BASE flood elevation.
- (c) *Buildings and Structures.* In addition to the requirements set forth in the Howard County Building Code, new buildings and structures (including the placement and replacement of manufactured homes) and substantial improvement of existing structures (including manufactured homes) that are located, in whole or in part, in any special flood hazard area shall:
 - (1) Be designed (or modified) and constructed to safely support flood loads. The construction shall provide a complete load path capable of transferring all loads from their point of origin through the load-resisting elements to the foundation. Structures shall be designed, connected and anchored to resist flotation, collapse or permanent lateral movement due to structural loads and stresses, including hydrodynamic and hydrostatic loads and the effects of buoyancy, from flooding equal to the flood protection elevation or the elevation required by these regulations or the Howard County Building Code, whichever is higher.
 - (2) Be constructed by methods and practices that minimize flood damage.
 - (3) Use flood damage-resistant materials below the elevation of the lowest floor required in section 3112 of the Howard County Building Code.

- (4) Have electrical systems, equipment and components, and mechanical, heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment located at or above the elevation of the lowest floor required in section 3112 of the Howard County Building Code. Electrical wiring systems are permitted to be located below elevation of the lowest floor provided they conform to the provisions of the electrical part of the Howard County Building Code for wet locations. If replaced as part of a substantial improvement, electrical systems, equipment and components, and heating, ventilation, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall meet the requirements of this section.
 - (5) As an alternative to paragraph (4), electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment are permitted to be located below the elevation of the lowest floor provided they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to that elevation.
 - (6) Have the electric panelboard elevated at least three feet above the BFE.
 - (7) Comply with the requirements of the most restrictive designation if located on a site that has more than one flood zone designation (a zone, designated floodway).
- (d) *Recreational Vehicles.* Recreational vehicles shall not be parked or stored in special flood hazard areas.
- (e) *Protection of Water Supply and Sanitary Sewage Systems.*
- (1) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
 - (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharges from systems into floodwaters.
 - (3) In addition to the requirements of section 3.808 of this Code, on-site waste disposal systems shall be located to avoid impairment to or contamination from them during conditions of flooding.

(C.B. 61, 1988; C.B. 3, 2005, §§ 1, 4; C.B. 41, 2013, § 1(3))

Editor's note— Renumbered from previous section 16.702.

Sec. 16.706. - Permits.

- (a) *Permits Required.* A person shall not begin any development or construction which is wholly within, partially within, or in contact with any flood hazard area established in section 16.703 of this subtitle, including but not limited to: Filling; grading; construction of new structures; the substantial improvement of buildings or structures, including repair of substantial damage; placement or replacement of manufactured homes, including substantial improvement or repair of substantial damage of manufactured homes; erecting or installing a temporary structure, or alteration of a watercourse, until a permit is obtained from the County in accordance with the requirements of this subtitle and the Howard County Building Code.
- (b) In addition to the permits required in paragraph (a), Applicants for permits in nontidal waters of the state are advised to contact MDE. Unless waived by MDE, pursuant to Code of Maryland Regulations 26.17.04, construction on nontidal waters and floodplains, MDE regulates the "100-year frequency floodplain of free-flowing waters," also referred to as nontidal waters of the state. To determine the 100-year frequency floodplain, hydrologic calculations are based on the ultimate development of the watershed, assuming existing zoning. The resulting flood hazard areas

delineated using the results of such calculations may be different than the special flood hazard areas established in section 16.703 of this subtitle.

- (c) *A Permit is Valid Provided the Actual Start of Work is Within 180 Days of the Date of Permit Issuance.* Requests for extensions shall be submitted in writing and justifiable cause demonstrated. The Floodplain Administrator may grant, in writing, one or more extensions of time, for additional periods not exceeding more than 90 days each and provided there has been no amendment or revision to the basis for establishing special flood hazard areas and BFEs set forth in section 16.703 of this subtitle.
- (d) *Application Required.* In accordance with the Howard County Building Code, an application for a permit shall be made by the owner of the property or the owner's authorized agent prior to the start of any work. The application shall be on a form provided by the Department of Inspections, Licenses and Permits.
- (e) *Additional Application Requirements—Certain Development.* In addition to the permit application requirements set forth in section 3.101 of this Code, a permit application for development proposals and subdivision proposals having the lesser of five lots or at least five acres in special flood hazard areas where base flood elevations are not shown on the FIRM shall include:
 - (1) A determination of the base flood elevations; and
 - (2) If hydrologic and hydraulic engineering analyses are submitted, such analyses shall be performed in accordance with the requirements and specifications of MDE and FEMA.
- (f) *New Technical Data.*
 - (1) The Applicant may seek a letter of map change by submitting new technical data to FEMA, such as base maps, topography, and engineering analyses to support revision of floodplain and floodway boundaries and/or base flood elevations. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the Applicant. A copy of the submittal shall be attached to the application for a permit.
 - (2) An Applicant who submits new technical data to support any change in floodplain and designated floodway boundaries or base flood elevations shall submit a letter of map change from FEMA as soon as practicable, but not later than six months after the date such information becomes available. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the Applicant.
- (g) *Application of Requirements.* The general requirements of this subtitle and the Howard County Building Code apply to all development proposed within all special flood hazard areas identified in section 16.703 of this subtitle.

(C.B. 41, 2013, § 1(3))

Sec. 16.707. - Warning and disclaimer of liability.

- (a) *Warning.* The degree of flood protection required by floodplain regulations contained in the Howard County Code is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, and flood heights may be increased by manmade or natural causes. These regulations do not imply that land outside of the special flood hazard areas or uses that are permitted within such areas will be free from flooding or flood damage.
- (b) *Disclaimer.* These regulations shall not create liability on the part of Howard County, any officer, official, or employee thereof, MDE or FEMA, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made hereunder.

(C.B. 41, 2013, § 1(3))

Sec. 16.708. - Floodplain administrator.

- (a) *Designation of the Floodplain Administrator.* The Director of the Department of Public Works is appointed to administer and implement floodplain regulations as contained in this Code and is referred to as the Floodplain Administrator.
- (b) *Delegation of Authority.* The Floodplain Administrator may:
 - (1) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees; and
 - (2) Enter into a written agreement or written contract with another Maryland political subdivision or private sector entity to administer specific provisions of this subtitle, subtitle 7 of this title, and the Howard County Building Code. Administration of any part of these regulations by another entity shall not relieve the political subdivision of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.
- (c) *Duties and Responsibilities of the Floodplain Administrator.* The duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:
 - (1) Review applications for permits to determine whether proposed activities will be located in flood hazard areas.
 - (2) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
 - (3) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
 - (4) Review applications to determine whether all necessary permits have been obtained from the federal, state or local agencies from which prior or concurrent approval is required; in particular, permits from MDE for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing nontidal waters of the state.
 - (5) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities and MDE (NFIP State Coordinator), and have submitted copies of such notifications to FEMA.
 - (6) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
 - (7) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if noncompliance has occurred or violations have been committed.
 - (8) Review elevation certificates and require incomplete or deficient certificates to be corrected.
 - (9) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the County, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
 - (10) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - (i) Flood insurance studies, flood insurance rate maps (including historic studies and maps and current effective studies and maps) and letters of map change; and

- (ii) Documentation supporting issuance and denial of permits, elevation certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- (11) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- (12) Advise the Hearing Examiner regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- (13) Administer the requirements related to proposed work on existing buildings:
 - (i) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
 - (ii) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- (14) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: Issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for increased cost of compliance coverage under NFIP flood insurance policies.
- (15) Notify FEMA when the corporate boundaries of the County have been modified and:
 - (i) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - (ii) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place within six months of the date of annexation and a copy of the amended regulations shall be provided to MDE (NFIP State Coordinator) and FEMA.
- (16) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

(C.B. 41, 2013, § 1(3))

Sec. 16.709. - Development that affects flood-carrying capacity of nontidal waters.

- (a) *Alteration of a Watercourse.* Unless waived by MDE and except as provided in subsection (b) of this section, for any proposed development that involves alteration of a watercourse that is in an area without base flood elevations and designated floodways, an Applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting such changes, including a floodway analysis, and submit such technical data to the floodplain administrator and to FEMA. The analyses shall be prepared by a licensed professional engineer in a format required by MDE and by FEMA for

a conditional letter of map revision and/or letter of map revision. Submittal requirements and fees shall be the responsibility of the Applicant.

- (b) *Exception.* A watercourse may be altered only upon submission, by the Applicant, of the following:
- (1) A certification by a licensed professional engineer that the flood-carrying capacity of the watercourse will not be diminished; and
 - (2) Evidence that adjacent communities, the U.S. Army Corps of Engineers, and MDE have been notified of the proposal, and evidence that such notifications have been submitted to FEMA.

(C.B. 41, 2013, § 1(3))

Sec. 16.710. - Subdivision proposals and development proposals.

In accordance with section 16.115 of this Code, in all flood zones, subdivision proposals and development proposals shall:

- (a) Be consistent with the need to minimize flood damage and are subject to all applicable standards in this subtitle and the Howard County Building Code.
- (b) Have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (c) Have adequate drainage paths provided to reduce exposure to flood hazards and to guide floodwaters around and away from proposed structures.

(C.B. 41, 2013, § 1(3))

Sec. 16.711. - Variances.

- (a) *Generally.*
- (1) *Authority to consider.* The Floodplain Administrator, through the Director of the Department of Inspections, Licenses and Permits, shall have the power to consider and authorize or deny variances from the strict application of the requirements of these regulations for construction adjacent to a floodplain in accordance with section 3112.4 of the Howard County Building Code. A variance shall be approved only if it is determined to not be contrary to the public interest and where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations, an unnecessary hardship would result.
 - (2) *Conditions.* Upon consideration of the purposes of these regulations, the individual circumstances, and the considerations and limitations of this section, the Floodplain Administrator, through the Director of the Department of Inspections, Licenses and Permits, may attach such conditions to variances as it deems necessary to further the purposes of these regulations.
 - (3) *Notification to Applicant.* The Floodplain Administrator, through the Director of the Department of Inspections, Licenses and Permits, shall notify, in writing, any Applicant to whom a variance is granted to construct or substantially improve a building or structure with its lowest floor below the elevation required by these regulations that the variance is to the floodplain management requirements of these regulations only, and that the cost of federal flood insurance will be commensurate with the increased risk, with rates up to \$25.00 per \$100.00 of insurance coverage and that the construction of structures below the base flood elevation increases risks to life and property.
 - (4) *Records.* A record of all variance actions, including justification for issuance shall be maintained pursuant to section 16.709 of this subtitle.

- (b) *Considerations for Granting Variances.* The Floodplain Administrator, through the Director of the Department of Inspections, Licenses and Permits shall make an affirmative decision on a variance request for construction adjacent to a floodplain only upon:
- (1) A showing of good and sufficient cause.
 - (2) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the Applicant.
 - (3) A determination that the granting of a variance for development within any designated floodway, or flood hazard area with base flood elevations but no designated floodway, will not result in increased flood heights beyond that which is allowed in these regulations.
 - (4) A determination that the granting of a variance will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud or victimization of the public, or conflict with existing local laws.
 - (5) A determination that the building, structure or other development is protected by methods to minimize flood damages.
 - (6) A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.
- (c) *Variance Prohibited.*
- (1) A variance shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - (2) A variance may not be issued for any property located in the Tiber Branch Watershed unless the variance:
 - (i) Was requested on or before November 7, 2016;
 - (ii) Is necessary for the reconstruction of existing structures or infrastructure damaged by flood, fire, or other disaster;
 - (iii) Is necessary for the construction of a stormwater management or flood control facility as part of a redevelopment project;
 - (iv) Is necessary for the retrofit of existing facilities or installation of new facilities intended solely to improve stormwater management or flood control for existing development;
 - (v) Is requested as part of a development proposal and the Director of the Department of Public Works, or his designee serving as Floodplain Administrator, finds that upon completion of construction of the development, which may include off-site improvements within the Tiber Branch Watershed, there will be improvement to flood control in the Tiber Branch Watershed at least ten percent more than what would otherwise be required by law; or
 - (vi) Is necessary for the construction of an addition, garage, driveway or other accessory use improvement of an existing residential structure on property located within the Tiber Branch Watershed that increases the square footage of the impervious surfaces on the property by no more than 25 percent over the square footage of impervious surfaces that existed on the property prior to the effective date of this bill [Dec. 9, 2016].

(C.B. 41, 2013, § 1(3); C.B. 80, 2016, § 1)

Sec. 16.712. - Violation.

- (a) If the County determines that there has been a violation of any provision of these regulations, the County shall give notice of such violation to the owner, the owner's authorized agent, and the person

responsible for the violation and may issue a stop work order. The notice of violation and stop work order shall be in accordance with the Howard County Building Code.

- (b) Where there is any violation of this subtitle or any action taken thereunder, the County shall institute appropriate action to prevent, enjoin, or compel compliance with the provisions of this subtitle. In addition to and concurrent with all other remedies at law or equity, the County may enforce the provisions of this subtitle with civil penalties pursuant to the provisions of title 24, "Civil Penalties" of the Howard County Code. A violation is a Class B offense. Each day that a violation continues is a separate offense.

(C.B. 61, 1988; C.B. 3, 2005, §§ 1, 4; C.B. 41, 2013, § 1(3))

Editor's note— Renumbered from previous section 16.703.

Sec. 16.713. - References to the 100-year floodplain.

Each reference in the Howard County Code or the Howard County Zoning Regulations to the "100-year floodplain" shall mean "base flood elevation".

(C.B. 41, 2013, § 1(3))

Sec. 16.714. - Severability.

If any section, sentence, clause or phrase of this subtitle is held invalid or unconstitutional by any court or competent jurisdiction, the ruling shall not affect the validity of the remaining portions or this subtitle.

(C.B. 41, 2013, § 1(3))

SUBTITLE 8. - DEPARTMENT OF PLANNING AND ZONING⁷¹

Footnotes:

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Editor's note— Subtitle 8, §§ 16.800, 16.801, was added by § 76 of C.B. 62, 1988. Section 101 declared the bill effective July 1, 1989.

Sec. 16.800. - General provisions.

General provisions regarding this Department are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 82, 1988)

Sec. 16.801. - The Department of Planning and Zoning.

- (a) *Head.* The Director of Planning and Zoning shall be the head of the Department of Planning and Zoning (formerly known as the Office of Planning and Zoning).

- (b) *Qualifications of Director of Planning and Zoning.* The Director of Planning and Zoning shall be a trained planner with wide and varied experience in the fields of Planning and Zoning. The Director shall have ten years of experience in urban and regional planning and shall have held a position of administrative leadership and responsibility for at least five years.
- (c) *Duties and Responsibilities.* The Department of Planning and Zoning shall comprehensively plan for the growth and development of the County, including but not limited to the functions set forth in this subsection.
 - (1) *Comprehensive general plan.* Within five years from the adoption of the comprehensive rezoning plan, the Department of Planning and Zoning shall coordinate the preparation and revision of a general plan for the County, including but not limited to a plan for land use and land conservation and multiyear development plans for transportation, public facilities, water, sewerage, parkland, housing, human services and environmental protection. The general plan shall follow general guidelines promulgated by the Planning Board and adopted by the County Council.
 - (2) *Subdivision rules and regulations:*
 - (i) *Preparation.* The Department of Planning and Zoning shall prepare and periodically revise procedures governing the subdivision of land and land development.
 - (ii) The Department of Planning and Zoning shall prepare recommended language for legislation governing development and the subdivision of land and shall forward this to the County Executive for submission to the County Council.
 - (iii) The Department of Planning and Zoning shall administer and enforce laws and procedures governing the subdivision of land and land development.
 - (3) *Zoning map; zoning regulations:*
 - (i) *Preparation.* The Department of Planning and Zoning shall prepare a comprehensive zoning plan, including a zoning map and zoning regulations. The Department shall submit these to the Planning Board for its recommendations and then to the County Council. The County Council, after public notice, shall hold a public hearing on the comprehensive zoning plan prior to taking final action on it.
 - (ii) *Enforcement.* The Department of Planning and Zoning shall administer and enforce regulations governing zoning, except as otherwise provided by law.
 - (4) *Amendments to comprehensive zoning plan:*
 - (i) *Piecemeal map amendments.* The Department of Planning and Zoning shall receive all petitions for piecemeal amendments to the zoning map. The Department shall accept and review these petitions and prepare findings and recommendations. The Department shall submit these petitions, recommendations and findings to the Planning Board for its recommendations after public notice and then to the Zoning Board. The Zoning Board, after public notice, shall hold a public hearing on the proposed reclassification or amendment prior to taking action.
 - (ii) *Text amendments.* The County Council shall receive all petitions for text amendments to the zoning regulations. The County Council shall submit these petitions to the Department of Planning and Zoning and to the Planning Board for their review and recommendations.
 - (5) *Deadline for traffic studies and all other technical reports for petitions to be considered by the Zoning Board, County Council, and the Planning Board.* Any petitioner seeking approval from the Zoning Board, County Council, or the Planning Board in a public hearing shall submit other technical reports to the Department of Planning and Zoning at least two weeks prior to the Planning Board meeting or hearing concerning the petition. Within two weeks of the public hearing, no additional information shall be accepted by the Department of Planning and Zoning. Any other technical reports submitted during Planning Board or Zoning Board deliberations shall result in the granting of at least a two week postponement for the opposing party, upon request.

The Zoning Board, County Council, or Planning Board may request any additional information during its deliberation process and grant the parties at least a two-week postponement, upon request.

- (6) *Deadline for technical staff reports for petitions to be considered by the Zoning Board, County Council, and Planning Board.* The Department of Planning and Zoning shall transmit its findings and recommendations concerning petitions to be considered by the Zoning Board, County Council, or the Planning Board to the Planning Board and the general public at least two weeks prior to any required public meeting or hearing. Any initial meeting or hearing shall not be scheduled until all questions raised by the Department of Planning and Zoning in their technical staff report are answered by the petitioner, as determined by the Department of Planning and Zoning. Failure to adhere to this provision will result in a postponement in consideration of the report until the next meeting or hearing.
- (7) *Other zoning changes.* The Department of Planning and Zoning shall receive all petitions related to zoning matters, such as conditional uses, variances, and nonconforming uses. The Department shall accept and review these applications and petitions and shall transmit them to the Hearing Examiner for the Board of Appeals. For all petitions related to variances in nonresidential districts, conditional uses, and extension, enlargement, or alteration of nonconforming uses, the Department shall prepare findings and recommendations in a technical staff report and shall submit the petitions, findings and recommendations to the Hearing Examiner for the Board of Appeals. The technical staff report shall be made available to the Hearing Examiner and the general public at least two weeks prior to any required public meeting or hearing. If the Hearing Examiner approves a petition subject to an amendment or modification of the petition and the approval is appealed to the Board of Appeals, the Department will prepare and submit to the Board its findings and recommendations concerning the amendment or modification in a technical staff report. The technical staff report shall be made available to the Board of Appeals and the general public at least two weeks prior to any required public meeting or hearing.
- (8) *Sites for public facilities.* The Department of Planning and Zoning shall assist in the preparation of comprehensive multiyear plans for the siting and development of public facilities, including but not limited to schools, police and fire stations, parks, facilities for the provision of water and the handling of sewage and solid waste, libraries, and government offices.
- (9) *Historic preservation.* The Department of Planning and Zoning shall be responsible for the administration and enforcement of the County's laws and regulations governing historic preservation.
- (10) *Capital program.* Each year the Department of Planning and Zoning shall review the proposed capital program. The Department shall prepare comments and recommendations on the impact of the proposed capital program on the County general plan and the growth of the County and submit these comments and recommendations to the County Executive.
- (11) *Planning Board.* The Director of Planning and Zoning or the Director's designee shall serve as Executive Secretary of the Planning Board and shall attend all meetings of that board.
- (12) *Agricultural preservation.* The Department of Planning and Zoning is responsible for the acquisition and stewardship of the agricultural land preservation easements, pursuant to subtitle 5 of title 15 of the Howard County Code.
- (13) *Other duties and responsibilities.* The Director of Planning and Zoning may assign any administrative and/or supervisory duties and responsibilities to the Deputy Director of Planning and Zoning. The Department of Planning and Zoning is responsible for other functions prescribed by directive of the County Executive or by law.

(C.B. 82, 1988; C.B. 151, 1991, C.B. 7, 1993; C.B. 72, 1993; C.B. 107, 1994; C.B. 29, 2001, § 1; C.B. 49, 2001, § 2; C.B. 58, 2006, § 1; C.B. 5, 2011, § 1; C.B. 55, 2013, § 1; C.B. 6, 2015, § 1; C.B. 63, 2018, § 1)

SUBTITLE 9. - PLANNING BOARD^[8]

Footnotes:

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Editor's note— Subtitle 9, § 16.900, was added by § 77 of C.B. 62, 1988. Section 101 declared the bill effective July 1, 1989.

Sec. 16.900. - Planning Board.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members.* The Planning Board shall have five members.
- (c) *Qualifications.* All members of the Planning Board shall be residents of Howard County.
- (d) *Executive Secretary.* The Director of Planning and Zoning or the Director's designee shall serve as Executive Secretary of the Planning Board and shall attend all meetings of the Board.
- (e) *Meetings.* The Planning Board shall hold regular monthly meetings. Special meetings may be held at any time, at the call of the Chair.
- (f) *Records.* The Planning Board shall keep a record of its findings, recommendations, determinations and decisions. The Planning Board shall keep minutes of its proceedings. The records shall be filed with the Department of Planning and Zoning, which shall maintain them.
- (g) *Outside Assistance.* With the approval of the County Executive, the Planning Board may retain legal counsel or consultants as necessary to carry out its function and duties and responsibilities.
- (h) *Studies.* The Planning Board may initiate studies related to the general duties and responsibilities and functions of the Board. For the purpose of conducting such studies, the Board shall have the assistance of the staff of the Department of Planning and Zoning, as may be provided in the budget.
- (i) *Hearings.* Prior to making recommendations to the County Council on adoption of the general plan, the Planning Board shall hold at least one public hearing at which interested persons shall be afforded a reasonable opportunity to be heard regarding the general plan. In addition, prior to making recommendations to the County Council on adoption of comprehensive zoning, the Planning Board shall hold at least one public hearing at which interested persons shall be afforded a reasonable opportunity to be heard regarding the comprehensive zoning. In both cases, at least 30 days' notice of the time and place of the hearing shall be on the County's website. The Planning Board may hold hearings on any matter pending before it and shall hold hearings upon written request of the County Executive or on resolution of the County Council and as required by law and regulations.
- (j) *Duties and Responsibilities.* The Planning Board shall carry out all duties and responsibilities assigned to it by law.
 - (1) *Recommendations on Planning and Zoning:*
 - (i) *Recommendations.* The Planning Board shall make recommendations to the County Council and the Zoning Board on all matters relating to:

The Planning and Zoning of the County, the adoption and amendment of regulations regarding the Planning and Zoning of the County, and amendments to the zoning map or zoning regulations.

- (ii) *Time frame.* The Planning Board shall make its recommendations within a reasonable period of time, but in any event no more than 45 days after it hears the petition unless the Zoning Board or the County Council allow a longer period of time for the Planning Board to make its recommendations.
 - (iii) *Deadline for Planning Board recommendations for planning and zoning legislation to be considered by the County Council .* A bill proposing the adoption and amendment of the Comprehensive General Plan, regulations regarding the Planning and Zoning of the County, or the zoning map or zoning regulations shall not be added to the Council's legislative agenda until the County Council has received:
 - a. A final technical staff report and recommendation from the Department of Planning and Zoning; and
 - b. A recommendation and report from the Planning Board.
- (2) *Decision making:*
- (i) The Planning Board shall make decisions with respect to matters submitted to it pursuant to the laws, rules, regulations, and ordinances of the County.
 - (ii) The Planning Board has authority regarding street naming and house numbering pursuant to subtitle 4, "Street Names and House Numbers" of [this] title 16 of the Howard County Code.
 - (iii) Any person specially aggrieved by any decision of the Planning Board and a party to the proceedings before it may, within 30 days thereof, appeal said decision to the Board of Appeals in accordance with section 501 of the Howard County Charter. For purposes of this section the term "any person specially aggrieved" includes but is not limited to a duly constituted civic, improvement, or community association provided that such association or its members meet the criteria for grievement set forth in subsection 16.103(b) of this title.
- (3) *Recommendations on capital programs and capital budgets:*
- (i) *Recommendations.* Each year the Planning Board shall review the proposed capital program and any new or substantially changed capital project, pursuant to law. It shall prepare comments and recommendations on the impact of the proposed capital program on the County general plan and the growth of the County and submit these comments and recommendations to the County Executive, with a copy to the County Council.
 - (ii) *Time frame.* The proposed capital programs for the following fiscal year shall be submitted to the Planning Board at least two months before the County Executive is required to file the County's proposed capital program. The Planning Board shall submit its comments and recommendations within one month of receiving the proposed programs.
- (4) *General plan guidelines:*
- (i) *Preparation of guidelines.* Within five years from the adoption of this comprehensive rezoning plan, the Planning Board shall prepare general guidelines to be used by the Department of Planning and Zoning in the preparation and/or revision of the general plan.
 - (ii) *Adoption of guidelines.* The County Council shall adopt the guidelines by resolution prior to the formulation of the general plan utilizing these guidelines.
- (5) *Other recommendations.* At the directive of the County Executive or by resolution of the County Council, the Planning Board shall review and make recommendations on any matter related to planning.

(C.B. 62, 1988; C.B. 13, 1990; C.B. 83, 1993; C.B. 107, 1994; C.B. 17, 2003; C.B. 25, 2012, § 5; C.B. 73, 2017, § 1)

Footnotes:

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Editor's note— Section 1 of C.B. 77, 1995, repealed former subtitle 10, §§ 16.1000—16.1012, relating to growth management and derived from C.B. 43, 1989; C.B. 98, 1989; C.B. 104, 1989; C.B. 55, 1990; C.B. 61, 1990; C.B. 62, 1990; and C.B. 12, 1991. Subsequently, C.B. 37, 2000 added a new section 16.1000 pertaining to zoning counsel.

Sec. 16.1000. - Zoning Counsel.

- (a) The County Council may employ a Zoning Counsel on a part-time, contractual basis. The Zoning Counsel shall be a member in good standing of the Bar of the Maryland Court of Appeals and at the time of appointment shall have been actively engaged in the general practice of law for at least five years.
- (b) A decision to enter into a contract with an individual to perform the duties of Zoning Counsel shall be made by an affirmative vote of at least three Councilmembers. A decision to terminate a Zoning Counsel's contract shall be made by an affirmative vote of at least four Councilmembers.
- (c) The Zoning Counsel shall appear at all Zoning Board hearings on requests for piecemeal zoning map amendments for the purposes of producing evidence and testimony supporting comprehensive rezoning and facilitating the compilation of a complete record.
- (d) In the performance of these duties the Zoning Counsel may:
 - (1) Present evidence and witnesses;
 - (2) Examine and cross-examine witnesses;
 - (3) Present argument; and
 - (4) Take any other action necessary to perform these duties.
- (e) The budget for the Zoning Counsel shall be included in the County Council budget.
- (f) The Zoning Counsel may retain expert witnesses and compensate them to the extent that the Council budget includes funds for such compensation.
- (g) The Zoning Counsel shall be available:
 - (1) To any person interested in any zoning matter to advise as to procedures before a County agency or board, provided that when doing so the Zoning Counsel does not engage in the practice of law or render individual legal advice; and
 - (2) To any group to speak about zoning procedures in the County.
- (h) The Zoning Counsel shall attend certain presubmission community meetings, as necessary. The County Council shall determine whether or not the Zoning Counsel shall attend certain presubmission community meetings to advise any person or group of procedural matters.
- (i) The Zoning Counsel:
 - (1) Does not represent the County, any government agency or any private party;
 - (2) Is not a party and does not have a right of appeal in connection with any case before the Board of Appeals;
 - (3) May not represent any client involving land use in Howard County; and
 - (4) May not represent any client before the Zoning Board or Board of Appeals for one year after leaving the Office of Zoning Counsel.

- (i) Subject to section 22.1000 of the County Code, on or before July 1 of each year, the Zoning Counsel shall submit to the Council and the County Executive a report on the activities of the office in the past year.

(C.B. 37, 2000; C.B. 58, 2005; C.B. 8, 2006, § 1; C.B. 43, 2018, § 1)

Secs. 16.1001—16.1012. - Reserved.

SUBTITLE 11. - ADEQUATE PUBLIC FACILITIES^[10]

Footnotes:

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State Law reference— Adequate public facilities ordinances, Ann. Code of Md. art. 66B, § 10.01 et seq.; applicability to County, Ann. Code of Md. art. 66B, § 1.02.

Sec. 16.1100. - Short title; background; purpose; organization.

(a) *Short Title.* This subtitle shall be known as the Adequate Public Facilities Act of Howard County.

(b) *Background:*

- (1) *Growth management process.* Underlying this subtitle is the need to provide a growth management process that will enable the County to provide adequate public roads, schools, and other facilities in a timely manner and achieve general plan growth objectives and to provide information to other agencies of the County and State, as well as to the public, so that they can plan accordingly. This process is designed to provide predictability to all parties and to direct growth to areas where adequate infrastructure exists or will exist.
- (2) *Basis of growth management process.* The growth management process is based on the following assumptions:
 - (i) The general plan and zoning plan define land use and the distribution and pace of development.
 - (ii) The government has a responsibility to fund and construct adequate public facilities in a timely and coordinated manner.
 - (iii) A growth management process will result in more predictable residential and commercial development.
 - (iv) A commitment from government and the community to the growth management process is fundamental to achieving adequate public facilities.
- (3) *Elements of the growth management process .* This subtitle is one of five interconnected elements that constitute the growth management process. Each element has a part to play in providing the predictability required for planning and implementing adequate public facilities.
 - (i) *Establishing policy .* The general plan, the zoning plan, and the standards in this subtitle constitute the policy base for the growth management process. This common base is the platform from which data are generated and planning documents written.
 - (ii) *Capital planning .* Capital improvement master plans define the necessary public school, road, solid waste, and water and sewerage infrastructure which supports the land use and growth policies established in the general plan. Capital improvement master plans will minimally contain planning assumptions, standards of service, descriptions of additions

and improvements, justification and priorities for additions and improvements, and budget projections for each of the next ten years. The plans will be reviewed and approved annually.

- (iii) *Revenue allocation* . Limited resources will require coordinated allocation of funds for roads, schools and other facilities. The Planning Board, the County Executive, the County Council, and participating agencies and departments will work together to review priorities and budget projections included in the capital improvement master plans. The County Council will conduct a public hearing and, through adoption of the capital budget and capital improvement program, will approve the distribution of funds across capital improvement master plans.

The building excise tax (see title 20, subtitle 5 of the Howard County Code), enhances the County's ability to provide adequate public road facilities.

- (iv) *Adequate public facilities* . The general plan guides where and when growth occurs. The adequate public facilities process and standards will manage growth so that facilities can be constructed in a timely manner.

- a. Within one year of the enactment date of the general plan, as required by section 16.801 of this Code, an Adequate Public Facilities Act Review Committee shall be convened. The Review Committee shall meet, conduct at least two public hearings, and, within one year of its first meeting, submit a report with recommendations on the Adequate Public Facilities Act to the County Executive and the County Council. The Committee shall be staffed by the Department of Planning and Zoning.

- b. Five years after the Review Committee has issued its recommendations, another Review Committee shall be convened to evaluate the impact of the previous recommendations which have been implemented and make any additional recommendations.

- c. Each Review Committee shall be comprised of:

1. Two appointees from each member of the County Council;
2. Three appointees from the County Executive; and
3. One appointee from the Board of Education; and
4. One appointee from the Howard County Public School System Superintendent.

- (v) *Monitoring growth* . The Department of Planning and Zoning will develop statistics and other pertinent data which will be continually used to assess the growth management process so that status reports can be prepared and adjustments recommended regarding the growth management process.

- (c) *Purpose*. The purpose of this subtitle is to provide a predictable planning environment for the provision of adequate road facilities and adequate public schools facilities by requiring residential and nonresidential projects to pass certain tests as a condition of subdivision or site development plan approval.

- (d) *Organization and Contents of This subtitle*:

- (1) *Definitions*. The meanings of certain words and phrases used in this subtitle are found in section 16.1110, "Definitions," of this subtitle.

- (2) *Adequate road facilities* means this subtitle requires residential and nonresidential projects to be tested for adequate road facilities. Section 16.1101 deals with this test and its implementation.

- (3) *Housing unit allocation concept* means the housing unit allocation concept underlies the tests for adequate public facilities. Section 16.1102 deals with this concept.

- (4) *Adequate school facilities* means this subtitle requires residential projects to be tested for adequate public school facilities. Section 16.1103 deals with these tests.
- (5) *Housing unit allocation process* means residential projects are granted housing unit allocations. Section 16.1104 deals with the process for granting these allocations.
- (6) *Processing plans*, see: Section 16.1105 deals with the process by which the test for adequate road facilities and the tests for adequate public school facilities are incorporated into the subdivision and site development plan review and approval process.
- (7) *Milestones*. see: Section 16.1106 deals with milestones, an additional tool to provide a predictable planning environment and assure that housing unit allocations are utilized.
- (8) *Exemptions* means certain projects are exempted, partly or wholly, from the test for allocations and/or the test for adequate road facilities and/or the tests for adequate school facilities. Section 16.1107 lists the exemptions.
- (9) *Development monitoring system* means a development monitoring system provides information on the County's employment and residential growth. Section 16.1108 mandates the creation of a development monitoring system.
- (10) *Appeals*, see: Section 16.1109 deals with appeals made in connection with this subtitle.

(C.B. 7, 1992; C.B. 39, 1995; C.B. 5, 2000; C.B. 50, 2000; C.B. 1, 2018, § 2)

Editor's note— Former § 16.1100, which authorized the County to fix impact fees, was enacted by ch. 239 of the 1991 Laws of Maryland and was repealed by ch. 285 of the 1992 Laws of Maryland.

Sec. 16.1101. - Adequate transportation facilities.

- (a) *Requirement to be Tested for Adequate Transportation Facilities*. Each final development plan proposing downtown revitalization and each subdivision and site development plan, except those listed in Section 16.1107, "Exemptions," shall pass the test for adequate road facilities. In Downtown Columbia, testing for the adequacy of pedestrian and bicycle facilities is also required, as well as a queuing analysis and transportation demand management statement as specified in subsection 16.1101(f).
- (b) *The Test for Adequate Road Facilities*. A project or a phase of a project will pass the test for adequate road facilities if, in the scheduled completion year of the project or the phase of the project:
 - (1) The road facilities in the impact area of the proposed project will operate at or above the minimum level of service after including the traffic generated by the project; or
 - (2) The road facilities in the impact area of the proposed project will operate below the minimum level of service after including the traffic generated by the project but the developer proposes a mitigation plan, subject to approval by the Director of Planning and Zoning, after consultation with the Director of Public Works, as provided in subsection (f) below.
- (c) *Traffic Study*. A traffic study, as specified in the Howard County Design Manual, shall be submitted with each application for approval of a subdivision or site development plan under the Subdivision and Land Development Regulations and with each application for approval of a final development plan proposing downtown revitalization. For projects which will not produce additional traffic, an affidavit stating that the project will not produce additional traffic may be submitted in lieu of a traffic study.
- (d) *Road Facilities to Be Included in Determining Adequacy*. In determining whether a proposed project passes the test for adequate road facilities, the following road facilities shall be considered as existing in the scheduled completion year of the project:

- (1) Road facilities in existence as of the date the developer submits the application for approval of the project;
 - (2) New road facilities or improvements to existing road facilities for which sufficient funds have been included in the Howard County Capital Program or Extended Capital Program as defined in title 22 of the Howard County Code or the Maryland Consolidated Transportation Program so that the facilities will be substantially completed before or during the scheduled completion year of the project, unless the Director of Planning and Zoning, after consultation with the Director of Public Works, demonstrates that such facilities or improvements are not likely to be completed by that time.
 - (3) New road facilities or improvements to existing road facilities which:
 - (i) Have been included in developers' mitigation plans submitted for approval to the Department of Planning and Zoning before the project which is being tested;
 - (ii) Which are scheduled to be substantially completed before or during the scheduled completion year of the proposed project; and
 - (iii) Have been included in a developer agreement which shall include the information required by section 16.147(e) and section 16.156(k) of this Code.
 - (4) The mitigation proposed by the developer.
- (e) *Traffic to Be Considered in Determining Adequacy.* In determining whether a project passes the test for adequate road facilities, the following traffic shall be considered as existing when the subdivision or land development is completed:
- (1) Traffic existing at the time of application.
 - (2) Background traffic growth.
 - (3) Traffic generated by proposed subdivisions which have passed the test for adequate road facilities prior to submission of the application for approval of the project but have not yet been recorded.
 - (4) Traffic generated by proposed site developments which passed the test for adequate road facilities prior to submission of the application for approval of the project but have not yet received site development plan approval.
 - (5) Traffic generated by subdivisions or site development plans which passed the test for adequate road facilities and were recorded or approved prior to submission of the application for approval of the project and which are scheduled to be completed before or during the scheduled completion year of the proposed project.
 - (6) Traffic generated by the proposed project.
- (f) *Testing Provisions Applicable to Downtown Columbia:*
- (1) For all final development plan applications proposing downtown revitalization and all subdivision and site development plan applications in Downtown Columbia, the intersection standard is up to 1,600 CLV for all intersections as specified in the Howard County Design Manual. A queuing analysis is also required for the same intersections.
 - (2) The County will conduct independent traffic monitoring studies every five years in order to assess the validity of traffic study assumptions and whether recalibration of projections should be required for future traffic studies.
 - (3) Downtown revitalization is also subject to a pedestrian and bicycle level of service test as specified in the Howard County Design Manual.
- (g) *Extent of the Mitigation:*
- (1) Mitigation means the construction and/or the funding of improvements to road facilities by a developer or developers, as approved by the director of planning and zoning, after consultation

with the director of public works. Mitigation measures may include any intersection capacity improvements except grade separation of the roadways and ramps within the intersection or improvements to the through lanes of intermediate arterials and higher classified roads.

- (2) Except as otherwise provided in subsections (3) and (4) below, mitigation necessary to pass the test for adequate road facilities shall increase capacity on each road facility below the minimum level of service in the impact area so that the level of service on each road facility in the impact area after construction of the project would be equal to the level of service if the project had not been constructed but not more than the minimum level of service.
- (3) Except as otherwise provided in subsection (5) below, in the event that mitigation to an intersection pursuant to subsection (2) above would require the construction of improvements to interchanges or grade-separated intersections or improvements to the through lanes of intermediate arterials and higher classified roads, mitigation necessary to pass the test for adequate road facilities shall increase the capacity of the intersection to the fullest extent possible without constructing such improvements.
- (4) In circumstances where mitigation pursuant to subsection (2) above would have a negative impact on the characteristic(s) (historic or environmental) which served as the basis for declaring an intersection constrained, mitigation needed to pass the test for adequate road facilities on a constrained road facility shall increase the capacity on the constrained facility to the fullest extent possible without negatively impacting the characteristic(s) which caused the road facility to be declared constrained.
- (5) Mitigation provisions applicable to Downtown Columbia:
 - (i) All intersections serving a project located within Downtown Columbia are subject to potential mitigation, including modification of traffic signal equipment, timing, phasing and/or coordination; construction of new side street through lanes; extension of existing turn lanes; construction of new turn lanes; re-alignment; and similar improvements.
 - (ii) When grade-separated roadways or arterial through lane improvements are the only viable mitigation alternatives, full mitigation will not be required by the developer, but may be provided in accordance with the Howard County Design Manual.
 - (iii) Mitigation requirements to meet the pedestrian and bicycle level of service are specified in the Howard County Design Manual.

(h) *Mitigation Involving Funding of Capital Projects:*

- (1) If the Director of Planning and Zoning, after consultation with the Director of Public Works, determines that the timing of capital projects or the need to ensure continuity in the transportation network makes it more efficient to delay the construction of all or part of proposed mitigation, the Director shall require that the developer:
 - (i) Delay the construction of all or part of the improvements to a date certain and sign a major facilities agreement guaranteeing the construction of the delayed improvements; or
 - (ii) Sign a major facilities agreement to pay the County the current estimated cost of the mitigation, which money shall be used by the County to fund all or part of a capital project to improve the road facility which was to have been mitigated by the developer.
- (2) If a proposed mitigation would be temporary because of other proposed improvement plans impacting the road facility, the Director of Planning and Zoning, after consultation with the Director of Public Works, may waive construction of the mitigation, provided that the waiver will not create traffic safety problems. In such event the developer will be required to enter into a major facilities agreement to pay the County the current estimated cost of the mitigation, which moneys shall be used to help fund the costs of a capital project to improve the road facility which was to have been mitigated by the developer.
- (3) If the Director of Planning and Zoning, after consultation with the Director of Public Works, determines that a road facility is subject to mitigation plans from multiple projects, the Director

may apportion the mitigation requirements among the developers of the projects, assigning to each project its prorated share of the construction costs. If timing of the mitigation plans is not concurrent or presents other practical difficulties, the Director shall require each developer to enter into a major facilities agreement to make a payment in lieu of mitigation. The moneys collected shall be used to fund the costs of a capital project to improve the road facility sufficiently to mitigate the traffic generated by the multiple projects.

- (4) The developers of multiple projects may jointly propose a mitigation plan for purposes of meeting the adequate transportation facilities requirement. Each mitigation plan proposed under this subsection (4) shall indicate the participants in the plan; which participant(s) will be responsible for implementing the plan and constructing any required transportation improvements; and how the transportation capacity to be created will be apportioned among the plan participants.
- (i) *Planning Board Use of Capacity and Mitigation Standards in Determination of Adequacy for Certain Development Plans.* The Planning Board shall apply the capacity and mitigation standards of this subtitle for determining the adequate capacity of roads or schools when considering those development plans for which adequate capacity of roads or schools is a standard for approval as provided in the zoning regulations.

(C.B. 7, 1992; C.B. 16, 1995; C.B. 39, 1995; C.B. 47, 2010, § 1(1); C.B. 1, 2018, § 2)

Editor's note— C.B. 47, 2010, § 1(1), adopted Aug. 5, 2010, amended § 16.1101 title to read as herein set out. Former § 16.1101 title pertained to adequate road facilities

Sec. 16.1102. - Housing unit allocation concept; housing unit allocation chart.

(a) *Underlying Logic; Purpose:*

- (1) Fiscal studies performed in connection with preparation of the general plan analyzed various levels of population and housing unit growth. As a result of those studies, which included cost/revenue and cost/benefit analyses, the general plan included annual targets for residential completions.
- (2) The purpose of the housing unit allocation concept is to achieve but not, on the average, exceed the general plan annual targets for residential completions and, in so doing, to provide an orderly and predictable planning environment for schools and other public facilities.
- (3) The housing unit allocation concept has been implemented in this subtitle through the housing unit allocation test and underlies the housing unit allocation chart used in connection with that test. Use of the housing unit allocation concept and the embodiment of that concept in the housing unit allocation chart will allow the county to develop in a manner consistent with the general plan.
- (4) Because the need for school capacity fluctuates over time, long-term planning and programming predictability and the efficient use of public funds demands that the adequate school facilities test be linked with the housing unit allocation chart. Use of the housing unit allocation chart is required even when all schools are adequate in order to provide a predictable planning environment for the continuation of that adequacy.

(b) *Housing Unit Allocation Chart:*

- (1) *Description.* The housing unit allocation chart is a chart indicating the projected number of housing unit allocations available to be granted in the County each year for a ten-year period. The chart is designed to specify housing unit allocations for the scheduled completion year of a project or any phase of a project. The chart divides the available housing unit allocations into the following categories based on geographic areas as set forth in the general plan: Growth and

revitalization, established communities, the Rural West and Downtown Columbia, and green neighborhood units.

- (2) *Basis.* The basis of the housing unit allocation chart is the general plan geographic targets for residential growth. However, if the general plan monitoring report indicates that general plan policies for agricultural preservation and environmental protection are not being met, the housing unit allocation chart may be adjusted to more effectively achieve these policies.
- (3) *Preparation and adoption .* The Department of Planning and Zoning shall prepare and update the housing unit allocation chart for consideration and adoption by the County Council. Once each year, and more often if the Council determines that amendments are appropriate, the County Council shall adopt the housing unit allocation chart by resolution, after a public hearing. Whenever the housing unit allocation chart is adopted or amended, the school capacity chart shall be adopted or amended concurrently to be consistent.
- (4) *Amendments for economic development, grants, etc.* From time to time, the County may be presented with opportunities for economic development [o]r availabilities of state or federal grant moneys which require increasing the number of housing unit allocations for distribution for a given year. In order to take advantage of these opportunities, the County Council may, at any time, amend the housing unit allocation chart for a certain year or years. If the Council makes such an amendment, it shall use the rolling average (see section 16.1110, "definitions") to amend the number and/or distribution of allocations for subsequent years.
- (5) *Green neighborhood allocations.* To encourage sustainable residential planning and design, to minimize adverse impacts on natural resources, and to promote energy efficiency, beginning in fiscal year 2008:
 - (i) The annual housing unit allocation chart may move up to 100 allocations per year from other housing allocation categories to be used solely for housing that meets green neighborhood standards adopted by resolution of the County Council;
 - (ii) A development using green neighborhood allocations shall satisfy the remaining applicable provisions of this subtitle.
- (6) *Downtown Columbia Housing allocations.* To encourage the revitalization of Downtown Columbia, beginning in fiscal year 2011 the number of housing unit allocations shall be increased to provide allocations consistent with the phasing progression in the adopted Downtown Columbia plan as follows:
 - (i) For Downtown Columbia revitalization, the housing unit allocation chart adopted each year by the County Council shall include the total number of residential units allowed in the current phase of the downtown revitalization phasing progression, and shall also include the total number of units allowed in the downtown revitalization phasing progression for all subsequent phases of downtown revitalization.
 - (ii) The annual distribution of allocations within each phase shall ensure that sufficient allocations are available at the beginning of each phase to take advantage of mixed-use market opportunities and ensure timely achievement of phasing progression and CEPPA requirements.
 - (iii) The granting of allocations for downtown revitalization is made independent of and without reference to the number of allocations for the planning region of Columbia. The granting of allocations for development under new Town zoning that is not subject to the downtown revitalization phasing progression continues to be based on the allocations for the Columbia Planning Region.
 - (iv) Development in Downtown Columbia may not use Green Neighborhood allocations.
 - (v) If the total number of residential units proposed in a final development plan application exceeds the number of available allocations for the scheduled completion year of either the initial phase or any additional phase(s), the developer may request and the Department of

Planning and Zoning shall authorize the advancing of allocations from future years needed to complete a comprehensive final development plan provided that:

- a. The plan complies with phasing progression requirements;
 - b. All necessary CEPPA requirements have been met;
 - c. All adequate public facilities transportation tests have been passed; and
 - d. The adequate public facilities schools tests have been passed.
- (vi) Redistribution of housing unit allocations within an approved final development plan is permitted within the first four years of the final development plan phasing without being subject to section 16.1104(b) or retesting for housing unit allocations and adequate school facilities provided:
- a. The total number of housing unit allocations approved by the final development plan is not exceeded;
 - b. Milestones are satisfied for all plan processing;
 - c. The redistribution of units complies with the downtown revitalization phasing progression requirements; and
 - d. All necessary CEPPA requirements have been met.

The redistribution of units may be subject to retesting for adequate transportation facilities if the Department of Planning and Zoning, in consultation with the Department of Public Works, finds it appropriate to retest based on the number of units being redistributed and existing critical lane volume.

After the first four years of the final development plan phasing, any redistribution of housing unit allocations will require rephasing under section 16.1104.(b).

- (vii) Allocations will become permanent upon the recordation of the approved final development plan, and will remain valid provided the developer continues to meet all required milestones.

(C.B. 7, 1992; C.B. 20, 1995; C.B. 39, 1995; C.B. 50, 2000; C.B. 34, 2003, § 1; C.B. 38, 2005, § 1; C.B. 23, 2006, § 1; C.B. 48, 2007, § 1; C.B. 39, 2008, § 1; C.B. 62, 2008, §§ 1, 2; C.B. 47, 2010, § 1(2); C.B. 41, 2012, § 1.1; C.B. 1, 2018, § 2)

Sec. 16.1103. - Adequate school facilities.

- (a) *Requirement to Be Tested for Adequate Public School Facilities.* As a condition of subdivision or site development plan approval, all residential subdivisions and site development plans, except those listed in section 16.1107, "Exemptions," are required to pass the tests for adequate public school facilities.
- (b) *The Tests for Adequate Public Schools .* A proposed residential project will pass the tests for adequate public schools if the school capacity chart (see subsection (c), "School Capacity Chart," below) indicates that:
 - (1) The elementary school region where the proposed project will be located will be open for new residential development during the scheduled completion year of the project and any phase of a project; and
 - (2) The elementary, middle, and high schools which will serve the proposed project will be open for new residential development during the scheduled completion year of the project and any phase of a project.
- (c) *School Capacity Chart Preparation and Adoption :*

- (1) *Definition* . The school capacity chart is a chart indicating which elementary school regions and which elementary, middle, and high schools are open for new residential development and which are constrained each year for each of the following ten years, and shall be based on the definition of program capacity defined by HCPSS policy.
- (2) *Basis of chart* . The basis of the school capacity chart is the assumptions used by the Board of Education in predicting capacity utilization, such as school capacity, current enrollment, demographic and growth trends, and the housing unit allocation chart.
- (3) *Preparation and adoption of school capacity chart* . The school capacity chart is designed to work in conjunction with the housing unit allocation chart in order to provide consistency and predictability in the planning process for schools. For that reason, the school capacity chart shall be revised for consistency concurrent with any amendments to the housing unit allocation chart.

The Department of Planning and Zoning shall receive the school capacity chart, from the Board of Education, accompanied by a report that contains the following information for each school:

- (i) State and local capacities of the facility;
- (ii) The date of the last redistricting which impacted the attendance area of that school;
- (iii) For any projected increase in enrollment, an indication of what portions of the increase are attributed to sales or rental turnover of existing residential units, new development, and other factors; and
- (iv) For any school designated as open on the school capacity chart based on a capital improvement project or proposed redistricting associated with a capital improvement project:
 - a. Current and future funding assumptions for the capital improvement project(s);
 - b. Future redistricting assumptions associated with the capital improvement project; and
 - c. An explanation of any capacity utilization changes based on (a) or (b).

The school capacity chart shall be submitted to the County Council for adoption by resolution after a public hearing. Whenever the County Council adopts, amends, or updates the housing unit allocation chart, it shall concurrently adopt the school capacity chart.

- (d) *Joint Special Work Meeting on Schools Nearing Capacity*. Upon receiving written notification from the Howard County Public School System that a school or school region has reached 95 percent capacity utilization and is projected to exceed 110 percent capacity utilization within five years as well as the Board of Education's proposed solution to address the projected overcrowding, the County Council shall hold a joint special work meeting. The Council shall invite the County Executive and the Board of Education to attend the meeting and participate in a collaborative working discussion of school capacity needs and the Board's proposed solution. The Council shall give the general public three weeks' notice before the meeting to allow the public to provide written comment.
- (e) *Special Affordable Housing Opportunities*. To balance the County's policy goals to provide adequate school facilities and affordable housing in accordance with section 7-101 of the Land Use Article of the Annotated Code of Maryland and the County's General Plan, if an affordable housing project or phase of a project is located in the attendance area of a school that is closed for development due to projected enrollment in the school capacity chart, the Director of the Department of Planning and Zoning shall authorize the affordable housing project to proceed subject to all other provisions of this subtitle, provided that:
 - (1) At least 40 percent of the units shall be affordable to households earning 60 percent or less of the metropolitan statistical area median income;
 - (2) The project or phase of a project is led by or in partnership with a local nonprofit or the Housing Commission;

- (3) The project or phase of a project is seeking or has received an allocation of Low-Income Housing Tax Credits or other state or federal financial assistance for affordable housing;
- (4) The project or phase of a project has obtained a letter of support from the County Executive; and
- (5) The County Council and County Executive have approved either a Payment in Lieu of Taxes (PILOT) agreement for the project or a resolution authorizing the project to proceed. As part of the approval of the PILOT or resolution, the Council shall hold a public hearing and consider:
 - (i) The capacity utilization at the school or schools impacted by the project and at adjacent schools, including limiting the potential impact on any elementary or middle school with a capacity utilization rate greater than 115 percent unless an adjacent school with the same grade levels has a capacity utilization rate of 100 percent or less;
 - (ii) Estimated student generation from the project;
 - (iii) Any potential for the Board of Education to add capacity to the impacted school or schools through redistricting, facility expansion, or other programs; and
 - (iv) The need for affordable housing in the County, including factors such as the housing cost burden on families, the availability of housing for individuals with disabilities, and the extent of homelessness among families and school children.

(C.B. 7, 1992; C.B. 39, 1995; C.B. 50, 2000; C.B. 1, 2018, § 2)

Sec. 16.1104. - Housing unit allocation process.

(a) *Granting of Housing Unit Allocations:*

- (1) This subsection deals with the granting of housing unit allocations to conventional projects. Upon signature approval of a sketch plan, preliminary equivalent sketch plan or decision and order of the Planning Board for projects requiring Planning Board approval, tentative housing unit allocations shall be granted if available. Tentative housing unit allocations remain valid, provided the developer continues to meet all required milestones and become permanent upon recordation of the subdivision, except as provided in subsection 16.1106(h)(2). Projects not requiring subdivision shall be granted tentative housing unit allocations, if available, upon determination that the site development plan is technically complete. Tentative housing unit allocations become permanent upon signature approval of the site development plan.
 - (2) This subsection deals with the granting of housing unit allocations to comprehensive projects. Upon initial application of sketch plan, preliminary equivalent sketch plan, or site development plan for comprehensive projects that do not require subdivision, tentative housing unit allocations shall be granted if available. Tentative housing unit allocations remain valid, provided the developer continues to meet all required milestones, and become permanent upon recordation of the subdivision or signature approval of the site development plan, except as provided in subsection 16.1106(h)(2) of this subtitle.
 - (3) Because the time required for projects to pass through the plan review and construction process is approximately three years, the housing unit allocation chart is organized so that housing unit allocations granted in any given year are for proposed buildout three years later, unless the project is phased. For this reason, the scheduled completion year of all unphased projects and the scheduled completion year of the initial phase of phased conventional projects and comprehensive projects is the third year following the year the project passes the housing unit allocation test.
- (b) *Phasing.* See section 16.1110, "Definitions," for definition of "Phasing," "Unphased Projects," and "Phased Projects."

(1) *Changing phasing schedule.* The schedule for completion of the phases of a phased project may be revised by the developer no more than once every four years during the subdivision plan approval process.

(2) *Comprehensive projects.* Comprehensive residential projects may be phased at the option of the developer, provided that housing unit allocations are available for the scheduled completion year of the initial phase of the project and for the scheduled completion years of each additional phase of the project, except as provided below.

If no allocations are available for the initial phase of a comprehensive project, or if too few allocations are available to make the initial phase viable, the developer has the option to receive all tentative allocations in future years. However, except for final development plan phased projects in Downtown Columbia which are subject to subsection 16.1102(b)(8) and that meet the phasing progression and CEPPA requirements of the Downtown Columbia plan, the Department of Planning and Zoning shall not grant more than 50 percent of the total allocations available within any region for any future year for all projects choosing this option.

(3) *Conventional projects.* Conventional residential projects may be phased if there are sufficient housing unit allocations available for the scheduled completion year of the initial phase of the project and for the scheduled completion years of each additional phase of the project.

(c) *Year of Allocation; Category of Allocation.* Except as provided in subsection (h) of this section, the Department of Planning and Zoning shall grant housing unit allocations from the housing unit allocation chart as follows:

(1) *Unphased projects.* Unphased projects shall be granted housing unit allocations for the scheduled completion years of the project.

(2) *Phased projects.* Phased projects shall be granted housing unit allocations for the scheduled completion years of each phase of the project.

(3) *Comprehensive projects.* Comprehensive projects shall receive allocations for the scheduled completion year of the project or phases of the project.

(4) *Changes to allocation categories.* Phased projects shall retain allocations granted under all previous allocation charts, but for future phases shall be assigned allocations from the appropriate new allocation category.

(d) *Additional Allocations May Be Granted.* Frequently, the number of housing units proposed to be included in the project at the time the project is tested for adequate school facilities is greater than the number of housing units which will actually be approved when the plan is finally recorded. For this reason, as it processes subdivision and site development plans, the Department of Planning and Zoning shall grant more tentative allocations than the total planning region housing unit allocations available for the initial year on the housing unit allocation chart. The County Council shall set by resolution, after public hearing, the percentage by which the Department of Planning and Zoning may exceed the regional housing unit allocations on the housing unit allocation chart. The percentage shall be based on historical data regarding the number of housing completions in relation to the number of housing unit allocations so as to meet the general plan targets.

(e) *Special Affordable Housing Opportunities:*

(1) From time to time, the County may be presented with a special affordable housing opportunity for development of either:

(i) An assisted multifamily project that:

a. Cannot generate school children, such as senior housing or age-restricted housing;

b. Is funded in whole or in part with local, State or Federal loan or grant funds or other governmental financial assistance; and

c. May lose the loan or grant or other assistance if the development is delayed; or

- (ii) An innovative moderate income housing unit development, including, without limitation, multiplexes, stacked units, or accessory apartments, that has been determined by the Department of Housing and Community Development and the Department of Planning and Zoning to:
 - a. Demonstrate a new housing product that is more affordable than existing housing products; and
 - b. Have the potential to promote housing diversity and the construction of a broader range of affordable housing.
- (2) If allocations are not currently available the County Council may, by resolution, after public hearing, authorize a special affordable housing project to proceed subject to all other provisions of this subtitle.
- (3) If the County Council approves such a resolution, the Department of Planning and Zoning shall process the project as if allocations were granted. However, the Department of Planning and Zoning shall carry the project on the list of project applications waiting for housing unit allocations.
- (4) When housing unit allocations become available to serve the project, the Director of Planning and Zoning shall assign allocations to the project. In calculating the rolling average, the project shall not be exempt and its allocations shall be included in the year in which they are assigned.
- (5) A development using allocations under this subsection shall satisfy the remaining applicable provisions of this subtitle.
- (f) *Limit on Allocations in a School District* . Except for projects exempt under subsection 16.1107(b) of this subtitle and for units in Downtown Columbia, the Department of Planning and Zoning may not grant more than 300 allocations in one year in a single elementary school district if the elementary school region within which the district is located exceeds 100 percent of capacity.
- (g) *Order of Granting Allocations*. If a project is eligible for allocations from more than one category, an allocation granted under this subtitle shall generally be granted from the appropriate geographic area, prior to granting green neighborhood allocations. The Department may grant allocations to a project in a different sequence if the grant more equitably distributes allocations among all projects waiting for allocations.

(C.B. 7, 1992; C.B. 39, 1995; C.B. 5, 2000; C.B. 50, 2000; C.B. 45, 2003, § 1; C.B. 38, 2005; C.B. 23, 2006, § 1; C.B. 39, 2008, § 2; C.B. 47, 2010, § 1(3); C.B. 41, 2012, § 1.2; C.B. 55, 2016, § 1)

State Law reference— Affordable housing ordinances, Ann. Code of Md. art. 66B, § 12.01 et seq.; applicability to County, Ann. Code of Md. art. 66B, § 1.02.

Sec. 16.1105. - Processing of plans subject to test for adequate transportation facilities and/or tests for adequate school facilities and/or test for housing unit allocations.

- (a) *When Projects Are Tested*. Unless otherwise provided in this subtitle, a project is tested at the initial plan stage, except that:
 - (1) Applications for sketch plan approval which are pending as of the effective date of this subtitle April 10, 1992, shall be tested at the sketch plan stage; and
 - (2) Applications for preliminary plan approval which are pending as of the effective date of this subtitle and which did not have sketch plan approval prior to the effective date of this subtitle, shall be tested at the preliminary plan stage.
- (b) *Processing Applications for Approval of Nonresidential Projects*:

- (1) *Review of application by Subdivision Review Committee.* Upon receipt of a complete application for approval of a nonresidential project, the Department of Planning and Zoning shall distribute the application to the Subdivision Review Committee for recommendations as to whether the project meets the requirements of the subdivision regulations and passes the test for adequate transportation facilities.
 - (2) *Approval.* If the nonresidential project meets the requirements of the subdivision regulations and passes the test for adequate transportation facilities, the Director of Planning and Zoning shall approve the project for adequate transportation facilities (see subsection (d) below).
- (c) *Processing Applications for Approval of Residential Projects and Projects Containing Residential and Nonresidential Uses:*
- (1) *Adequate transportation facilities test.* Upon receipt of a complete application for approval of a residential project or a project containing residential and nonresidential uses, the project shall be tested for adequate transportation facilities.
 - (2) *Test for allocations:*
 - (i) *Conventional residential projects.* If the conventional residential project meets the requirements of the subdivision regulations and passes the test for adequate transportation facilities, the project will then be tested for availability of housing unit allocations.
 - a. *Allocations available.* If housing unit allocations are available for the scheduled completion year for unphased projects or for the scheduled completion year for the initial and future phases for phased projects, the Director of Planning and Zoning shall assign tentative housing unit allocations.
 - b. *Allocations not available.* If housing unit allocations are not available for the scheduled completion year for unphased projects or for the scheduled completion year for the initial or future phases for phased projects, the application shall be placed on the bottom of a list of applications waiting for housing unit allocations.
 - c. *Revised housing unit allocation chart adopted.* Whenever a revised housing unit allocation chart is adopted, the Department of Planning and Zoning shall test projects on the list of applications waiting for housing unit allocations. When housing unit allocations become available to serve a project, the Director of Planning and Zoning shall assign tentative allocations.
 - (ii) *Comprehensive projects.* Upon receipt of a complete initial plan stage application for approval of a comprehensive project, the Department of Planning and Zoning shall test the project for housing unit allocations.
 - a. *Allocations available.* If housing unit allocations are available for the scheduled completion year for unphased projects or for the scheduled completion year for the initial and future phases for phased comprehensive projects, the Director of Planning and Zoning shall assign tentative housing unit allocations.
 - b. *Allocations not available.* Subject to subsection 16.1104(b)(2), if housing unit allocations are not available for the scheduled completion year for unphased projects or for the scheduled completion year for the initial or future phases for phased comprehensive projects, the application shall be placed on the bottom of a list of applications waiting for housing unit allocations.
 - c. *Revised housing unit allocation chart adopted.* Whenever a revised housing unit allocation chart is adopted, the Director of Planning and Zoning shall test projects on the list of applications waiting for housing unit allocations. When housing unit allocations become available to serve a project, or phase of a project, the Director of Planning and Zoning shall assign tentative allocations.
 - (3) *School Capacity Test .* Upon assignment of tentative housing unit allocations, the project shall be tested for adequate public schools.

- (i) *Projects passing school capacity test* . Once a project has passed the school capacity test, no further approval for adequate public facilities for that project is required during the subdivision or site development plan approval process, except as provided in subsection 16.1105(d).
 - (ii) *Projects failing school capacity test* . Paragraph (7) of this subsection shall apply if a project fails one or more components of the school capacity test for the scheduled completion year for unphased projects or for the scheduled completion year for the initial or future phases for phased projects.
- (4) *Revised School Capacity Chart Adopted* . Whenever a revised school capacity chart is adopted, the Department of Planning and Zoning shall test projects which have previously failed the school capacity test. If a project or phase of a project passes the school capacity test in an earlier year than provided in subsection (c)(3)(ii) above, the project shall be permitted to proceed with processing three years prior to the year in which it passes the school capacity test.
- (5) *Wait on Processing* . Any project not passing the test for allocations and the school capacity test shall complete the initial plan stage, but shall not proceed further through the subdivision or site development plan process until housing unit allocations are granted and the school capacity test is passed. Once allocations are granted and the school capacity test is passed, the project shall be permitted to proceed with processing three years prior to the year in which it passes the school capacity test.
- (6) *Extension of Milestone Dates* . The Director of Planning and Zoning shall extend the next milestone for projects failing the allocations test or school capacity test to correspond to the delay in processing of the project. The Department of Planning and Zoning shall notify the applicant, in writing, of the next milestone prior to the starting date of the milestone.
- (7) *Waiting Period* .
- (i) If a project or phase of a project was never on the list of applications waiting for housing unit allocations and has received housing unit allocations, then development may proceed as follows:
 - a. If the project or phase of the project passes the school capacity test in any year between and inclusive of the first consecutive retest and the fourth consecutive retest, then the project or phase of the project may proceed.
 - b. If a project or phase of a project fails the school capacity test:
 - i. For each of the next four consecutive years, the project or phase of the project shall be retested each time the County Council adopts new annual housing unit allocations and school capacity charts; and
 - ii. In the fourth retesting year, the project shall be deemed to have passed the school capacity test.
 - (ii) If a project or phase of a project is on the list of applications waiting for housing unit allocations and receives housing unit allocations within six years, then subparagraph (i) of paragraph (7) of this subsection applies subject to the following maximum waiting periods:
 - a. If a project or phase of a project has waited for three years or fewer to receive housing allocations, the combined number of years the project or phase of a project waits to receive housing unit allocations and pass the school capacity test shall not exceed six years.
 - b. If a project or phase of a project has waited for four or five years to receive housing allocations, the combined number of years the project or phase of a project waits to receive housing unit allocations and pass the school capacity test shall not exceed seven years.
 - (iii) If a project or phase of a project is on the allocation waiting list and receives allocations after six years or more of being on the list, then the project or phase of a project may

proceed upon passing a school capacity test. If the project fails the school capacity test, then it must wait one additional year to be retested. After being retested, the project shall be deemed to have passed the school capacity test.

(d) *Approvals:*

- (1) *Transportation facilities—Subdivision.* Once a subdivision has been approved for adequate transportation facilities, no further approval for adequate transportation facilities for that project is required during the subdivision or site development plan approval process, with the exception of provisions in the Howard County Design Manual pertaining to five-year monitoring studies, provided that:
 - (i) The developer continues to meet all required milestones;
 - (ii) The developer executes a major facilities agreement for any proposed mitigation;
 - (iii) The subdivision project proceeds to recordation and is recorded; and
 - (iv) The project's traffic volume in the site development plan traffic study does not exceed the project's traffic volume in the traffic study which formed the basis for passing the test for adequate transportation facilities during the subdivision plan approval process. If the traffic volume in the site development plan traffic study exceeds the traffic volume in the subdivision traffic study, the site development plan will be tested for the excess traffic only.
- (2) *Transportation facilities—Site development plan.* Once a site development plan has been approved for adequate transportation facilities, no further approval for adequate transportation facilities is required, provided that the developer executes a major facilities agreement for any proposed mitigation.
- (3) *Allocations and public school facilities.* Once a residential subdivision or site development plan has received tentative allocations and has been approved for adequate public schools, no further approval for allocations and adequate public schools is required during the subdivision or site development plan approval process, provided that:
 - (i) The developer continues to meet all required milestones; and
 - (ii) The subdivision project proceeds to recordation and is recorded.
- (4) Projects which must wait on processing pursuant to subsection (c)(5) above and which proposed to mitigate in order to pass the test for adequate road facilities may be required, at the discretion of the Director of Planning and Zoning, after consultation with the Director of Public Works, to:
 - (i) Update their traffic studies, pursuant to the Design Manual; and/or
 - (ii) Modify their approved mitigation plan to provide for a monetary payment in lieu of construction of some or all of the mitigation, provided that the total cost of the revised mitigation plan shall not exceed the total cost of the originally approved mitigation plan.

(C.B. 7, 1992; C.B. 16, 1995; C.B. 39, 1995; C.B. 50, 2000; C.B. 18, 2003, § 1; C.B. 47, 2010, § 1(4); C.B. 1, 2018, § 2)

Editor's note— C.B. 47, 2010, § 1(4), adopted Aug. 5, 2010, amended § 16.1105 title to read as herein set out. Former § 16.1105 title pertained to processing of plans subject to test for adequate road facilities and/or tests for adequate school facilities and/or test for housing unit allocations.

Sec. 16.1106. - Milestones.

(a) *Purpose and Description:*

- (1) Milestones are designed to assist in the process of planning for adequate public schools and adequate road facilities and to assure that housing unit allocations are utilized.
 - (2) *Milestone* means the date, unless delayed by governmental action, by which a developer must submit the next plan stage of a subdivision to the Department of Planning and Zoning for approval.
 - (3) *To submit the next plan stage* means to file a complete preliminary plan application, final plan application or site development plan application with the Department of Planning and Zoning and to pay the required fees.
- (b) *Applicability.* Milestones apply only to:
- (1) Projects which are required, as a condition of project approval, to pass the test for adequate road facilities and/or the tests for allocations or for adequate public school facilities; and
 - (2) Projects which are conditionally exempt (see section 16.1107, "Exemptions") from the requirements to pass the test for adequate road facilities and/or the tests for allocations or for adequate school facilities.
- (c) *Calculating Milestones.* The starting date for computing the next milestone is the date the developer receives written authorization from the County to proceed to the next plan stage; except that for subdivisions with conditional exemptions, the starting date for computing the initial milestone is the effective date of this subtitle, April 10, 1992.
- (d) *Timing for Residential Projects.* For residential projects, each milestone occurs:

50 or fewer housing units	4 months after starting date
51—100 housing units	6 months after starting date
101 + housing units	9 months after starting date

- (e) *Timing for Nonresidential Projects and Downtown Columbia Revitalization.* For nonresidential projects and all Downtown Columbia Revitalization, each milestone occurs nine months after the starting date.
- (f) *Status of Projects Which Meet Milestones:*
- (1) *Projects with approval for adequate public facilities.* Proposed subdivisions with approval for adequate facilities and tentative housing unit allocations may continue through the subdivision process only if they meet milestones.
 - (2) *Projects with conditional exemption from test(s) for adequate public facilities.* Plans which have a conditional exemption from tests for adequate road facilities or adequate public school facilities can only maintain that exemption by meeting milestones.
- (g) *Status of Projects Which Miss Milestones:*
- (1) *Projects with approval for adequate facilities.* A subdivision plan with approval for adequate facilities which misses a milestone shall be voided, and its tentative housing unit allocations shall be voided. If there has been no change in the requirements of the subdivision regulations since the first submission of this subdivision plan, the plan may be resubmitted for approval at the last plan stage which had been approved before the milestone was missed. Otherwise, the plan may be resubmitted for approval at the sketch plan stage.
 - (2) *Projects with conditional exemption:*

- (i) A proposed subdivision with conditional exemption from the test(s) for adequate facilities which misses the milestone for submission of a preliminary plan shall be voided. The plan may be resubmitted for approval at the sketch plan stage.
 - (ii) A proposed subdivision with conditional exemption from the test(s) for adequate facilities which has preliminary plan approval and misses the milestone for submission of a final plan shall be voided unless it has approval for adequate facilities and housing unit allocations while the preliminary plan approval is still valid pursuant to the subdivision regulations in place at the time the preliminary plan approval was granted. A voided plan may be resubmitted for approval at the sketch plan stage.
- (3) The Department of Planning and Zoning shall notify the developer whenever it voids plans or voids housing unit allocations pursuant to this subsection.
- (h) *Voided Allocations:*
- (1) *Circumstances for voiding tentative allocations.* Tentative housing unit allocations shall be voided by the Department of Planning and Zoning when:
 - (i) A subdivision plan with tentative housing unit allocations fails to meet a milestone (see subsection (g) above);
 - (ii) The number of dwelling units to be built in a subdivision is reduced between initial plan stage approval and recordation; or
 - (iii) The requirements for green neighborhood allocations established under section 16.1102(b)(7) of this subtitle are not met by projects that have received green neighborhood allocations at subsequent plan submission stages.
 - (2) *Bulk parcels.* When a residential subdivision project includes a bulk parcel(s) for apartment, single-family attached or mobile home development, the tentative housing unit allocations assigned during the subdivision process shall become permanent as set forth below and tentative allocations shall be voided under the following conditions:
 - (i) If a bulk parcel for apartment, single-family attached or mobile home development is recorded and tentative allocations have been assigned, the project must proceed with a site development plan for the project in accordance with the milestones provided for in section 16.1106(d). Upon approval of the site development plan the tentative allocations become permanent. Failure to meet a milestone will result in the voiding of allocations. Prior to development of a bulk parcel where allocations have been voided, the project must pass the test for granting housing unit allocations as provided in section 16.1104 and pass the test for adequate school facilities as provided in section 16.1103, or
 - (ii) If a bulk parcel for single-family attached or mobile home units is recorded and tentative allocations have been assigned and the bulk parcel is to be resubdivided to provide individual lots for housing units, the project must proceed with a sketch plan or preliminary equivalent sketch plan in accordance with the milestones provided for in subsection 16.1106(d) and continue to meet milestones until the resubdivision plat is recorded. Upon recordation of the resubdivision plat, the tentative allocations become permanent. Failure to meet milestones will result in the voiding of allocations. Prior to development of a bulk parcel where allocations have been voided, the project must pass the test for granting housing unit allocations as provided in section 16.1104 and pass the test for adequate school facilities as provided in section 16.1103.
 - (iii) The provisions for voiding tentative allocations pursuant to subsection (h)(2) above, shall not apply to any project which received sketch plan or preliminary equivalent sketch plan approval prior to the effective date of this amendment, July 1, 1995.
 - (3) *Number of housing unit allocations voided.* If a milestone or green neighborhood requirements are not met, all of the tentative housing unit allocations granted to the subdivision shall be voided. If the number of dwelling units in the subdivision is reduced, only the excess tentative

allocations shall be voided. In either case, the Department of Planning and Zoning shall reassign the voided allocations to another project only as provided in subsection (4) below.

- (4) *Reassignment of voided allocations.* Whenever the Department of Planning and Zoning has voided allocations, it shall reassign them by granting the allocations to projects waiting for allocations pursuant to subsection 16.1105(c)(2). Reassigned allocations shall be granted to projects waiting longest for allocations. Even though the Department of Planning and Zoning, pursuant to subsection 16.1104(d), may have initially granted more than 100 percent of the allocations available on the housing unit allocation chart for the current year, the Department of Planning and Zoning shall only reassign allocations until the total number of new and reassigned allocations granted for the current year equals 100 percent of the projected number of allocations available for the appropriate category of the housing unit allocation chart for that year.

(C.B. 7, 1992; C.B. 39, 1995; C.B. 48, 2007, § 1; C.B. 47, 2010, § 1(5))

Sec. 16.1107. - Exemptions.

(a) *Nonresidential Projects:*

- (1) *Exempt nonresidential subdivision plans.* The following nonresidential subdivisions are exempt from the requirement to pass the test for adequate road facilities as a condition of subdivision approval:
 - (i) A nonresidential resubdivision (see: Subdivision regulations).
 - (ii) An exempt governmental facility.
 - (iii) A nonresidential final subdivision plan pending on the effective date of this subtitle, April 10, 1992, provided that the plan proceeds to recordation in accordance with the subdivision regulations.
 - (iv) A subdivision that does not generate additional traffic.
- (2) *Exempt nonresidential site development plans:*
 - (i) A site development plan for an exempt government facility is exempt from the requirement to pass the test for adequate road facilities as a condition of site development plan approval.
 - (ii) A site development plan which does not generate additional traffic is exempt from the requirement to pass the test for adequate road facilities as a condition of site development plan approval.
 - (iii) If the project is on a parcel which was zoned nonresidential on the effective date of this subtitle and has not previously passed the roads test during the subdivision process, a nonresidential site development plan submitted within seven years after the effective date of this subtitle, April 10, 1992 is exempt from the requirement to pass the test for adequate road facilities as a condition of site development plan approval. However, if the floor area ratio on the lot exceeds the following:

Industrial/manufacturing/warehousing	0.45
Office/research and development	0.35
Retail/service	0.25

The site development plan shall be required to pass the test for adequate road facilities for the excess floor area.

- (3) *Conditionally exempt nonresidential subdivision plans.* Nonresidential subdivision plans are conditionally exempt from the requirement to pass the test for adequate road facilities as a condition of plan approval, provided that the sketch plan was approved before the effective date of this subtitle, April 10, 1992. This exemption is conditional upon the project continuing to meet required milestones (see: Section 16.1106, "Milestones").

(b) *Residential Projects:*

- (1) *Exempt residential plans.* The following residential subdivisions and site development plans are exempt from the requirement to pass the test for adequate road facilities and the requirement to pass the tests for allocations and adequate public school facilities as a condition of approval:
- (i) Parcel divisions (see: Subdivision regulations).
 - (ii) Subdivisions in agricultural preservation easements for dwellings of the owner or the owner's children or other dwelling lots permitted on agricultural preservation easements.
 - (iii) Residential resubdivisions (see: Subdivision regulations) which do not increase the number of housing units allowed.
 - (iv) Residential final subdivision plans pending on the effective date of this subtitle, provided that the plan proceeds to recordation in accordance with the subdivision regulations.
 - (v) Minor subdivision plans and resubdivisions, located in RC and RR zoning districts outside of the planned service area boundary for water and sewer, which create the potential for only one additional dwelling unit from a lot existing on April 10, 1992.
 - (vi) Minor subdivision plans and resubdivisions which create the potential of only one additional dwelling unit to be conveyed to an immediate family member or members from a lot existing on April 10, 1992 provided that the following conditions are met:
 - a. The property owner must have owned the property for a minimum of three years before requesting subdivision; and
 - b. The family member must be either a parent, child, or sibling. The term immediate family member does not include step-parents, step-children, or step-siblings; and
 - c. The property owner shall not seek further subdivision of the property or another family member exemption for a period of three years; and
 - d. The granting of this family member exemption shall prohibit the property owner from seeking a hardship exemption.

A maximum of three family member exemptions per year per planning area may be granted by the Department of Planning and Zoning. Subject to section 22.1000 of the County Code, the Department of Planning and Zoning shall annually prepare a home ownership report on this exemption for the Council.

- (vii) Minor subdivision plans and resubdivisions which create the potential of only one additional dwelling unit from an adjoining lot existing before April 10, 1992, for property owners with economic hardships. Upon the property owner's written request to the Department of Planning and Zoning, the County Council may approve by resolution a hardship exemption. The property owner shall state in the request to the Department of

Planning and Zoning the severe economic hardship that the property owner is sustaining and provide the following evidence, which shall be forwarded by the Department to the County Council with a recommendation concerning the exemption:

- a. Verification of ownership of the property to be subdivided for at least three years before the submittal of the economic hardship exemption request; and
- b. A recent financial statement that shows the property owner's complete assets and liabilities supported by an affidavit of the property owner; and
- c. Other information regarding the severe economic hardship that the property owner is sustaining, including but not limited to information from lenders, lien holders, creditors, attorneys, tax collectors or other third parties who have knowledge as to the economic condition of the property owner; and
- d. Any notice of foreclosure on the property; and
- e. Any medical bills that are not covered by health insurance for a medical condition/treatment of the property owner or immediate family member of the property owner. For purposes of this section, the immediate family member shall be either a spouse, parent, child, or sibling but shall not include step-parents, step-children or step-siblings; and
- f. Any other evidence that the property owner has no other reasonable means of relieving that economic hardship.

The granting of this hardship exemption shall prohibit the property owner from seeking a family member exemption.

- (2) *Partially exempt residential subdivision plans.* Minor subdivision plans are exempt from the requirement to pass the test for adequate road facilities as a condition of plan approval. However, minor subdivision plans are required to pass the tests for allocations and adequate public school facilities as a condition of subdivision approval.
- (3) *Exempt residential site development plans.* Residential site development plans for single-family attached and detached housing on recorded lots that existed on April 10, 1992 are exempt from the requirement to pass the test for adequate road facilities and the tests for allocations and adequate public school facilities as a condition of site development plan approval.
- (4) *Partially exempt mobile home park site development plans:*
 - (i) Residential site development plans for mobile home parks are exempt from the requirement to pass the test for allocations to the extent that the mobile home park site development plan is replacing units from a mobile home park abandoned or permanently closed after January 1, 2000. If the number of units in a mobile home park site development plan exceeds the number of replacement units available, the number of units exceeding the available replacement units shall be tested for allocations in accordance with section 16.1104 of this subtitle. The Department of Planning and Zoning shall keep a record of the number of mobile home park units abandoned and replaced and shall reassign the replacement units to projects, at the time of site development plan approval, in the order of site plan approval dates.
 - (ii) Residential site development plans for mobile home parks to which replacement units have been reassigned in accordance with subsection (i) above are exempt from the adequate public school facilities test for the number of replacement units reassigned if the site development plan for the mobile home park is located in the same elementary and middle school districts as the abandoned or permanently closed mobile home park from which the units were reassigned. If the number of units proposed on the site development plan exceeds the number of reassigned units available, or if the site development plan includes reassigned units from a different elementary and/or middle school district, the excess units receiving allocations as required in subsection (i) above, and the reassigned

units from a different elementary and/or middle school district, as the case may be, shall be subject to the adequate public school facilities tests. If the proposed mobile home park is located in a different elementary and/or middle school district, the site development plan must pass the appropriate adequate public school facility test(s) for all units approved on the site development plan.

- (5) *Partially exempt multifamily residential site development plans:*
- (i) *Exemption from tests for adequate public schools.* Residential site development plans for multifamily projects which cannot generate children, such as age-restricted adult housing, are exempt from the requirement to pass the tests for adequate school facilities as a condition of site development plan approval. Except as provided in subparagraph (iii) of this paragraph, these plans are required to pass the test for allocations and for adequate road facilities as a condition of site development plan approval.
 - (ii) *Exemption from tests for allocations and adequate public schools.* Nursing and residential care facilities are exempt from the requirement to pass tests for allocations and for adequate public schools as a condition of site development plan approval. These plans are required to pass the adequate road facilities test as a condition of site development plan approval.
- (6) *Conditionally exempt residential subdivision plans.* Residential subdivision plans are conditionally exempt from the requirement to pass the test for adequate road facilities and the tests for allocations and for adequate school facilities as a condition of plan approval, provided that the sketch plan was approved before the effective date of this subtitle, this exemption is conditional upon the project continuing to meet required milestones (see: Section 16.1106, "Milestones").
- (7) *Partially exempt residential redevelopment plans.* Residential redevelopment involving a subdivision plan or site development plan is exempt from the allocations, Adequate public schools, and roads tests to the extent that the redevelopment will not increase:
- (i) The number of existing housing units on the site;
 - (ii) The number of housing units allowed under paragraph (3) of this subsection; or
 - (iii) If the redevelopment is of a mobile home park licensed under subtitle 5 of this title, the number of mobile home sites permitted under the license.

Existing units being replaced must have been occupied on a full-time basis for at least 30 days in the year prior to submission of the subdivision or site development plan for redevelopment of the site. If the number of units on the redevelopment plan exceeds the number of existing units, the additional units shall pass the allocations, adequate public schools and roads tests as a condition of plan approval.

- (8) *Partially exempt residential subdivision plans.* Except in Downtown Columbia, moderate income housing units do not require housing unit allocations. However, plans with moderate income housing units are required to pass the test for adequate road facilities and adequate public schools as a condition of approval. The number of moderate income housing units in each plan that do not require housing unit allocations subject to this exemption shall not exceed the number of moderate income housing units as required in the Howard County Zoning Regulations.
- (9) *Partially exempt urban renewal residential subdivision or site development plans; Test for adequate school facilities.* Residential units that are part of an Urban Renewal project, as designated by title 13, subtitle 11 of this Code, are exempt from the requirement to pass the test for adequate school facilities as a condition of subdivision or site development plan approval.

(C.B. 7, 1992; C.B. 6, 1994; C.B. 39, 1995; C.B. 50, 2000; C.B. 51, 2002, § 1; C.B. 45, 2003, § 1; C.B. 1, 2018, § 3; C.B. 43, 2018, § 1)

Sec. 16.1108. - Development monitoring system.

The Department of Planning and Zoning shall monitor the growth of housing and employment in Howard County and shall issue reports which indicate:

- (a) Subdivision plans and site development plans approved during the last several years, including the number of residences or the number of new employees projected for the approved subdivisions and land developments.
- (b) Subdivision plans and site development plans in process at the time of the report, including the number of housing unit allocations or the number of new employees projected for the proposed subdivisions and land development.
- (c) Building permits and certificates of occupancy issued during the last several years, indicating the number of dwelling units and the projected number of new employees for which building permits or certificates of occupancy were issued.

(C.B. 7, 1992; C.B. 39, 1995)

Sec. 16.1109. - Appeals.

A person, specially aggrieved as defined by subsection 16.103(b) of the Howard County Code, by a decision of the Director of Planning and Zoning in relation to this subtitle may appeal the decision to the Board of Appeals pursuant to its rules of procedure.

(C.B. 7, 1992; C.B. 16, 1995; C.B. 39, 1995)

Sec. 16.1110. - Definitions.

- (a) *Affordable housing unit* means a moderate or middle income housing unit as defined in the Howard County Zoning Regulations.
- (a-1) *Available housing unit allocations* are the number of housing unit allocations that the Department of Planning and Zoning may grant in any year, based on the housing unit allocation chart adopted by the County Council less housing unit allocations already granted for that year.
- (b) *Background traffic growth* is the traffic, other than traffic existing at the time of application, which will be generated by:
 - (1) Regional pass-through users; and
 - (2) Projects which are not subject to the test for adequate road facilities.
- (c) *Bulk parcel—Residential* means a residential parcel recorded for the purpose of development of apartments, single-family attached, single-family detached or mobile home units on a single lot where tentative housing unit allocations have been granted.
- (d) *Capacity* means when used in relation to road facilities, capacity means the total number of vehicles that can be accommodated by a road facility during a specified time period under prevailing roadway operating conditions.
- (d-1) *Capacity utilization* means the ratio of a facility's enrollment to its program capacity.
- (e) *Comprehensive project* means a project in the following zoning districts:
 - (1) New Town (NT)
 - (2) Planned Golf Course Community (PGCC)
 - (3) Mixed Use (MXD)

(4) Residential: Apartments (R-A-15)

- (f) *Constrained road facility* means in the planned service area for water and sewerage, a constrained road facility means the intersection of a major collector or higher classified road with a major collector or higher classified road which has historic or environmental value which would be adversely affected by certain road improvements.

In the no-planned service area for water and sewerage, a constrained road facility means the intersection of a minor collector or higher classified road with a minor collector or higher classified road which has historic or environmental value which would be adversely affected by certain road improvements.

The County Council, by resolution, declares a road facility constrained and identifies the feature(s) which form the basis for its decision to declare the road facility constrained.

- (g) *Conventional project* means a project other than a comprehensive project.
- (h) *Downtown Columbia* means the geographic area defined as Downtown Columbia in section 103 of the Howard County Zoning Regulations.
- (i) *Exempt governmental facility* means:
- (1) A facility to be owned or operated by the Federal Government, State Government, Howard County Public Schools, or any agency thereof;
 - (2) A facility owned by Howard County or any agency thereof where essential County Government services are provided, limited to police services, fire prevention and suppression services, emergency medical services, highway maintenance, detention facilities, water treatment and supply, sewage disposal and treatment and solid waste disposal.
- (j) *Final development plan proposing Downtown Columbia Revitalization* means a drawing or series of drawings, at an appropriate scale, and related text covering all or a portion of Downtown Columbia that proposes development pursuant to section 125.E of the zoning regulations.
- (k) *Floor area ratio* means the ratio of the floor area of a structure to the lot area, where:
- (1) The floor area is calculated by measuring the exterior faces of the walls of the structure minus any area within the structure devoted to parking, driveways, atria, enclosed malls and similar areas; and
 - (2) The lot area is calculated including any adjoining lots used for required parking for the structure.
- (l) *General plan target; general plan residential growth target* means for the purposes of this subtitle, the general plan target and general plan residential growth target mean the housing unit projections established in the general plan for each planning area including the senior east set aside, and in addition 250 housing units per year for Route 1 revitalization.
- (m) *Governmental action* means the action or inaction of a governmental agency in relation to a timely filed action by a developer. For the purposes of this subtitle, governmental agency means an agency of the Federal, State, or local government, including, but not limited to, the U.S. Corps of Engineers, the Maryland Department of the Environment, the Zoning Board, and the Board of Appeals.
- (n) *Housing unit allocation or allocation* means an approval to build a housing unit.
- (1) *Tentative housing unit allocation or tentative allocation* means the temporary approval, granted during the subdivision plan process, to build a housing unit in a project which requires housing unit allocations as a condition of project approval.
 - (2) *Permanent housing unit allocation or permanent allocation* means a permanent approval, granted at recordation of a subdivision or at site development plan approval, to build a housing unit in a project which requires housing unit allocations as a condition of project approval.
- (o) *Housing unit allocation chart* means a chart indicating the projected number of housing unit allocations available to be granted in the County each year for a ten-year period. The chart divides

the available housing unit allocations into geographic areas and may provide for green neighborhood and Downtown Columbia units. In a given year, no more than 35 percent of the allocations available in the growth and revitalization region may be granted to projects in a particular planning area, as established by PlanHoward 2030, Map 6-2 "Designated Place Types". The number of housing unit allocations on the chart shall be as follows:

- (1) In the first year after the effective date of this subtitle the number of housing unit allocations on the chart for that year and each of the next two years shall equal the general plan annual target for residential completions for those years.
 - (2) In the second year after the effective date of this subtitle, the number of housing unit allocations on the chart for that year and for each of the next two years, based on the rolling average, shall be the general plan target for residential completions for the year in question minus one-third of the difference between:
 - (i) The number of housing unit allocations granted during the prior year plus the number of housing units in projects approved during the prior year which were exempt from the provisions of this subtitle pursuant to subsections 16.1107(b)(1) and (5) of this subtitle; and
 - (ii) The prior year's general plan target.
 - (3) In the third and later years after the effective date of this subtitle, the number of housing unit allocations on the chart for the current year and for each of the next two years, based on the rolling average, shall be the general plan target for residential completions for the year in question minus one-third of the difference between:
 - (i) The housing unit allocations granted during the two preceding years plus the housing units in projects approved during two preceding years which were exempt from the provisions of this subtitle pursuant to subsections 16.1107(b)(1) and (5) of this subtitle; and
 - (ii) The sum of the general plan targets for the two preceding years.
- (p) *Howard County Design Manual* means Chapter 4 of Volume III (Roads and Bridges) of the Howard County Design Manual which specifies requirements for adequate transportation facilities.
- (q) *Impact area*:
- (1) Impact area means the set of intersections to be studied. In accordance with the table below, the projected trip generation of a project shall determine the minimum number of intersections to be included in the impact area.

Net Peak Hour Site Trips	Minimum Number of Intersections in Each Direction
5—99	1
100—399	2
400—799	3
800—1500	4
>1500	5

- (2) For projects in the planned service area for public water and sewer, excluding Downtown Columbia, the standard impact area is limited to intersections within one and a half road miles in all directions from each entrance to the project. For projects outside the planned service area for public water and sewer, the standard impact area is limited to intersections within two road miles in all directions from each entrance to the project. Inside the planned service area for public water and sewer, the minimum number of intersections in each direction refers to intersections of a major collector or higher classified road with a major collector or higher classified road for the standard impact area. Outside the planned service area for public water and sewer, the minimum number of intersections in each direction refers to intersections of a minor collector or higher classified road with a minor collector or higher classified road for the standard impact area. Inside or outside the planned service area for public water and sewer, if an intersection at an entrance to the project is included in the impact area, it shall not count toward the minimum number of intersections in each direction.
- (3) If a development is projected to generate 100 peak hour trips or more for either the AM or PM study period, the developer shall request a traffic impact area scoping meeting prior to submitting the plan for the development. The Department of Planning and Zoning shall determine whether the scoping meeting will be conducted by email, phone, in-person, or virtual meeting, and shall, together with the Department of Public Works, conduct the meeting with the developer to discuss if the distance of the standard impact area should be extended or if any additional intersections should be included in the impact area. The Department of Planning and Zoning, in consultation with the Department of Public Works, shall determine the additional intersections to be studied, if any, based on intersection location, anticipated trip distribution, existing level of service, or known operational complaints and notify the developer in writing of the intersections to be studied within one week following the scoping meeting. The Department of Planning and Zoning may waive the requirement to study a certain intersection if the Department of Public Works has on file a valid traffic study of that intersection which was completed within the last year. If, during the plan review process, the peak hour trips generated by the proposed development changes by ten percent or more or by 15 trips or more, whichever is greater, a new scoping meeting will be required and the Department of Planning and Zoning, in consultation with the Department of Public Works, may require additional intersections to be studied based on intersection location, anticipated trip distribution, existing level of service, or known operational complaints.

For Downtown Columbia the impact area shall be determined in accordance with the Howard County Design Manual.

- (r) *Initial plan stage.* An initial plan stage means either (i) a sketch plan or preliminary equivalent sketch plan under the Subdivision and Land Development Regulations; (ii) a final development plan proposing downtown revitalization under the zoning regulations; or (iii) a site development plan if subdivision is not required.
- (s) *Major collector or major collector highway* means a road classified as a major collector highway on the Howard County general plan, except that in determining the impact area for site development plans, major collector also means a road, not classified as a major collector highway on the Howard County general plan, but constructed to the physical specifications set forth in the design manual for construction of a road so classified.
- (t) *Major facilities agreement* means an agreement between the County, the State, if appropriate, and the developer of a project incorporating the developer's approved mitigation plan and covering the developer's financial obligations for mitigation.
- (u) *Milestone* means the date, unless delayed by governmental action, by which a developer must submit the next plan stage of a subdivision to the Department of Planning and Zoning for approval.

- (v) *Minimum level of service for Howard County road facilities, excluding Downtown Columbia* means level of service D. minimum level of service of a State road facility means level of service E. for Downtown Columbia, the intersection standard is established in the Howard County Design Manual.
- (w) *Minor collector* or *minor collector highway* means a road classified as a minor collector highway on the Howard County general plan.
- (x) *Minor subdivision* means the division of a residential or agricultural parcel that has not been part of a previously recorded subdivision, into four or fewer residential lots (including buildable preservation parcels but excluding open space and nonbuildable preservation parcels), either all at one time or lot by lot.
- (x-1) *Mitigation* means the construction or the funding of improvements to off-site road facilities by a developer, as approved by the Director of Planning and Zoning, after consultation with the Director of Public Works.
- (y) *Open* :
 - (1) For a school capacity chart adopted prior to January 1, 2019, open has the following meanings:
 - (i) School region—Open means that the projected capacity utilization of a school region is below 115 percent of the elementary schools within the region.
 - (ii) Elementary school—Open means that the projected capacity utilization of the elementary school is below 115 percent of the school.
 - (iii) Middle school—Open means that the projected capacity utilization of the middle school is below 115 percent of the school.
 - (2) For a school capacity chart adopted after January 1, 2019, open has the following meanings:
 - (i) School region—Open means that the projected enrollment of a school region is below 105 percent of the program capacity of the elementary schools within the region.
 - (ii) Elementary school—Open means that the projected enrollment of the elementary school is below 105 percent of the program capacity of the school.
 - (iii) Middle school—Open means that the projected enrollment of the middle school is below 110 percent of the program capacity of the school.
 - (iv) High school—Open means that the projected enrollment of the high school is below 115 percent of the program capacity of the school.
- (z) *Phased project* means a project utilizing phasing.
- (aa) *Phasing* means the sequential development of portions of a subdivision pursuant to a sketch plan which includes a schedule for submission of preliminary and final plan applications for the various phases of the project and a schedule for completion of these phases.
- (ab) *Plan stage* means one of the three levels of a subdivision plan—sketch plan, preliminary plan, and final plan.
- (ac) *Planning region* means a geographic area of the County identified in the general plan that is used for forecasting housing growth.
- (ad) *Program capacity* means the capacity, as defined by the Howard County Board of Education policies, for grades kindergarten through grade 12. Program capacity does not include prekindergarten, special education and relocatable capacity.
- (ae) *Road facilities*:
 - (1) In planned service area for public water and sewer. In that portion of the County in the planned service area for public water and sewer, road facilities means at grade intersections of major collectors or higher classified roads which are beyond the boundaries of the proposed project.

- (2) In no planned service area for public water and sewer. In that portion of the County in the no planned service area for public water and sewer, road facilities means at grade intersections of minor collectors or higher classified roads which are beyond the boundaries of the proposed project.
 - (3) Road facilities does not include road improvements which a developer is required to provide pursuant to the provisions of section 16.119, "Highways, Streets, and Roads," of the subdivision regulations.
- (af) *Rolling average* means to recalculate the number of available housing unit allocations for a given year in order to maintain and achieve the general plan residential growth targets.
- (ag) *Scheduled completion year*:
- (1) *Road facilities*:
 - (i) *Nonresidential projects* means when used in relation to road facilities serving nonresidential projects, "scheduled completion year" means the year as approved on the subdivision or site development plan, for scheduled completion of the project or phases of the project.
 - (ii) *Residential projects*:
 - a. When used in relation to road facilities serving unphased residential projects, "scheduled completion year" means the third year following the year the application is submitted.
 - b. When used in relation to road facilities serving phased conventional residential projects, "scheduled completion year" of the initial phase of the project means the third year following the year the application is submitted. The scheduled completion year of subsequent phases of the project are the years indicated for scheduled completion of the phases of the project as approved on the subdivision or site development plan.
 - c. When used in relation to road facilities serving phased comprehensive residential projects, "scheduled completion year" of the phases of the project means the years indicated for scheduled completion of the phases of the project as approved on the subdivision or site development plan.
 - (2) *Schools*:
 - (i) When used in relation to schools, "scheduled completion year" of an unphased project means the third year following approval of the project for adequate school facilities.
 - (ii) When used in relation to schools, "scheduled completion year" of the initial phase of a phased conventional project means the third year following approval of the project for adequate school facilities.
 - (iii) When used in relation to schools, "scheduled completion year" of a phase of a phased conventional project beyond the initial phase means the year for completion of the phase, as shown in the application for sketch plan approval of the project.
 - (iv) When used in relation to schools, "scheduled completion year" of a phase of a comprehensive project, means the year, at least three years following the year the sketch plan application is submitted, for completion of the phase, as shown in the application for sketch plan approval of the project.
- (ah) *School capacity chart* means a chart indicating which elementary school regions and which elementary, middle, and high schools are open to new residential development and which are constrained to new residential development for each of the following ten years.
- (ai) *School capacity test* means a test to determine whether the elementary school region and elementary, middle, and high school serving a proposed project are open to new residential development in the scheduled completion year of the project or the phases of the project.

- (aj) *School region* means a geographic area, determined by the Howard County Board of Education, containing a group of contiguous elementary school service areas.
- (ak) *Unphased project* means a project which does not utilize phasing.

(C.B. 7, 1992; C.B. 16, 1995; C.B. 39, 1995; C.B. 5, 2000; C.B. 50, 2000; C.B. 17, 2003, § 3; C.B. 34, 2003, §§ 1, 2; C.B. 38, 2005, §§ 1—3; C.B. 47, 2010, § 1(6); C.B. 46, 2011, § 1; C.B. 41, 2012, § 1.3; C.B. 55, 2016, § 1; C.B. 1, 2018, § 2)

Sec. 16.1111. - Adequate water, sewer, stormwater, and solid waste facilities.

No development shall be approved until plans are reviewed by the Department of Planning and Zoning and the Department of Public Works to ensure that the development will be served by adequate water, sewer, stormwater, and solid waste facilities in accordance with all applicable laws and regulations including, but not limited to, the following provisions:

- (a) *Water and Sewer* . Water and sewer facilities shall be considered adequate if the approved subdivision plans and site development plans comply with all applicable requirements including, but not limited to, the standards established in the following Code provisions for water and sewer services:
- (1) Section 16.131, Sewage disposal and water supply.
 - (2) Section 18.100A, Capital Improvement Master Plan (C.I.M.P.) for Water and Sewerage.
 - (3) Section 18.122B, Allocation of water and wastewater capacity.
- (b) *Stormwater* . Stormwater facilities shall be considered adequate if approved subdivision plans and site development plans comply with all applicable requirements including, but not limited to, the standards established in section 16.133 ("Storm drainage") and title 18 ("Public Works"), subtitles 5 ("Storm Drainage Systems") and 9 ("Stormwater Management") of the County Code.
- (c) *Solid Waste* . Solid waste facilities shall be considered adequate if approved subdivision plans and site development plans comply with all applicable requirements including, but not limited to, the Capital Improvement Master Plan for Solid Waste as defined in section 18.600A of the County Code.

(C.B. 1, 2018, § 3)

SUBTITLE 12. - FOREST CONSERVATION^[11]

Footnotes:

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Editor's note— The provisions of this subtitle are effective Dec. 31, 1992.

Sec. 16.1200. - Short title; background; purpose.

- (a) *Short Title*. This subtitle shall be known as the Forest Conservation Act of Howard County.
- (b) *Background*. This subtitle is pursuant to the requirements of the Maryland Forest Conservation Act of 1991, which requires units of local government to adopt, by December 31, 1992, a local Forest Conservation Program which meets or is more stringent than the requirements of the Natural Resources Article, §§ 5-1601 through 5-1612 of the Annotated Code of Maryland.

- (c) *Purpose*. The purpose of this subtitle is to protect and maintain forest vegetation and forest areas in Howard County by requiring certain development projects to have an approved forest conservation plan as a condition of approval of the development.

(C.B. 37, 1992)

Sec. 16.1201. - Definitions.

Words and phrases used in this subtitle have their usual meaning unless defined in the subdivision regulations [subtitle 1 of this title] or in this section:

- (a) *Afforestation* means the establishment of new forest on an area presently without forest cover, by planting in accord with the practices specified in the Forest Conservation Manual.
- (b) *Declaration of intent* means a statement signed by a landowner or developer certifying that:
- (1) A proposed development is exempt from the requirement for an approved forest conservation plan; and
 - (2) No activity requiring a forest conservation plan will occur on the site within five years of the date of the completion of the exempt activity.
- (c) *Department* means the Howard County Department of Planning and Zoning.
- (d) *Development* means the establishment of a principal use of a site; a change in a principal use of a site; or the improvement or alteration of a site by the construction, enlargement, or relocation of a structure; the provision of stormwater management or roads; the grading of existing topography; the clearing or grubbing of existing vegetation; or any other nonagricultural activity that results in a change in existing site conditions.
- (e) *Forest* means a biological community dominated by trees and other woody plants covering an area of 10,000 square feet or greater that is at least 35 feet wide. *Forest* includes:
- (1) Areas with a tree cover ratio 100 trees per acre with at least 50 percent of these trees being at least two inches in diameter at a height of four and one-half feet above ground; or
 - (2) Areas meeting the criteria above that have been cut but not cleared.

Forest does not include orchards, tree nurseries, Christmas tree farms or other types of forest crops.

- (f) *Forest conservation* means the retention of existing forest or the creation of new forest at the levels set by this subtitle.
- (g) *Forest Conservation Manual* means the technical manual approved by the County Council containing performance standards and guidelines for implementation of the Howard County Forest Conservation Program.
- (h) *Forest Conservation Plan* means a plan which shows the impacts of a proposed development on existing forest resources. A *forest conservation plan* includes existing forest areas to be removed or retained; the location, extent and specifications for any reforestation or afforestation required; and legal measures to protect forest resources after completion of development in accordance with section 16.1203 below.
- (i) *Forest mitigation banking* means the planting of trees, according to plans approved by the Department, to be used as credit for plantings required under this subtitle.
- (j) *Forest stand delineation* means the evaluation, pursuant to section 16.1204 of this subtitle, of existing forests and other vegetation on a site proposed for development.
- (k) *Limit of disturbance* means the boundary of permitted changes to existing site conditions due to clearing and grading, as well as other activities associated with site development such as parking of vehicles and equipment, storage of materials, and disposal of construction debris.

- (l) *Lot* means a unit of land, the boundaries of which have been established as a result of a deed or previous subdivision of a larger parcel and which will not be the subject of further subdivision, as defined by the Natural Resources Article section 5-1601, Annotated Code of Maryland, and this subtitle without an approved forest stand delineation and forest conservation plan.
- (m) *Manual* means the Forest Conservation Manual.
- (n) *Net tract area* means the total area to the nearest one-tenth acre, whether forested or not, of a proposed development, exclusive of any 100-year floodplain, utility transmission line easements, or preservation parcel as referenced in the zoning regulations. *Net tract area* is to be used in calculating any reforestation or afforestation obligations that may be created by the proposed development.
- (o) *Planned business park* means a commercial-industrial subdivision developed with an integrated plan that provides common infrastructure and protection of environmentally sensitive features.
- (p) *Planned unit development* means a development comprised of a combination of land uses or varying intensities of the same land use in accordance with an integrated plan that provides flexibility in design with at least 20 percent of the land permanently dedicated to open space.
- (q) *Reforestation* means the establishment, in accordance with the Howard County Forest Conservation Manual, of new forest cover to replace forest resources lost because of development activities.
- (r) *Scenic road* means a public road or road segment that is included in the scenic roads inventory adopted by the County Council in accordance with section 16.1403 of this Code.
- (s) *Subdivision regulations* means title 16, subtitle 1 of the Howard County Code, entitled "Subdivision and Land Development Regulations."
- (t) *Urban canopy* means tree canopy inside the planned service area for water and sewer that does not meet the definition of forest but that does provide air quality, water quality, and habitat benefits.
- (u) *Other terms* which are defined in the Natural Resources Article section 5-1601, "Definitions," Annotated Code of Maryland, COMAR 08.19.01.03, "Definitions," and COMAR 08.19.03, article II, "Forest and Tree Conservation Definitions," are incorporated by reference and shall apply to this subtitle for any terms which are not defined in this section or the Manual.

(C.B. 37, 1992; C.B. 51, 1994; C.B. 4, 1996; C.B. 10, 2014, § 1)

Sec. 16.1202. - Applicability; exemptions; declaration of intent.

- (a) *Forest Conservation Plan Required for Subdivision Plan, Site Development Plan or Grading Permit.* Unless exempted by subsection (b) of this section, any person or unit of local government developing land 40,000 square feet or greater in area shall file a forest conservation plan ("plan") with the Department. Plan approval is required prior to development and prior to approval of a:
 - (1) Subdivision plan;
 - (2) Site development plan;
 - (3) Grading permit; or
 - (4) County road and utility construction plans.
- (b) *Exemptions to Requirement for Forest Conservation Plans:*
 - (1) *Exemptions not requiring a declaration of intent.* The following development is exempt from the requirement of this subtitle:
 - (i) A subdivision, site development or grading permit for development on land which is less than 40,000 square feet;

- (ii) Development on a single lot of any size if it is in compliance with a previously approved forest conservation plan and no new obligation is created;
 - (iii) Development which has preliminary subdivision plan, site development plan or grading permit approval prior to December 31, 1992. This exemption does not apply to expansion of the limits of disturbance shown on such plans or to site development plans for build out of exempt nonresidential subdivisions unless otherwise provided in this section;
 - (iv) A planned unit development which has preliminary development plan approval and 50 percent or more of the land is recorded and substantially developed before December 31, 1992;
 - (v) A planned business park of at least 75 acres which has preliminary plan approval before December 31, 1992, and which meets the intent of this subtitle by retaining forest in high priority locations (floodplains, wetlands, wetland and stream buffers, steep slopes, and/or wildlife corridors);
 - (vi) Agricultural preservation subdivisions and any agricultural activity, including agricultural support buildings and structures built using accepted best management practice unless it involves the clearing of 40,000 square feet or greater of forest within a one-year period;
 - (vii) Resubdivisions, that do not create additional lots, exempt divisions and plat corrections as provided for in sections 16.102 and 16.103 of this title;
 - (viii) Minor subdivisions that create one additional lot and have no further subdivision potential;
 - (ix) Mining or other extractive activity exempted by State law from the forest conservation requirements;
 - (x) Routine maintenance of existing roads and public utility rights-of-way. Highway construction under capital projects and/or State funding in which one acre or more of forest is cut or cleared is exempt from this subtitle but subject to State reforestation requirements set forth in natural resources article, section 5-103, Annotated Code of Maryland; and
 - (xi) The cutting or clearing of public utility rights-of-way licensed under article 78, sections 54A and 54B or section 54-I, Annotated Code of Maryland, or land for electric generating stations licensed under article 78, sections 54A and 54B or section 54-I, Annotated Code of Maryland, if:
 - a. Required certificates of public convenience and necessity have been issued in accordance with natural resources article, subsection 5-1603(f), Annotated Code of Maryland; and
 - b. Cutting or clearing of the forest is conducted to minimize the loss of forest.
- (2) *Exemptions requiring a declaration of intent.* The following development is exempt from the requirements of this subtitle, provided that the developer files a declaration of intent with the Department as provided in subsection (c) below:
- (i) Development on an existing single lot of any size if:
 - a. The total cutting, clearing or grading of forest resources is less than 40,000 square feet; and
 - b. The forest resources affected by the development are not subject to a previously approved forest conservation plan;
 - (ii) Commercial logging and timber harvesting operations conducted subject to the forest conservation and management program under the tax-property article section 8-211, Annotated Code of Maryland;

- (iii) Any agricultural activity, including agricultural support buildings and structures built using accepted best management practice involving the clearing of 40,000 square feet or greater of forest within a one-year period; and
 - (iv) Subdivision in connection with real estate transactions to provide a security, leasehold, or other legal or equitable interest, including a transfer of title, of a portion of a lot or parcel, if:
 - a. The transaction does not involve a change in land use, or new development or redevelopment, with associated land-disturbing activities; and
 - b. Both the grantor and grantee file the declaration of intent.
- (c) *Declaration of Intent:*
- (1) A person seeking an exemption under subsection (b) above shall submit a declaration of intent to the Department to verify that the proposed activity is exempt.
 - (2) No regulated activity may occur on the area covered by the declaration of intent within five years of the completion of cutting, clearing or grading of forest resources, or in the case of real estate transactions, within five years of the effective date of the declaration of intent.
 - (3) The Department may require a person failing to file a declaration of intent or found not in compliance with a declaration of intent to:
 - (i) Meet the retention, reforestation and afforestation requirements established by this subtitle;
 - (ii) Pay a penalty fee established by fee schedules approved by resolution of the County Council per square foot of forest cut or cleared, but in no case less than the minimum set by State law;
 - (iii) Be subject to other enforcement actions appropriate under Natural Resources Article sections 5-1601—5-1612, Annotated Code of Maryland, and this subtitle; and/or
 - (iv) File a declaration of intent with the Department.

(C.B. 37, 1992; C.B. 4, 1996)

Sec. 16.1203. - Forest Conservation Manual.

The Howard County Forest Conservation Manual is the technical manual used to establish standards of performance required in preparing forest stand delineations and forest conservation plans. The Forest Conservation Manual and amendments to it are prepared by the Department of Planning and Zoning and adopted by resolution of the County Council.

The Manual includes specific standards and guidelines for:

- (a) Submission of forest conservation plans, including forest stand delineations;
- (b) Approval of forest conservation plans;
- (c) Forest retention priorities;
- (d) Reforestation and afforestation calculations, priorities and preferred methods;
- (e) Construction and maintenance agreements and financial security;
- (f) Long-term, binding forest conservation and management agreements;
- (g) Procedural variations for minor subdivisions, single lot site development plans, rural cluster subdivisions, and phased development;
- (h) Forest mitigation banking; and
- (i) Other information necessary to implement this subtitle.

(C.B. 37, 1992; C.B. 4, 1996)

Sec. 16.1204. - Forest conservation plan.

- (a) *Applicability.* Forest conservation plans, consistent with this subtitle and the Howard County Forest Conservation Manual, shall be submitted to the Department with applications for all development not exempt under subsection 16.1202(b).
- (b) *Professionally Prepared.* The forest conservation plan shall be prepared by a licensed forester, landscape architect or other qualified professional as defined in the Forest Conservation Manual.
- (c) *Forest Stand Delineation.* The forest conservation plan shall include a forest stand delineation for the property to be subdivided, developed, or graded. The forest stand delineation shall:
 - (1) Describe the extent and quality of existing forests and other vegetation and its relationship to environmentally sensitive areas on-site and to forest resources on adjacent properties.
 - (2) Be used during the review process to determine the most suitable and practical areas for forest conservation.
- (d) *Forest Conservation Plan.* A forest conservation plan shall:
 - (1) State the net tract area, area of forest conservation required and the area of forest conservation proposed on-site and/or off-site;
 - (2) Show the proposed limits of disturbance;
 - (3) Show locations for proposed retention of existing forest and/or proposed reforestation or afforestation;
 - (4) Justify the following, if existing forest cannot be retained:
 - (i) How techniques for forest retention have been exhausted;
 - (ii) Why the priority forests specified in section 16.1205 cannot be left in an undisturbed condition;
 - (iii) If priority forests and priority areas cannot be left undisturbed, where on the site in priority areas reforestation or afforestation will occur in compliance with subsection 16.1208(a);
 - (iv) How the sequence for preferred reforestation or afforestation methods will be followed in compliance with subsection 16.1208(b); and
 - (v) Why reforestation or afforestation requirements cannot reasonably be accomplished on or off-site, if the applicant proposes payments of an in-lieu fee to the forest conservation fund;
 - (5) Show proposed locations and types of protective devices to be used during construction to protect trees and forests designated for conservation;
 - (6) In the case of reforestation or afforestation, include a reforestation or afforestation plan, with a timetable, description of needed site and soil preparation, and the species, size, and spacing of plantings;
 - (7) Include a binding two-year maintenance agreement as specified in the Manual that details how the areas designated for retention, reforestation or afforestation will be maintained to ensure protection and satisfactory establishment, including a reinforcement planting provision if survival rates fall below required standards. Financial security shall be provided for the maintenance agreement as provided in section 16.1209 and the Manual. Minor subdivisions which meet forest conservation requirements entirely by forest retention are not required to have a two-year maintenance agreement;
 - (8) Include a long-term, binding forest conservation and management agreement with a plat of the forest conservation easement area, as specified in the Manual that:

- (i) Provides protection for areas of forest retention, reforestation and afforestation; and
 - (ii) Limits uses in areas of forest conservation to those uses that are designated and consistent with forest conservation, including recreational activities and forest management practices that are used to preserve forest;
- (9) Include other information the Department determines is necessary to implement this subtitle; and
- (10) Be amended or a new plan prepared, as provided in the Manual, if required as a result of changes in the development or in the condition of the site.

(C.B. 37, 1992; C.B. 4, 1996; C.B. 13, 1999)

Sec. 16.1205. - Forest retention priorities.

- (a) *On-site Forest Retention.* The following vegetation and specific areas are considered priority for on-site retention and protection in the County. Subdivision, site development, and grading shall leave this vegetation and these specific areas in an undisturbed condition unless demonstrated, to the satisfaction of the Department, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered or that forest planting in an alternate location would have greater environmental benefit:
- (1) 100-year floodplain and stream buffers as defined in subsections 16.108(23) and (53) and 16.116(c)(6) of the subdivision regulations;
 - (2) Forested wetlands and wetland buffers as defined in subsections 16.108(6) and 16.116(c)(6) of the subdivision regulations;
 - (3) Trees and other vegetation identified on lists of rare, threatened and endangered species of the U.S. Fish and Wildlife Service or the Department of Natural Resources, critical habitat areas, and forest corridors for wildlife movement;
 - (4) Steep slopes as defined in subsection 16.108(50) of the subdivision regulations;
 - (5) Forest not in any of the sensitive areas above, but contiguous with sensitive areas or with existing forest stands;
 - (6) Property line and right-of-way buffers, particularly adjacent to scenic roads;
 - (7) State champion trees, trees 75 percent of the diameter of State champion trees, and trees 30 inch in diameter or larger;
 - (8) Trees and other forest resources associated with an historic site;
 - (9) Isolated small forest stands or tree groves of less than 10,000 square feet that will be enlarged to meet minimum standards for forest; and
 - (10) Specimen trees not part of any of the above.
- (b) *Off-site Retention:*
- (1) The County or a developer may provide for off-site forest retention at a ratio of two acres of forest retention for every one acre of forest conservation obligation.
 - (2) The vegetation and specific area priorities for locating off-site forest retention under this subsection are the same as provided under subsection (a) of this section.

(C.B. 37, 1992; C.B. 51, 1994; C.B. 4, 1996; C.B. 13, 1999)

Sec. 16.1206. - Reforestation.

- (a) *Requirement to Reforest Areas Which Have Been Cut or Cleared.* The forest conservation plan shall provide for:
- (1) On or off-site reforestation to replace forest which is proposed to be cut or cleared on the net tract area after reasonable efforts to minimize such cutting or clearing; or
 - (2) Payment-in-lieu of reforestation if reforestation cannot reasonably be accomplished.
- (b) *Minimum size.* Areas to be reforested shall be at least 10,000 square feet unless otherwise approved by the Department based on criteria in the Forest Conservation Manual.
- (c) *Calculating the Amount of Reforestation Required.* The amount of reforestation required depends upon the amount of forest cover existing and removed from the net tract area and the land use being developed. The reforestation requirement shall be calculated as follows:
- (1) *Reforestation threshold.* There is a reforestation threshold for all land use categories. The reforestation threshold establishes the percentage of the net tract area at which the reforestation requirement changes. Reforestation requirements for clearing forest below the threshold are greater than for clearing above the threshold. Thresholds for calculating reforestation requirements are as follows:

Land Use	Threshold
Residential: Rural Low Density (Residential lots average 5 acres or more)	50 percent
Residential Rural Medium Density (Residential lots average 1 to 4.99 acres)	25 percent
Residential Suburban (Less than 1 acre per dwelling unit)	20 percent
Commercial/Industrial/Office	15 percent
Institutional	20 percent

- (2) *Reforestation calculation.* For all existing forest cover cleared on the net tract area, measured to the nearest one-tenth acre, the reforestation requirement shall be calculated as follows:
 - (i) One quarter acre shall be reforested, for each acre or portion of an acre cleared above the threshold (one quarter to one ratio).
 - (ii) Two acres shall be reforested for each acre or portion of an acre cleared below the threshold (two to one ratio).
 - (iii) All forest acreage retained above the threshold shall be directly credited against any reforestation obligation (one by one ratio).

(C.B. 37, 1992)

Sec. 16.1207. - Afforestation.

- (a) *Requirement to Afforest.* If existing forest resources are below the following minimums, the forest conservation plan shall provide for:

- (1) Afforestation on-site or off-site; or
- (2) Payment-in-lieu of afforestation if afforestation cannot reasonably be accomplished.
- (b) *Minimum Size.* Areas to be afforested shall be at least 10,000 square feet unless otherwise approved by the Department based on criteria in the Manual.
- (c) *Calculating the Amount of Afforestation Required.* The amount of afforestation required depends upon the amount of forest cover existing and removed from the net tract area and the land use being developed. The afforestation requirement shall be calculated as follows:
 - (1) *Minimum forest cover.* For each land use, the following minimum percentage of forest cover shall be provided:

Land Use	Threshold
Residential: Rural Low Density (Residential lots average 5 acres or more)	20 percent
Residential Rural Medium Density (Residential lots average 1 to 4.99 acres)	20 percent
Residential Suburban (Less than 1 acre per dwelling unit)	15 percent
Commercial/Industrial/Office	15 percent
Institutional	20 percent

- (2) Forest cut or cleared below the required afforestation level shall be afforested at two to one ratio and added to the amount of afforestation necessary to reach the minimum required afforested level, as determined by the amount of forest existing before cutting or clearing began.

(C.B. 37, 1992)

Sec. 16.1208. - Reforestation and afforestation location priorities and preferred methods.

- (a) *Location Priorities.* The following are priority locations for reforestation and afforestation. The Department may approve lower priority locations on this list when such locations better achieve the intent of this subtitle or County land use regulations. If on-site planting would have greater environmental benefit, the Department may approve off-site reforestation or afforestation in high-priority locations within Howard County, preferable within the same subbasin or watershed:
 - (1) Establish or enhance forest in 100-year floodplains and buffers to intermittent and perennial streams as defined in subsections 16.108(23) and (53) and 16.116(a) of the subdivision regulations;
 - (2) Establish or enhance forest in wetlands and 25-foot wetland buffers as defined in subsections 16.108(60) and 16.116(c)(6) of the subdivision regulations;
 - (3) Establish or enhance critical habitat buffers and forest corridors for wildlife movement, the corridors, where practical, being a minimum of 300 feet in width;

- (4) Establish plantings to stabilize slopes of 25 percent or greater and slopes of 15 percent or greater with a soil K value greater than 0.35;
 - (5) Establish forest areas adjacent to existing forests to increase the overall area of contiguous forest cover;
 - (6) Establish buffers along property lines between differing land uses when appropriate, or adjacent to highways or utility rights-of-way, particularly adjacent to scenic roads; and
 - (7) Establish forest areas between small forest and tree stands to build a forest community.
- (b) *Preferred Methods.* The following sequence of reforestation and afforestation methods is preferred. The Department of Planning and Zoning may approve less preferred methods on this list when such methods better achieve the location priorities for reforestation and afforestation, take better advantage of opportunities to consolidate forest conservation efforts, or better achieve the objectives of other County land use regulations.
- (1) Selective clearing and supplemental planting on-site;
 - (2) On-site afforestation or reforestation, if economically feasible, using transplanted or nursery stock that is greater than one and one-half inches diameter measured at four and one-half feet above the ground;
 - (3) On-site afforestation or reforestation, using whip and seedling stock;
 - (4) Landscaping of areas under an approved landscaping plan which establishes a forest that is at least 35 feet wide and 25,000 square feet in area;
 - (5) Off-site afforestation or reforestation, using transplanted or nursery stock that is greater than one and one-half inches diameter measured at four and one-half feet above the ground;
 - (6) Off-site afforestation or reforestation, using whip and seedling stock;
 - (7) Natural regeneration on-site; and
 - (8) Natural regeneration off-site.

(C.B. 37, 1992; C.B. 51, 1994; C.B. 4, 1996)

Sec. 16.1209. - Financial security for reforestation and afforestation.

- (a) *Financial Security Required.* Subject to subsection (b) of this section, a person required to provide retention, afforestation or reforestation under this subtitle shall furnish financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the County. This shall be provided prior to plat recordation if the afforestation or reforestation is required for approval of a subdivision; prior to site development plan approval if the afforestation or reforestation is required for site development plan approval; and prior to grading permit issuance if the afforestation or reforestation is required for issuance of a grading permit. The surety shall:
- (1) Assure that the afforestation, reforestation, and the associated maintenance agreement are implemented in accordance with the approved forest conservation plan;
 - (2) Be in an amount equal to the estimated cost, as approved by the County, of reforestation and afforestation; and
 - (3) Be in a form and of a content approved by the County.
- (b) *Exception for Minor Subdivisions.* Minor subdivisions that meet forest conservation requirements entirely by forest retention are not required to provide financial security.
- (c) *Reduction of Financial Security.* After one growing season following the afforestation or reforestation the County may, at the written request of the person required to file financial security, reduce the

amount of the bond or other financial security. The request shall provide a justification for reducing the bond or other financial security amount, in accordance with criteria by the County.

- (d) *Release of Financial Security.* If, after two growing seasons following the afforestation or reforestation or as provided in the maintenance agreement, the plantings associated with the afforestation or reforestation meet or exceed the standards of the Manual, the amount of the bond, letter of credit, or other security shall be returned or released.
- (e) *Default and Lien.* If, after two growing seasons or as provided in the maintenance agreement, the plantings do not meet the aforesaid standards, the County shall have the right to draw on the security according to its terms and use the sums withdrawn for the costs incurred by the County in achieving the afforestation or reforestation standards required by the plan and manual. Any costs incurred by the County in excess of the security amount shall be charged against the developer and, unless they are paid or appealed to the Board of Appeals within 30 days after billing by the County, shall become a final lien against the property being developed and shall in every respect be treated as County real estate taxes.

(C.B. 37, 1992; C.B. 4, 1996)

Sec. 16.1210. - Fee-in-lieu of afforestation or reforestation.

- (a) *Fee-In-Lieu Authorized:*
 - (1) The Department may approve the payment of a fee-in-lieu of afforestation or reforestation:
 - (i) When afforestation or reforestation requirements cannot be reasonably accomplished on-site or off-site based on criteria in the Manual; or
 - (ii) When a landowner requests a modification of a recorded forest conservation easement.
 - (2) The fee-in-lieu shall be calculated on a square-foot basis at a rate established in the fee schedule adopted by resolution of the County Council, but in no event shall it be less than the minimum set by State law.
- (b) *Timing—Payment of Fee-In-Lieu* Fee-in-lieu of payments shall be paid to the County:
 - (1) For a project not subject to a recorded forest conservation easement, prior to plat recordation of a subdivision, prior to approval of a site development plan or, if none, prior to issuance of a grading permit; or
 - (2) When a landowner requests a modification of a recorded forest conservation easement, prior to the recordation of the revised subdivision plat or plat of forest conservation easement.

(C.B. 37, 1992; C.B. 13, 1999)

Sec. 16.1211. - Forest conservation fund.

- (a) *Fund Established.* The Director of Finance shall establish an account to be known as the forest conservation fund. No monies deposited in this account may revert to the general fund.
- (b) *Source of Moneys in Forest Conservation Fund.* Fees paid in-lieu of reforestation or afforestation under section 16.1210 of this subtitle and noncompliance fees paid pursuant to subsection (c) of this section shall be deposited in the forest conservation fund. Interest earned by money in the forest conservation fund shall remain in the fund.
- (c) *Noncompliance Penalties.* The noncompliance penalty is a fine per square foot of forest cut, cleared or graded which may be assessed against violators of this subtitle as specified in section 16.1212 of this subtitle. The amount of the noncompliance penalty is set by resolution of the County Council, and in no event shall it be less than the minimum set by State law.

(d) *Use of Forest Conservation Fund:*

- (1) The minimum in-lieu-of fees established by the State may be expended by the County:
 - (i) For afforestation or reforestation within Howard County, including site identification, acquisition, and preparation;
 - (ii) For acquisition of forest retention easements;
 - (iii) For maintenance of existing forests; and
 - (iv) For creating urban canopy.
- (2) In-lieu-of fees above the State minimums and noncompliance penalties may be used by the County for any purposes related to implementation of the County Forest Conservation Program.

(C.B. 37, 1992; C.B. 13, 1999; C.B. 10, 2014, § 1)

Sec. 16.1212. - Enforcement; penalties.

The provisions of this subtitle may be enforced with any or all of the following measures:

- (a) *Revocation of Exemption.* The Department may revoke an exemption for properties that are in violation of the conditions of exemption set forth in subsection 16.1202(b) above and may require compliance with the retention, reforestation and afforestation requirements of this subtitle. Prior to revocation, the Department shall notify the violator in writing and provide an opportunity for a response.
- (b) *Revocation of Approved Forest Conservation Plan.* The Department may revoke an approved forest conservation plan for cause, including any of the following conditions. Prior to revocation, the Department shall notify the violator in writing and provide an opportunity for a response.
 - (1) Noncompliance with this subtitle or with conditions of an approved forest conservation plan;
 - (2) Obtaining approval of the plan through fraud, misrepresentation, a false or misleading statement, or omission of a relevant or material fact.
- (c) *Stop-Work Order.* The County may issue a stop-work order against any violator of this subtitle, the Manual, an order, an approved forest conservation plan, the associated two-year maintenance agreement and long-term conservation and management agreement, or a declaration of intent.
- (d) *Injunction.* The County may seek an injunction requiring a violator to cease the violation and take corrective action to restore or reforest an area.
- (e) *Noncompliance Penalties.* The County may assess a noncompliance penalty as defined in section 16.1211 above, against a violator of this subtitle, the Manual, an order, an approved forest conservation plan, an associated two-year maintenance agreement, a long-term conservation and management agreement or a declaration of intent.
- (f) *Civil Penalties.* In addition to and concurrent with all other remedies, the Department of Planning and Zoning may enforce the provisions of this subtitle or an approved forest conservation plan with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation shall be a Class A offense. Each day a violation continues is a separate violation.

(C.B. 37, 1992)

Sec. 16.1213. - Mitigation by County.

In the event that any person develops land in violation of this subtitle without an approved forest conservation plan and any other required development approvals and permits, the County shall, after first giving the developer the opportunity to comply, have the right to enter upon the property being developed

and afforest or reforest the property in accordance with the thresholds and standards of this subtitle and the Manual. The County may instead undertake off-site afforestation or reforestation if this would better serve the purposes of this subtitle. In either case, the County shall charge all afforestation and reforestation costs incurred by it against the developer, including but not limited to consultant fees and overhead and administrative costs. Unless the charges are paid or appealed to the Board of Appeals within 30 days after billing by the County, they shall become a final lien on the property being developed and shall in every respect be treated as County real estate taxes. The County's right to mitigate and recover its costs shall be in addition to the fines and other sanctions it may impose under section 16.1212 of this subtitle.

(C.B. 37, 1992)

Sec. 16.1214. - Appeals.

Any person specially aggrieved, as defined by subsection 16.103(b) of the Howard County Code, by an administrative decision of the Director of Planning and Zoning in relation to this subtitle may, within 30 days of the decision, appeal the decision to the Howard County Board of Appeals according to its rules of procedure.

(C.B. 37, 1992)

Cross reference— Board of Appeals, § 16.300 et seq.

Sec. 16.1215. - Waivers.

- (a) The Department may grant waivers to the requirements of this subtitle in accordance with the standards and procedures of subsection 16.103(c) of the subdivision regulations, provided that the Department must find that granting of the waiver will not adversely affect water quality.
- (b) Notice of a request for a waiver shall be given by the Department of Planning and Zoning to the Maryland Department of Natural Resources within 15 days of receipt of a request for a waiver.

(C.B. 37, 1992)

Sec. 16.1216. - Forest mitigation banking.

- (a) *Opportunity to Create a Forest Mitigation Bank.* The Howard County Department of Recreation and Parks or a private property owner with the Department of Planning and Zoning's approval, may establish a forest mitigation bank. Mitigation bank easement rights may be purchased by a developer when the Department of Planning and Zoning determines that all or a portion of a project's reforestation or afforestation obligations can be met off-site and that the mitigation bank has met all requirements.
- (b) *Minimum Size.* Mitigation banks shall be at least one acre in area unless otherwise approved by the Department.
- (c) *Location Priorities.* Forest mitigation banks shall be located in accordance with the highest five reforestation and afforestation priorities specified in subsection 16.1208(a)(1) through (5) of this subtitle.
- (d) *Preferred Methods.* Forest mitigation banks shall be planted using nursery stock, whips, or seedlings, but not natural regeneration.
- (e) *Approval Procedure.* Private forest mitigation bank applicants shall submit for the Department's approval the proposed location and a forest planting plan, prepared by a qualified professional, with

a timetable, description of needed site and soil preparation, and the species, size, and spacing of planting. Upon completion of all forest planting, the qualified professional shall certify compliance with the approved forest conservation plan.

- (f) *Long-Term, Binding Forest Conservation and Management Agreement.* At the end of two years, or longer if required, a qualified professional shall certify that the survival rates specified in the Manual have been achieved. The Applicant shall record a forest conservation easement plat and long-term binding forest conservation and management agreement in accordance with procedures outlined in the Manual.

(C.B. 4, 1996)

Sec. 16.1217. - Severability.

If any section, subsection, sentence, clause, phrase or portion of this subtitle is held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision; and the holding shall not affect the validity of the remaining portions of the subtitle.

(C.B. 37, 1992)

SUBTITLE 13. - CEMETERY PRESERVATION

Sec. 16.1300. - Short title; background; purpose.

- (a) *Short Title.* This subtitle shall be known as the Cemetery Preservation Act of Howard County.
- (b) *Background.* This subtitle arose out of the attempted development of a particular cemetery in Howard County, which highlighted the need for greater protection for old cemeteries and burial grounds from development.
- (c) *Purpose.* The purpose of this subtitle is to foster preservation of cemeteries and burial grounds in Howard County.

(C.B. 13, 1993)

Sec. 16.1301. - Definitions.

Cemetery means any land or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container or their placement in a columbarium shall not constitute the creation of a cemetery. The term *cemetery* shall include the terms *graveyards* and *burial grounds*.

(C.B. 13, 1993)

Sec. 16.1302. - Cemetery Preservation Advisory Board.

- (a) *Establishment.* There is hereby established a Cemetery Preservation Advisory Board to carry out the purposes of this subtitle.
- (b) *Membership and Appointment:*
 - (1) *General provisions.* General provisions applicable to this board are set forth in [section 6.336 of] subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.

- (2) *Number of members.* The Board shall have a membership of seven persons.
- (3) *Qualifications:*
 - (i) Five members of the Board shall be residents of Howard County.
 - (ii) One of the members shall be a member of the development-building industry.
 - (iii) One of the members shall be a representative of the religious community.
 - (iv) One of the members shall be a member of the funeral-cemetery business.
 - (v) Two of the remaining members shall be qualified by special interest, knowledge, or training in such fields as history, architecture, preservation, genealogy, and urban design, and who have knowledge of and demonstrated an interest in the preservation of old burial grounds and cemeteries.
 - (vi) Two members shall represent the general public.

(C.B. 13, 1993)

Sec. 16.1303. - Inventory of cemeteries.

- (a) *Establishment of Inventory.* The Department of Planning and Zoning, in cooperation with the Cemetery Preservation Advisory Board, shall propose, and the County Council shall establish, an inventory of all known cemeteries in the County, together with a description of the geographical location of each and a record of the owners of each burial ground.
- (b) *Maintenance of Cemetery Inventory Map.* The Department of Planning and Zoning shall maintain a current map which depicts the location of all known cemeteries in the County based on the above inventory.

(C.B. 13, 1993)

Sec. 16.1304. - Development or subdivision in a cemetery.

- (a) *Accommodation.* When a property owner proposes to develop a property, through submission of a subdivision sketch plan, preliminary equivalent sketch plan, or a site development plan, on which is located a cemetery which is shown on the inventory map, the property owner shall:
 - (1) Accommodate the cemetery with the development, by placing the cemetery in a nonbuildable lot with a cemetery designation, by dedicating the cemetery to a homeowner's association or a preservation, conservation or religious organization, by providing that the cemetery be used as a cemetery in perpetuity, and by providing public access to the cemetery. Any land placed in a nonbuildable cemetery lot designation pursuant to this section may be counted towards open space requirements. Alternatively, a property owner may leave the deed to the cemetery in the private ownership and care of a family.
 - (2) Conduct a title search of the parcel extending back to the original patent to ascertain whether covenants relating to the cemetery had been executed.
 - (3) Establish the boundaries of the cemetery as approved by the Department of Planning and Zoning whenever the cemetery boundaries are either not well defined or in dispute, using any or all of the following methods:
 - (i) Historical documentation;
 - (ii) Professional archaeology;
 - (iii) Ground-penetrating radar;

- (iv) Oral history, claims of descendants, vital records;
 - (v) Proton magnetometry; and/or
 - (vi) Other approved nondestructive techniques.
- (b) *Accommodation at Preliminary or Final Plan.* If a cemetery is discovered after the approval of sketch plan or preliminary equivalent sketch plan or if a sketch plan is not required to be submitted, then all the requirements of [this] section 16.1304 shall apply to the submission of a preliminary subdivision plan or a final subdivision plan for a property that contains a cemetery.
- (c) *Submission of Cemetery Boundary Documentation and Accommodation Plan.* Once the property owner determines the boundaries of the cemetery using one or more of the foregoing methods, the property owner shall submit to the Department of Planning and Zoning the documentation of the boundaries of the cemetery, and a plan showing how the cemetery will be accommodated with the development and how public access to the cemetery will be provided, in accordance with subsection (a) above.
- (d) *Meeting.* The Department of Planning and Zoning shall forward the information provided in subsections (a) and (c) above to the Planning Board. The Board shall consider this information at a regular Planning Board meeting.
- (e) *Recommendation—Decision.* The Planning Board shall make a recommendation to the Department of Planning and Zoning on the property owner's plan. The Department of Planning and Zoning shall expeditiously make a final decision on the matter. In the event that the Department of Planning and Zoning determines that an accommodation of the cemetery with the development cannot reasonably be accomplished without denying the property owner reasonable use of its entire property, then the Department of Planning and Zoning shall require the property owner to develop, and it shall approve, a plan for appropriate treatment of the cemetery in accordance with State law.

(C.B. 13, 1993)

Sec. 16.1305. - Discovery of cemetery.

- (a) *Discovery.* If any person discovers the existence of previously unknown human remains, tombstones, funerary objects, or other evidence of a cemetery which reasonably indicates the presence of a cemetery in the course of grading, construction or work of any kind, that person shall stop work immediately in the discovered area and shall give notice of its discovery within 24 hours to the State's attorney, the County Health Officer, the Department of Planning and Zoning, the Department of Public Works, and the Department of Inspections, Licenses and Permits. All permits issued by the Department of Inspections, Licenses and Permits relating to the discovered area shall be suspended and the property owner shall stop all work in the discovered area until a determination is made pursuant to subsection (b) of this section.
- (b) *Determination.* The Department Planning and Zoning, in consultation with the Cemetery Preservation Advisory Board, shall determine if the discovered area provided in subsection (a) above is a cemetery. In making this determination, the Department of Planning and Zoning, in consultation with the cemetery preservation advisory board, may require the property owner to comply with subsection 16.1304(a)(2) and (3). If it is determined that the area is not a cemetery, the stop-work order shall be lifted and the suspended permits released by the Department of Inspections, Licenses and Permits.
- (c) *Cemetery protection.* If it is determined that the discovered area is a cemetery, the property owner shall comply with the requirements of section 16.1304 of this subtitle. However, the Department of Planning and Zoning, in consultation with the Cemetery Preservation Advisory Board, may waive these requirements in a discovery situation, on a case-by-case basis, based on the criteria for waivers of the subdivision regulations contained in section 16.104 of the Howard County Code.

(C.B. 13, 1993)

Sec. 16.1306. - Removal prior to development.

If a property owner removes human remains from a cemetery prior to entering the development or subdivision process, then any subsequent development of the area formerly occupied by the cemetery shall be prohibited.

(C.B. 13, 1993)

Sec. 16.1307. - Appeal.

Any person specially aggrieved by any decision of a County agency made under this subtitle may, within 30 days thereof, appeal the decision to the Board of Appeals of Howard County.

(C.B. 13, 1993)

Sec. 16.1308. - Enforcement.

Where there is any violation of this subtitle or any action taken thereunder Howard County shall institute appropriate action to compel compliance with the provisions of this subtitle. In addition to and concurrent with all other remedies, Howard County may enforce the provisions of this subtitle with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation shall be a Class A offense.

(C.B. 13, 1993)

Sec. 16.1309. - Severability.

If any portion of this subtitle is held invalid or unconstitutional, the invalidity or unconstitutionality of that portion shall not affect the remaining portions of the subtitle.

(C.B. 13, 1993)

SUBTITLE 14. - SCENIC ROADS

Sec. 16.1401. - Short title; purpose; components.

- (a) *Short Title.* This subtitle shall be known as "The Scenic Roads Act."
- (b) *Purpose.* The scenic roads act is established to protect the character of certain roads or road segments in the County which have outstanding scenic or historic value and pass through areas of the County where forest, agricultural or historic features are predominant.
- (c) *Three Components of Scenic Roads Program.* This subtitle is part of a scenic roads program which has three components: Designation of scenic roads; development of land abutting scenic roads; and improvements to scenic roads.
 - (1) *Designation of scenic roads.* This subtitle provides for the designation of scenic roads through the adoption of a scenic roads inventory by the County Council.
 - (2) *Development of land abutting scenic roads.* The second component of the scenic roads program ensures that new development abutting a scenic road is designed to minimize impacts on scenic views from the road while allowing for development of land as permitted by the zoning

regulations. This is accomplished through requirements and guidelines of the zoning, subdivision and land development, and forest conservation regulations, using mechanisms such as lot clustering, open space, forest conservation, protection of slopes, wetlands and streams, and landscaping.

- (3) *Improvements to scenic roads.* The third component addresses features of the road itself that contribute to the road's scenic character, such as width, alignment, and vegetation or slopes within the right-of-way. The County's development regulations, capital project procedures, and road design standards require that improvements within the right-of-way of scenic roads be designed to preserve the character of the road while providing safe conditions for traffic.

(C.B. 51, 1994)

Sec. 16.1402. - Characteristics of scenic roads.

- (a) *Definition.* Scenic roads are public roads in the County which have one or more of the following characteristics:
 - (1) Pass through an area of outstanding natural environmental features providing views of scenic elements such as forests, steep topography, and stream or river valleys;
 - (2) Provide outstanding views of rural, agricultural landscapes including scenic elements such as panoramic or distant views, cropland, pastures, fields, streams, ponds, hedgerows, stone or wooden fences, farm buildings and farmsteads;
 - (3) Follow historic road alignments and provide views of historic resources; or
 - (4) A large proportion of the road provides frontage for properties that are in a historic district or subject to perpetual or long-term agricultural, environmental or historic easements.
- (b) *Features of Scenic Road Rights-of-Way.* The rights-of-way of scenic roads also have features which contribute to scenic character, such as narrow pavement width, embankments, road alignments which conform closely to natural topography, hedgerows, mature trees or forest along the edges of the roadway, and other features by which the road reflects and is related to the surrounding landscape.

(C.B. 51, 1994)

Sec. 16.1403. - Scenic roads inventory.

- (a) *Adoption by Council resolution.* The County Council may, by resolution, adopt a scenic roads inventory which designates certain roads or road segments in the County as scenic roads. After initial adoption of the scenic roads inventory, roads or road segments may be added or deleted by County Council resolution.
- (b) *Road Must Meet Definition.* The County Council may include a road or road segment in the scenic roads inventory if it finds that the road has one or more of the characteristics listed in subsection 16.1402(a) above.
- (c) *Contents of Inventory.* The scenic roads inventory shall:
 - (1) Identify all scenic roads;
 - (2) Describe in general terms the scenic elements of views from the road; and
 - (3) Describe in general terms the features of the road right-of-way.

(C.B. 51, 1994)

Sec. 16.1404. - Alterations to scenic road rights-of-way.

(a) *County Maintained Scenic Roads:*

- (1) *Standards.* The road design manual adopted pursuant to section 18.210 of this Code shall include standards for scenic roads. The standards shall protect the features of the scenic road right-of-way that contribute to the scenic character of the road when necessary road improvements are made.
- (2) *Protecting scenic character.* Scenic roads may be altered to make necessary safety, access, drainage, or road capacity improvements, including improvements to meet the requirements of the adequate public facilities act (title 16, subtitle 11) or to install pull-offs or utility, water or sewage systems. Projects which alter the appearance of a scenic road, including maintenance, capital projects and improvements required through the subdivision or development process, shall be designed to protect to the maximum extent possible the features of the road right-of-way that contribute to the scenic character of the road.

(b) *State Maintained Scenic Roads.* State maintained scenic roads are not subject to design standards and other County regulations governing alterations to the road right-of-way. The County will seek to work cooperatively with the State Highway Administration in the design of alterations to State roads.

(c) *Effect of Adequate Public Facilities Act.* Scenic roads are subject to the requirements of the adequate public facilities ordinance (title 16, subtitle 11). To limit alterations to an intersection involving a scenic road under the provisions of the adequate public facilities ordinance, such an intersection may be designated a "constrained road facility" by the County Council in accordance with subsections 16.1101(f)(4) and 16.1110(e) of this Code. Restrictions on improvements to a constrained road facility shall not be grounds for denial of subdivision plans or site development plans that would otherwise be subject to required road improvements under the adequate public facilities ordinance.

(C.B. 51, 1994)

SUBTITLE 15. - DESIGN ADVISORY PANEL

Sec. 16.1500. - Short title; purpose.

- (a) *Short Title.* This subtitle shall be known as the Design Advisory Panel Act.
- (b) *Purpose.* There shall be a Howard County Design Advisory Panel ("panel") in order to encourage excellence in architecture and site design, to improve design compatibility with surrounding development, to promote revitalization, and to enhance property values.

(C.B. 24, 2008, § 6; C.B. 42, 2009, § 1; C.B. 15, 2010, § 1; C.B. 51, 2015, § 1)

Sec. 16.1501. - Duties.

(a) *Generally.* The Design Advisory Panel shall review and provide design advice on new development and redevelopment projects:

- (1) On parcels located the U.S. Route 1 Corridor that are zoned CE, CAC, OR TOD, or that adjoin the Route 1 right-of-way and that are subject to the Route 1 Manual;
- (2) On parcels located within the Route 40 Corridor as defined in the Route 40 Design Manual;
- (3) On parcels on which age-restricted adult housing is to be constructed pursuant to a conditional use;

- (4) On redevelopment parcels located in New Town Village Centers with boundaries proposed by a property owner or established by the Zoning Board or County Council;
 - (5) On parcels included within the boundaries of the Downtown Columbia Plan;
 - (6) On parcels on State Route 108, between Guilford Road and Trotter Road, that are within the boundaries of the Clarksville Pike Streetscape Plan and Design Guidelines;
 - (7) In other areas for which a design manual is adopted by the County Council; and
 - (8) As provided by the zoning regulations, on parcels located in the following zoning districts including, without limitation:
 - (i) Section 111.1: R-H-ED (Residential: Historic—Environmental District);
 - (ii) Section 112.1: R-APT (Residential: Apartments);
 - (iii) Section 117.0: BRX (Business Rural Crossroads) District;
 - (iv) Section 121.0: CEF (Community Enhancement Floating) District;
 - (v) Section 121.1: CR (Community Redevelopment) Overlay District; and
 - (vi) Section 128.0: Supplementary Zoning District Regulations for non-conforming uses in the CLI (continuing Light Industrial)—Overlay District.
- (b) *Downtown Columbia* . Related to Downtown Columbia, the panel shall provide advice to:
- (1) The Zoning Board and the Planning Board regarding plans for New Town Village Center Redevelopments in which Village Center Boundaries have been proposed by a property owner or established by the Zoning Board or by the County Council;
 - (2) The County Council in amending Downtown-Wide Design Guidelines;
 - (3) The Planning Board regarding the consistency of the Downtown Neighborhood Design Guidelines to the Downtown-Wide Design Guidelines; and
 - (4) The Planning Board regarding the consistency of site development plans submitted for approval to the Neighborhood Design Guidelines.

(C.B. 24, 2008, § 6; C.B. 42, 2009, § 1; C.B. 15, 2010, § 1; C.B. 38, 2010, § 1; C.B. 51, 2015, § 1)

Sec. 16.1502. - Membership; staff, records; meetings.

- (a) *General Provisions* . General provisions applicable to the panel are set forth in subtitle 3, "Boards and Commissions" of title 6, "County Executive and the Executive Branch" of this Code.
- (b) *Number of Members; Method of Appointment* . The panel shall consist of seven members who shall be appointed by the County Executive and confirmed by the County Council.
- (c) *Qualifications*:
 - (1) Each member must be a professional in architecture, civil engineering, landscape architecture, urban planning, or a related field.
 - (2) At least two members shall be architects who are licensed in Maryland;
 - (3) At least one member shall be a civil engineer who is licensed in Maryland;
 - (4) At least one member shall be a landscape architect who is licensed in Maryland; and
 - (5) At least one member shall be an urban planner.
- (d) *Reappointment* . A panel member shall be eligible for reappointment in accordance with section 404 of the Howard County Charter.

- (e) *Executive Secretary* . The Director of the Department of Planning and Zoning, or the Director's designee, shall, serve as the Executive Secretary to the panel.
- (f) *Maintenance of Records* . The records of all proceedings and the basis for all findings shall be maintained in the normal course of business.
- (g) *Meetings*. The panel shall meet at least twice a month and, if necessary, more frequently meeting notice shall include posting notice on the Howard County web site.

(C.B. 24, 2008, § 6; C.B. 51, 2015, § 1)

Sec. 16.1503. - Guidelines and principles.

- (a) The panel is to apply architectural, landscape architecture, and urban design principles in order to achieve the following objectives in a proposed plan:
 - (1) Site planning which creates attractive visual and functional relationships of the on-site design elements and between the site and the surrounding area;
 - (2) Buildings and other structures which are spatially and visually integrated into and suitable for the site and surrounding area;
 - (3) Architectural features which articulate the structures, create an identity for the development while being in harmony with the adjacent and surrounding built environment, and are consistent with the:
 - (i) Design requirements and recommendations of the Route 1 Manual;
 - (ii) Design requirements and recommendations of the Route 40 Design Manual;
 - (iii) Criteria of a conditional use, as applicable;
 - (iv) New Town Village Center design guidelines, as applicable;
 - (v) Downtown-wide Design Guidelines, as applicable;
 - (vi) Downtown Neighborhood Design Guidelines, as applicable; or
 - (vii) Design requirements and recommendations of the Clarksville Pike Streetscape Plan and Design Guidelines.
 - (4) Open space which provides visual functional integration of the streetscape, public spaces, and pedestrian connections and transportation connections;
 - (5) Landscaping which enhances the architectural and site design, works with the natural features of the site, provides adequate screening, and defines spaces on the site; and
 - (6) Design objectives in the Route 1 Manual, the Route 40 Design Manual, compatibility criteria for age-restricted adult housing set forth in section 131.N.1 of the Howard County Zoning Regulations, the design guidelines for the appropriate New Town Village Center, the Clarksville Pike Streetscape Plan and Design Guidelines, the Downtown-wide Design Guidelines, or the Downtown Neighborhood Design Guidelines for Downtown Columbia Revitalization.
- (b) Notwithstanding any provision of this Subtitle to the contrary, for reviews pursuant to the requirements of the Zoning Regulations, the Panel may use:
 - (1) Principles and general guidelines included in this section;
 - (2) Any principle or guideline as set forth in the Zoning Regulations; and
 - (3) General professional principles and practices current within the industry.
- (c) Panel members are encouraged to draw from a wide array of relevant design principles and practices in formulating design advice and making formal recommendations, especially for those applications that are not the subject of an adopted design manual or guidelines.

(C.B. 24, 2008, § 6; C.B. 42, 2009, § 1; C.B. 15, 2010, § 1; C.B. 38, 2010, § 1; C.B. 51, 2015, § 1)

Sec. 16.1504. - Review required; recommendations; condition of decision.

- (a) *Recommendations* . The panel shall make recommendations consistent with the Route 1 Manual, the Route 40 Design Manual, compatibility criteria for age-restricted adult housing, New Town Village Center Design Guidelines, Clarksville Pike Streetscape Plan and Design Guidelines, Downtown-wide Design Guidelines or Downtown Neighborhood Design Guidelines for Downtown Columbia Revitalization regarding:
- (1) The design for buildings, vehicular circulation and access, pedestrian access and linkages, parking, loading, dumpsters, exterior mechanical units, existing trees, landscaping, and walls and fences;
 - (2) Building scale and massing in relation to and compatible with the surrounding area;
 - (3) Building architectural style, materials, entrances, windows, roof design, and colors;
 - (4) Open space on the site including pathways, public spaces, amenity areas, and similar features;
 - (5) The design of exterior lighting devices and potential disturbances to the public and adjacent properties; and
 - (6) The location, size, and design of the exterior signs.
- (b) *Recommendations of the Panel* . When this title, the zoning regulations, or any other law require the panel to review plans for development or redevelopment, panel recommendations may be considered by the:
- (1) Zoning board;
 - (2) Planning board;
 - (3) Hearing authority when making a final decision on a conditional use or as a condition of conditional use approval for age-restricted adult housing;
 - (4) Department of Planning and Zoning; and
 - (5) County Council.

(C.B. 24, 2008, § 6; C.B. 42, 2009, § 1; C.B. 15, 2010, § 1; C.B. 38, 2010, § 1; C.B. 51, 2015, § 1)

Sec. 16.1505. - Timing of recommendations; subsequent submittals; further review; appeal.

- (a) *Recommendations Prior to Initial Submission*. The panel shall consult with and make recommendations to the Director of the Department of Planning and Zoning prior to the initial submission for a conditional use or of a development plan as set forth in the subdivision and land development regulations.
- (b) *Recommendations within 45 Days*. Unless a delay was caused by the failure of an applicant to submit information requested by the panel, the panel shall make a recommendation within 45 days of acceptance of a plan. If a delay was not caused by the applicant and the panel fails to make a recommendation within 45 days of acceptance of the plan, further panel review is not required. A development plan may then be submitted to the Department of Planning and Zoning in accordance with the subdivision and land development regulations.
- (c) *Subsequent Submittals*. The panel may require the applicant to provide up to one subsequent submittal for review and advice. Subsequent review shall be completed and a recommendation shall be made within 30 days of the panel's receipt of the subsequent submittal.

- (d) *Phased Review Requested by Applicant.* At the time of plan submittal and depending on the scale and phasing of the proposed development, an applicant may request that the panel review a plan in a series of two or more steps.
- (e) *Appeal.* The decision of the Director of the Department of Planning and Zoning is final and can be appealed in accordance with section 16.105 of the Howard County Code.

(C.B. 24, 2008, § 6)

Sec. 16.1506. - Rules of procedure.

The Design Advisory Panel shall adopt rules of procedure necessary for the discharge of its duties that shall include provisions for notice to the public of the panel's meetings, a procedure for the public to provide written comments to the panel, and a procedure for the distribution of meeting minutes to those who have provided written comments.

(C.B. 24, 2008, § 6)

Sec. 16.1507. - Fees.

The Director of the Department of Planning and Zoning may recommend fees for review by the Design Advisory Panel that shall be adopted by resolution of the County Council.

(C.B. 24, 2008, § 6)

SUBTITLE 16. - ENFORCEMENT OF THE HOWARD COUNTY SUBDIVISION AND LAND DEVELOPMENT REGULATIONS AND THE ZONING REGULATIONS^[12]

Footnotes:

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State Law reference— Enforcement of zoning, subdivision and land development regulations, Ann. Code of Md. art. 66B, §§ 1.02, 14.02, 7.06.1.

Sec. 16.1600. - Definitions.

Terms in this subtitle have the meanings indicated:

- (a) *Alleged violator* means a person to whom a citation or notice of violation has been issued for an alleged violation of the subdivision and land development regulations set forth in Subtitle 1 of this title or the Howard County Zoning Regulations.
- (b) *Citation* means a citation for a violation of the subdivision and land development regulations set forth in subtitle 1 of this title or the Howard County Zoning Regulations issued under section 16.1603 of this subtitle.
- (c) *Director* means the Director of the Department of Planning and Zoning or the Director's designee.
- (d) *Notice of violation* means a notice of violation issued under section 16.1602 of this subtitle for a violation of the subdivision and land development regulations set forth in subtitle 1 of this title or the Howard County Zoning Regulations.

(C.B. 3, 2008, § 5)

Sec. 16.1601. - Authority of the County; nature of equitable relief.

- (a) *County Authority.* In addition to any other remedy authorized by law, the County may:
- (1) Enforce the subdivision and land development regulations set forth in this Code, subtitle 1 of title 16, and the Howard County Zoning Regulations in accordance with the procedures set forth in this subtitle;
 - (2) Abate a violation of the subdivision and land development regulations set forth in this Code, subtitle 1 of title 16, or the Howard County Zoning Regulations as provided in this subtitle; and
 - (3) Maintain an action in a court of competent jurisdiction for an injunction; or
 - (4) File a petition for equitable relief in the District Court.
- (b) *Nature of Equitable Relief.* The County may request the court to:
- (1) Enjoin a violation;
 - (2) Require the restoration of a property, to the extent possible, to its condition before the violation, including the removal of the source of the violation; and
 - (3) Order other relief as may be necessary to remedy a violation.

(C.B. 3, 2008, § 5)

Sec. 16.1602. - Notice of violation.

- (a) *Duty to Investigate.* The Director shall investigate an alleged violation to determine whether a violation exists or has occurred.
- (b) *Authority to Issue Notice of Violation.* After investigation, if the Director believes that a violation of the subdivision and land development regulations set forth in subtitle 1 of this title or the Howard County Zoning Regulations exists or has occurred, the Director may issue a notice of violation to the alleged violator.
- (c) *No Requirement to Issue.* The Director is not required to issue a notice of violation:
- (1) For a repeated violation for which a citation under section 16.1603 of this subtitle has been issued; or
 - (2) If a notice of violation is not required by law or regulation.
- (d) *Contents of Notice of Violation.* A notice of violation:
- (1) Shall be in writing;
 - (2) Shall contain the name and address of the alleged violator;
 - (3) Shall contain the time when the violation occurred and the place;
 - (4) Shall include certification by the inspector, attesting to the best of the inspector's knowledge, that a violation exists or has occurred;
 - (5) Shall describe with particularity the nature of the violation, including a reference to the Code or County provision allegedly violated, and the manner of abatement;
 - (6) Shall include a reasonable time to abate the violation or prevent future violations;
 - (7) May include an order to stop work and abate any violations; and

- (8) Shall include a statement that failing to comply with the notice may result in one or all of the following:
 - (i) Civil penalties; and
 - (ii) A lien on the property for civil penalties and costs of compliance if the County corrects the violation.
- (e) *Service of Notice of Violation.* A notice of violation shall be served in one of the following methods:
 - (1) Personal service;
 - (2) Certified or registered mail, restricted delivery, return receipt requested;
 - (3) First class mail to the last known address of the alleged violator; or
 - (4) When service cannot be obtained by one of these methods, a copy of the notice of violation may be posted in a conspicuous place on the property.
- (f) *Time for Correction.* An alleged violator shall make the correction within the time required by the notice of violation.
- (g) *Notice of Violation Not Appealable.* An alleged violator may not appeal a notice of violation issued under this section.

(C.B. 3, 2008, § 5)

Sec. 16.1603. - Citation.

- (a) *Authority to Issue.* The Director may issue a citation to an alleged violator:
 - (1) After the issuance of a notice of violation if the violation continues after the reasonable time Stated in the notice of violation has passed; or
 - (2) If law or regulation does not require the issuance of a notice of violation, when the Director determines that a violation of the subdivision and land development regulations set forth in subtitle 1 of this title or the Howard County Zoning Regulations exists or has occurred.
- (b) *Content of Citation.* A citation shall:
 - (1) Be in writing;
 - (2) Include certification by the inspector, attesting to the best of the inspector's knowledge, that a violation exists or has occurred;
 - (3) Contain the name and address of the alleged violator;
 - (4) Describe in particularity the nature of the violation, including a reference to the Code or County provision allegedly violated;
 - (5) Contain the time when the violation occurred and the place;
 - (6) Include any fine to be assessed including a statement that a lien may be placed on the property for civil fines and costs of compliance if the County corrects the violation;
 - (7) Contain the manner, location, and time in which a fine may be paid; and
 - (8) Include a statement that the alleged violator has the opportunity to be heard before the Hearing Examiner.
- (c) *Service of Citation.* A citation shall be served in the same manner as a notice of violation as set forth in subsection 16.1602(e) of this subtitle.
- (d) *Director to Retain Copy.* The Director shall retain a copy of a citation.

(C.B. 3, 2008, § 5)

Sec. 16.1604. - Authority of the Hearing Examiner; Board of Appeals.

- (a) *Authority.* The Hearing Examiner shall consider a citation issued under this subtitle for a violation of the subdivision and land development requirements set forth in subtitle 1 of this title or the Howard County Zoning Regulations.
- (b) *Board of Appeals.* The Hearing Examiner has all of the powers and authority of the Board of Appeals as set forth in:
 - (1) Title 2, subtitle 2 of this Code; and
 - (2) Subtitle 3 of this title, including the authority to issue subpoenas under section 16.303 of this title.

(C.B. 3, 2008, § 5)

Sec. 16.1605. - Hearing.

- (a) *Hearing Scheduled.* The Hearing Examiner shall schedule a hearing on a citation issued under section 16.1603 of this subtitle if:
 - (1) A hearing is requested by the alleged violator or the Department; or
 - (2) The alleged violator fails to pay any fine assessed in the citation.
- (b) *Procedures.* A hearing under this subtitle shall be held in accordance with the procedures set forth in subsection 2.210(a) and section 16.303 of this Code.
- (c) *Notice.* Notice of a hearing shall be served in the same manner as a notice of violation as set forth in subsection 16.1602(e) of this subtitle.
- (d) *Burden of Proof.* In an appeal of a citation issued under section 16.1603 of this subtitle, the burden of proof is on the County to show, by a preponderance of the evidence, that the alleged violator has violated the laws or regulations in question. However, it is the alleged violator's burden to provide all affirmative defenses, including the defense of nonconforming use.

(C.B. 3, 2008, § 5)

Sec. 16.1606. - Inspections.

On request of an alleged violator, the Director shall:

- (a) Make any material or information in the custody of the County available to the alleged violator; and
- (b) Allow the alleged violator to inspect and copy:
 - (1) Any portion of a document that contains a statement or the substance of a statement made by the alleged violator to an inspector that the inspector intends to use at a hearing; and
 - (2) Each written report or statement made by an expert whom the inspector expects to call as a witness at the hearing.

(C.B. 3, 2008, § 5)

Sec. 16.1607. - Final order.

- (a) *Requirement to Issue.* After the conclusion of a hearing, the Hearing Examiner shall issue a written final order.
- (b) *Contents.* A final order may include:
 - (1) A requirement to abate a violation including a requirement to stop work or restore the property to a lawful condition;
 - (2) A requirement to reimburse the County for any fees or costs incurred; and
 - (3) A civil fine in accordance with section 16.1608 of this subtitle.

(C.B. 3, 2008, § 5)

Sec. 16.1608. - Civil fines.

- (a) *Amount of Fine.* A civil fine for a violation of the subdivision and land development regulations set forth in subtitle 1 of this title or the Howard County Zoning Regulations shall be \$250.00 or more per violation and shall not exceed \$500.00 per violation.
- (b) *Basis for Fine.* A fine imposed under this subtitle is within the discretion of the Hearing Examiner and may not be grossly disproportional to the gravity and severity of the offense.
- (c) *Payment of Fine.* All fines:
 - (1) Are due and payable by the date indicated in the citation; and
 - (2) Are payable to the Director of Finance of Howard County.
- (d) *Continuing Violations.* Each day that a violation continues after the issuance of a notice of violation or citation is a separate offense and an inspection that indicates that a violation continues to exist is prima facie proof of a continuing violation.
- (e) *Deferral or Conditions of Fine.* The Hearing Examiner may suspend or defer assessment of a fine or may set conditions for the suspension or deferral of a fine.

(C.B. 3, 2008, § 5)

Sec. 16.1609. - Appeal to the Board of Appeals.

- (a) *Appeal.* A final order issued by the Hearing Examiner may be appealed by the alleged violator to the Board of Appeals in accordance with section 16.304 of this title.
- (b) *Penalties Stayed.* If an alleged violator appeals the final order of the Hearing Examiner, the alleged violator may request the stay of any civil fine imposed by a final order pending the final resolution of an appeal.

(C.B. 3, 2008, § 5)

Sec. 16.1610. - Security.

- (a) *Security.* If a final order of the Hearing Examiner includes a civil fine and the order is appealed to the Board of Appeals, the alleged violator shall post security in the amount of the civil fine to the Director in a form acceptable to the Director.
- (b) *Refund of Security.* After all appeals are exhausted, if a civil fine:
 - (1) Is reduced or vacated:
 - (i) The security shall be reduced proportionately;

- (ii) Any surplus shall be returned to the alleged violator; and
 - (iii) Any balance shall be used to satisfy the civil fine; or
- (2) Is not reduced or vacated, the security shall satisfy the fine assessed and accrue to the benefit of the County.

(C.B. 3, 2008, § 5)

Sec. 16.1611. - Failure to comply with a final order.

- (a) *Failure to pay.* If a final order issued by a Hearing Examiner assesses a civil fine and the alleged violator does not pay the fine within the time required by the order, the Hearing Examiner shall certify to the Director of Finance the amount owed that shall:
- (1) Be a lien on the property on which the violation existed;
 - (2) Accrue penalties at the same rate and in the same manner as the accrual of interest and penalties for unpaid real property taxes; and
 - (3) Be collectible in the same manner as any civil money judgment or debt may be collected.
- (b) *County to Complete Work-Court Order.* If an alleged violator fails to comply with a final order or an order of the Board of Appeals issued under section 2.211 of this Code, the County may seek a court order authorizing entry onto the property to correct the violation in accordance with section 16.1612 of this subtitle.

(C.B. 3, 2008, § 5)

Sec. 16.1612. - County to secure compliance.

- (a) *Notice.* Notice that the County may undertake measures provided for in subsection (b) of this section shall be included in:
- (1) An order of abatement;
 - (2) An injunction or other order for equitable relief issued by the court;
 - (3) A final order issued by the Hearing Examiner; or
 - (4) An order of the Board of Appeals affirming or modifying a finding of the Hearing Examiner.
- (b) *County to Secure Compliance.* Subject to the notice requirements set forth in subsection (a) of this section, if an alleged violator fails to comply with an order to correct a violation within the time provided in the order, the County may seek a court order authorizing entry on to the property to correct the violation and may procure the performance of the work by County employees or by contract to correct the violation.
- (c) *Cost.* The cost and expense of work performed under this section:
- (1) Shall be:
 - (i) Certified to the Director of Finance;
 - (ii) A lien on the property on which the violation exists;
 - (iii) Collectible in the same manner as any civil money judgment or debt may be collected; and
 - (2) Shall accrue penalties at the same rate and in the same manner as the accrual of interest and penalties for unpaid real property taxes.

- (d) *Liability.* Work performed by or for the County under this section does not relieve the alleged violator from responsibility or liability for any work performed by the alleged violator or for a violation committed by the alleged violator.
- (e) *Authority to enter property.* In accordance with a court order, a County employee or contractor authorized by the County may enter on private lands for the purpose of correcting a violation.
- (f) *Prohibited Conduct.* An owner, occupant, or agent may not obstruct or impede any employee or contractor or their agents or employees in the performance of work under this section.

(C.B. 3, 2008, § 5)

SUBTITLE 17. - DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS

Sec. 16.1700. - Purpose.

The purpose of this subtitle is to protect the public health, safety, and welfare by enacting the authority granted by Section 13.01 of Article 66b of the Annotated Code of Maryland relating to development rights and responsibilities agreements and establishing procedures for such agreements in accordance with the provisions of the State Code.

(C.B. 4, 2010, § 1)

Sec. 16.1701. - Definitions.

In this subtitle the following words have the meanings indicated:

- (a) *Agreement* means a development rights and responsibilities agreement.
- (b) *Development rights and responsibilities agreement* means an agreement between a governmental body of a jurisdiction and a person or legal entity having a legal or equitable interest in real property for the purpose of establishing conditions under which development may proceed for a specified time.
- (c) *Development* means development as defined in the Howard County Subdivision and Land Development Regulations.
- (d) *Parties* means the County Executive on behalf of the County and the petitioner.
- (e) *Petitioner* means a person or legal entity having a legal or equitable interest in real property subject to the agreement, or the person's representative or successors in interest.
- (f) *Plan* means a general plan or master plan as defined in the State Code.
- (g) *Planning Board* means the Howard County Planning Board.
- (h) *State Code* means Article 66b Section 13.01 of the Annotated Code of Maryland.
- (i) *Successors in interest* means, including but not limited to, a person's or legal entity's affiliates, all successor owners or assigns, and all purchasers of equity interests or assets.

(C.B. 4, 2010, § 1)

Sec. 16.1702. - Applicability.

Any petitioner may petition the County Executive to enter into an agreement. The County Executive shall exercise the authority of the public principal granted by the State Code to negotiate, execute and enforce agreements, except that the County Council shall act as the public principal for purposes of

conducting the public hearing on a proposed agreement and either approving or rejecting an agreement or an amendment to an executed agreement. In the suspension or termination of executed agreements the County Executive and County Council shall act together as the public principal under State Code authority as provided herein.

(C.B. 4, 2010, § 1)

Sec. 16.1703. - Contents of development rights and responsibilities agreements.

(a) An agreement shall include:

- (1) A legal description of the real property subject to the agreement;
- (2) The names of the persons having a legal or equitable interest in the real property subject to the agreement;
- (3) The duration of the agreement;
- (4) The permissible uses of the real property;
- (5) The density or intensity of the use of the real property;
- (6) The maximum height and size of structures to be located on the real property;
- (7) A description of the permits required or already approved for the development of the real property;
- (8) A statement that the proposed development is consistent with the Plan and Development Regulations of Howard County;
- (9) A description of the conditions, terms, restrictions, or other requirements determined by the Governing Body of Howard County to be necessary to ensure the public health, safety, or welfare; and
- (10) To the extent applicable, provisions for the:
 - (i) Dedication of a portion of the real property for public use;
 - (ii) Protection of sensitive areas;
 - (iii) Preservation and restoration of historic structures; and
 - (iv) Construction or financing of public facilities.

(b) An agreement may:

- (1) Fix the time frame and terms for development and construction on the real property; and
- (2) Provide for other matters consistent with this subtitle.

(C.B. 4, 2010, § 1)

Sec. 16.1704. - Procedures.

(a) The petitioner shall petition the County Executive to negotiate and execute an agreement. The petition shall include key elements of the proposed agreement. Within ten days of submitting a petition to the County Executive the petitioner shall provide a copy of the petition to the County Council. The County Executive shall first review the petition to determine whether to accept the petition and initiate the negotiation process.

(b) An agreement may be executed by the County Executive only after:

- (1) A pre-submission community meeting conducted using the same procedures established in subsections 16.128(b)—(g) of the Subdivision and Land Development Regulations, unless within one year of the scheduled meeting a pre-submission community meeting has already been held for the same development project that is all or part of the property that is the subject of the proposed agreement;
 - (2) A public meeting before the Planning Board and an advisory determination by the Planning Board that the proposed agreement is consistent with the plan; and
 - (3) A public hearing before the County Council and approval of a resolution authorizing the execution of the agreement.
- (c) The County Council may approve or reject the proposed agreement or may encourage the parties to submit a revised version.

(C.B. 4, 2010, § 1)

Sec. 16.1705. - Amendments to executed agreements.

Amendments to executed agreements shall be governed by the same procedures as provided in section 16.1704 for the consideration of initial agreements.

(C.B. 4, 2010, § 1)

Sec. 16.1706. - Termination of agreements; suspension; time limitations.

- (a) The parties to an agreement may terminate the agreement by mutual consent, provided the County's consent shall be expressed by a resolution of the County Council recommended by the County Executive.
- (b) If the County Executive recommends and the County Council determines by resolution that suspension or termination is essential to ensure the public health, safety, or welfare, the County may suspend or terminate an agreement after a public hearing.
- (c) An agreement shall be void five years after the day on which the parties execute the agreement unless the duration of the agreement is:
 - (1) Otherwise established in the agreement; or
 - (2) Extended by amendment under section 16.1705 of this subtitle.

(C.B. 4, 2010, § 1)

Sec. 16.1707. - Applicable laws, regulations, and policies.

- (a) Except as provided in subsection (b) of this section, 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 parties execute the agreement.
- (b) If the County determines that compliance with laws, rules, regulations, and policies enacted or adopted after the effective date of the agreement is essential to ensure the health, safety, or welfare of residents of all or part of the County, an agreement may not prevent Howard County from requiring a person to comply with those laws, rules, regulations, or policies.

(C.B. 4, 2010, § 1)

Sec. 16.1708. - Recording.

- (a) The petitioner shall record an agreement in the Land Records of Howard County within 20 days after the day on which the parties executed the agreement and an agreement that is not recorded within 20 days is void.
- (b) The parties to the agreement and their successors in interest are bound to the agreement after the agreement is recorded.

(C.B. 4, 2010, § 1)

Sec. 16.1709. - Enforcement by interested parties.

Unless the agreement is terminated under section 16.1706 of this subtitle, the parties to an agreement or their successors in interest may enforce the agreement.

(C.B. 4, 2010, § 1)

TITLE 17 - PUBLIC PROTECTION SERVICES

SUBTITLE 1. - FIRE AND RESCUE SERVICES⁽¹⁾

Footnotes:

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Editor's note— C.B. 153, 1991 amended subtitle 1 to read as set out in §§ 17.100—17.108. The subtitle was formerly titled "Fire Protection" and consisted of §§ 17.100A—17.114. Sections 17.100A, 17.100B were renumbered §§ 17.100, 17.101; § 17.108(a), (j) were renumbered 17.102; § 17.108(b)—(i) were redesignated § 17.103; and §§ 17.100—17.107, 17.109—17 were repealed and reenacted to read as set out in §§ 17.104—17.108. The following legislation was used in the former subtitle: 1945, ch. 195; 1947, ch. 459, §§ 198B—198H; 1955, ch. 199; 1961, ch. 106, § 1, ch. 825, § 17; 1967, ch. 330; C.B. 28, 1970; C.B. 7, 1972; C.B. 4, 1979; C.B. 5, 1980; C.B. 42, 1980; C.B. 92, 1981; C.B. 32, 1985; C.B. 61, 1985; C.B. 62, 1988; C.B. 117, 1989.

Sec. 17.100. - Department of Fire and Rescue Services.

- (a) *General Provisions.* General provisions applicable to this department are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Head.* The Director of Fire and Rescue Services shall head the Department of Fire and Rescue Services. The Director of Fire and Rescue Services shall also be known as the Fire Chief.
- (c) *Qualifications of Director of Fire and Rescue Services.* The Director of Fire and Rescue Services shall have the minimum qualifications, experience, and education as established by the Classification Plan of Howard County.
- (d) *Duties and Responsibilities:*
 - (1) The Department of Fire and Rescue Services shall be responsible for the administration of the affairs of the County in:
 - (i) Fire suppression and prevention.

- (ii) Fire training.
 - (iii) Arson investigation.
 - (iv) Rescue services.
 - (v) Emergency medical services.
 - (vi) Community risk reduction.
 - (vii) Fire and safety public education.
 - (viii) Plans review for fire safety.
 - (ix) Fire Code development and enforcement.
 - (x) Hazardous materials mitigation.
- (2) *Other duties and responsibilities.* The Department of Fire and Rescue Services shall perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 153, 1991; C.B. 83, 2006, § 1; C.B. 8, 2016, § 1; C.B. 10, 2018, § 1)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 17.101. - Reserved.

Editor's note— C.B. 12, 2019, § 1, adopted May 13, 2019, repealed § 17.101, which pertained to Fire and Rescue Services Board and derived from C.B. 153, 1991; C.B. 83, 2006, § 1; C.B. 10, 2018, § 1.

Sec. 17.102. - Fire and rescue tax.

- (a) *Purpose of Tax.* The purpose of the fire and rescue tax is to fund the operating and capital costs to provide fire and emergency services in the County.
- (b) *Definitions.* In this section, the following terms have the meanings indicated:
 - (1) *LOSAP* means the length of service award program for volunteer firefighting/emergency medical service personnel.
 - (2) *Volunteer member benefit costs* mean the costs to the County, other than the payments to the volunteer fire corporations, of volunteer members, including but not limited to, LOSAP payments, life insurance, and workers' compensation insurance.
- (c) *Fire and Rescue Tax Authorized.* There is a fire and rescue tax. All assessable property in the County is subject to the fire and rescue tax.
- (d) *Rate:*
 - (1) The tax shall be sufficient, together with other available revenues specifically dedicated to fire and rescue activities to fund the County's total costs for fire and rescue services. A portion of those costs are based on the following:
 - (i) Payments to the volunteer fire corporations; and
 - (ii) Volunteer member benefit costs.
 - (2) When the County Council adopts the annual budget and appropriation ordinance, it shall levy the fire tax on all assessable property subject to the fire tax and set the rate for real property (except operating real property defined in Section 8-109 of the Tax-Property Article of the Annotated Code of Maryland) subject to the fire tax.

- (e) The taxes authorized under the provisions of subsection (a) shall be collected in the same manner as other County taxes are collected.
- (f) If a property owner fails to pay the fire tax when due and payable, the unpaid tax:
 - (1) Shall be a lien on all real property belonging to the person required to make payment;
 - (2) Shall be collectible in the same manner as any civil money judgment or debt maybe collected; and
 - (3) Shall accrue penalties at the same rate and in the same manner as the accrual of interest and penalties for unpaid real property taxes.

(C.B. 11, 1993; C.B. 23, 1998; C.B. 18, 1999; C.B. 17, 2001; C.B. 9, 2012, § 1)

Editor's note— Prior to its repeal and reenacting by C.B. 11, 1993, § 17.102 gave the boundaries of the County fire districts and was derived from C.B. 153, 1991. See § 17.103(i).

Note— Section 2 of C.B. 18, 1999, declared the bill effective July 3, 1999.

Sec. 17.103. - Payments to volunteer fire corporations.

- (a) The County recognizes six volunteer fire corporations in the County, as follows:
 - (1) The Elkridge Volunteer Fire Department, Inc.
 - (2) The Ellicott City Volunteer Firemen's Association, Inc.
 - (3) The West Friendship Volunteer Fire Department, Inc.
 - (4) The Lisbon Volunteer Fire Company, Inc.
 - (5) The Fifth District Volunteer Fire Department, Inc.
 - (6) The Savage Volunteer Fire Company, Inc.
- (b) The County Executive of Howard County is authorized and empowered to grant, annually to the volunteer fire corporations in Howard County, support for operating and maintenance expenses.
- (c) The volunteer fire corporations shall file with the County Executive (in the form and at the time prescribed by the Budget Officer) a budget for the ensuing fiscal year detailing their anticipated revenues, operating expenses and capital expenditures from fire taxes and transfer tax for fire suppression, prevention and related functions, and emergency medical services, for which they are responsible. The budget shall be accompanied by a current fiscal financial report.
- (d) The County Executive shall determine what amounts are required to provide fire suppression, prevention and related functions, and emergency medical services and to fund the additional requirements of the volunteer fire corporations and shall include those amounts in his budget submitted to the County Council.
- (e) Grants to the volunteer fire corporations shall be made as the County Executive deems proper.
- (f) The County Council is authorized to conduct periodic audits of any or all of the volunteer fire corporations of Howard County, and to employ or contract any certified public accountant or firm to conduct the audits. The County Executive is authorized to establish rules and procedures regulating the method(s) of keeping books of account in accordance with proper accounting procedures. The County Executive is authorized to require the bonding of any member or employee of a volunteer fire corporation entrusted with goods or moneys or both.
- (g) The County recognizes the Howard County Volunteer Firefighter's Association, Inc., as the organization empowered to represent any or all of the volunteer fire corporations, listed in subsection (a) of this section. The Howard County Volunteer Firefighter's Association, Inc., may enter into

legally binding agreements on behalf of any or all of the volunteer fire corporations listed in subsection (a) of this section, as so designated by any or all of these volunteer fire corporations. The County, at times, may enter into Memorandums of Understanding and agreements directly with a volunteer fire corporation.

(h) *Length of service award program for volunteer firefighting/EMS personnel.*

- (1) *Definitions.* Words and phrases used in this section shall have their usual meaning, except as specifically defined in this subsection.
 - (i) *Creditable points* means points which may be credited pursuant to paragraph (9), "Active Service Standards," of this subsection.
 - (ii) *EMS* means emergency medical services.
 - (iii) *Length of service awards program (LOSAP)* is a program defined by the internal revenue service that allows the County to award monthly payments after a certain number of years of certified active service to volunteers.
 - (iv) *Year of certified active service* means a period from January 1 to December 31 during which 50 creditable points have been accumulated according to the criteria set forth in this subsection and listed by the Director of Fire and Rescue Services as further set forth in this subsection.
 - (v) *Volunteer/volunteers* means firefighting/EMS personnel unpaid for their training or work, who donate their time and services to a volunteer fire corporation listed in subsection (A) of this section or to the Howard County Department of Fire and Rescue Services.
- (2) *Establishment of length of service awards program (LOSAP)* means in recognition of their extensive volunteer service to the citizens of Howard County, the Howard County Government shall make a length of service award program (LOSAP) available to volunteers.
- (3) *Eligibility* means in order to qualify for a LOSAP payment a volunteer shall have:
 - (i) Attained the age of 50;
 - (ii) Completed a total of 25 years of certified active service in Howard County; and
 - (iii) Submitted a written request for the LOSAP payment to the Director of Fire and Rescue Services or the director's designee.
- (4) *Payments:*
 - (i) *Base payment.* Effective January 1, 2015, the LOSAP payment provided to a volunteer who has met the conditions for eligibility as specified in paragraph (3) of this subsection shall be equal to one percent of the current annual starting salary of a trainee in the Department of Fire and Rescue Services per month for life, subject to the limitations set forth in paragraph (5) of this subsection.
 - (ii) The LOSAP payments shall begin the month following verification of eligibility.
 - (iii) For volunteers who continue to meet minimal operational requirements, in addition to the base payment provided for in subparagraph (i) of this paragraph, the sum of \$10.00 per month shall be added for each full year of certified active service over 25 years.
 - (iv) Increases in the base payment attributable to increases in the starting salary of a trainee in the Department of Fire and Rescue Services shall apply to all present and future recipients.
- (5) *Limitations on base payments.*
 - (i) Except as provided in subparagraph (v) of this paragraph, the lump sum equivalent of the base payment shall not exceed the amount accumulated through an accrual of \$3,000.00 per year plus deemed earnings credited at five percent per annum;

- (ii) For purposes of sub-paragraph (i) of this paragraph, equivalency shall be determined based on the RP-2000 Combined Healthy Mortality Table (75 percent of the male annuity factor and 25 percent of the female annuity factor) and an interest rate of five percent per annum, compounded annually.
 - (iii) If an increase in the starting salary of a trainee in the Department of Fire and Rescue Services causes the lump sum equivalent of the base payment for a test volunteer to exceed the limitation described in subparagraph (i) of this paragraph, the increase in the starting salary will not be recognized for purposes of determining the base payment of any volunteer.
 - (iv) For purposes of subparagraph (iii), a test volunteer is a volunteer whose certified active service began at age 25, who earned 25 consecutive years of certified active service between ages 25 and 50, and who begins receiving the base payment at age 50.
 - (v) If section 457(e)(11)(B)(ii) of the Internal Revenue Code is amended in a manner that increases the limitation on accruals for length of service award programs, the new limitation shall be substituted for the phrase "an accrual of \$3,000 per year" in subparagraph (i) of this paragraph, without the requirement of a specific amendment.
- (6) *Benefits.* If a qualified volunteer dies after January 1, 2015:
- (i) A burial benefit of \$5,000.00 shall be paid to:
 - A. The beneficiary or beneficiaries designated by the volunteer to receive such benefit and such designation may be changed from time to time by the volunteer by filing a new designation; or
 - B. If there is no designated beneficiary, the burial benefit shall be provided in accordance with section 1.448a(b) of the Howard County Code.
 - (ii) A survivor benefit equivalent to the total of six months LOSAP payment shall be paid to:
 - A. The beneficiary or beneficiaries designated by the volunteer to receive such benefit and such designation may be changed from time to time by the volunteer by filing a new designation; or
 - B. If there is no designated beneficiary, the survivor benefit shall be provided in accordance with section 1.448a(b) of the Howard County Code.
- (7) *Funding* means LOSAP payments shall be paid from the fire and rescue tax fund.
- (8) *Administration:*
- (i) The President and Chief of each Volunteer Fire Corporation and the designee for volunteers of the Howard County Department of Fire and Rescue Services shall submit to the Director of Fire and Rescue Services or the Director's designee, each month, a list of those volunteers who have qualified for points during the previous month, a summary of the points earned in each category during the previous month and the total points earned in each category year to date. The list shall be certified as an accurate report of the points earned by each volunteer on the list by the President and Chief of the Volunteer Fire Corporation and by the designee for volunteers of the Howard County Department of Fire and Rescue Services.
 - (ii) From the information furnished by the Volunteer Fire Corporations insofar as their volunteers are concerned, and from accumulated information insofar as volunteers of the Howard County Department of Fire and Rescue Services are concerned, the Director of Fire and Rescue Services shall provide to the President and Chief of each volunteer corporation a yearly report indicating the number of points credited to each individual during the previous year no later than January 31 of each year.
 - (iii) A volunteer may appeal the number of points credited to him/her by filing a written appeal with the Director of Fire and Rescue Services by March 31. The appeal shall contain

sufficient detail to permit the Director of Fire and Rescue Services to rule on the matter. The Director of Fire and Rescue Services shall issue a written decision within 60 days of receiving the appeal. A volunteer may appeal the decision of the Director of Fire and Rescue Services to the Board of Appeals in accordance with its rules and procedures.

(9) *Active service standards:*

- (i) To receive credit for a year of active service, a volunteer must have accumulated at least 50 creditable points during the year.
- (ii) Points shall be credited for the period from January 1 through December 31 and shall not be transferrable from one year to the next.
- (iii) Volunteers who also serve as career or contingent firefighting/EMS personnel of the Howard County Department of Fire and Rescue Services shall not be credited with points for activities performed during County-assigned work periods.
- (iv) Points must be earned from a minimum of two of the categories contained in subparagraph (v) of this paragraph.
- (v) Points shall be credited as follows:
 - a. *Training course.* Twenty-five points maximum per year:
 - 1. Five points per course for courses under 20 hours' duration, including one-day courses, seminars, cardio-pulmonary resuscitation and similar training courses.
 - 2. Ten points per course for courses of 20 to 45 hours' duration, including regional fire schools and similar courses.
 - 3. Fifteen points per course for courses of over 45 hours' duration, including University of Maryland fire-related courses, emergency medical care courses, fire science courses of any accredited college or university and similar courses.
 - b. *Drills.* Twenty points maximum per year. One point for each minimum two-hour drill.
 - c. *Sleep-in or standby.* Thirty points maximum per year.
 - 1. One point for each full night sleep-in.
 - 2. One point for each standby which is an on-duty activity which consumes at least four hours and does not fall into any other category.
 - d. *Elected or appointed position.* Fifty points maximum per year. Points will be awarded on a monthly basis for the time served. Points may not be concurrently credited for this category and under subparagraph e. below for attending meetings within Howard County. Points will be awarded in only one of the categories below. However, individuals serving in more than one category may be awarded 12 additional points (one point per month) for each other Office/Committee position held.

Office	Maximum Annual	Points per Month
Chief, President, Treasurer, Secretary	50	4.16
All other elected corporate, County or State association offices	25	2.08
Committees	25	2.08

Uniformed service	50	4.16
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- e. *Attendance at meetings.* Twenty points maximum per year. One point per meeting.
- f. *Responses.* Forty points maximum per year. One-half point for each response, regardless of its nature.
- g. *Uniformed service.* A maximum of four years creditable service may be acquired for military service as provided in this item. Up to 50 points per year shall be credited if volunteer service is interrupted by uniformed service, provided the volunteer:
 - I. Is an active member in good standing;
 - II. Has at least one year of prior volunteer service;
 - III. Provides official orders or proof of service; and
 - IV. Is discharged or released from uniformed service under honorable conditions.
- h. *Permanent disability.* Fifty points per year shall be credited to any volunteer who is found to be permanently and totally disabled by an administrative body or court of competent jurisdiction authorized to make such a determination in the line of duty as a volunteer.

(C.B. 153, 1991; C.B. 11, 1993; C.B. 12, 1995; C.B. 21, 1995; C.B. 18, 1999; C.B. 32, 2000; C.B. 61, § 3; C.B. 37, 2008, § 1; C.B. 9-2012, § 1; C.B. 39, 2014, § 1; C.B. 10, 2018, § 1; C.B. 12, 2019, § 1)

Note— See the editor's note following § 1.400.

Editor's note— Section 2 of Council Bill No. 39-2014 states that LOSAP payments shall be computed through December 31, 2014 in accordance with § 17.103 as it was in effect on July 7, 2014.

Sec. 17.104. - Howard County Fire Prevention Code.^[2]

- (a) *Adoption of National Codes:* Except as provided in subsection (b) of this section, the NFPA 1, Fire Code 2015 edition (published by the National Fire Protection Association), is adopted as the Howard County Fire Prevention Code as if the National Code is set out in full in this subtitle.
- (b) The county may adopt regulations to administer the provisions of this subtitle.
- (c) *Local amendments to the Howard County Fire Prevention Code :* The following amendments modify certain provisions of the adopted Code:
 - (1) *General:*
 - (i) The term *Code Official* , *Enforcement Officer* , or *Fire Official* shall mean the Director, Chief or AHJ of the Department of Fire and Rescue Services or the Chief's authorized designee.
 - (ii) Wherever the name of the municipality is to be indicated, insert "Howard County, Maryland".

(iii) Wherever the term "this Code" is used, it refers to this subtitle, which shall be known as the Howard County Fire Prevention Code.

(iv) The term *Code Enforcement Agency* shall mean the Department of Fire and Rescue Services.

(2) *Subsection 1.1.1(2).*

Delete this subsection and substitute the following:

Investigation of fires, explosions, potentially explosive devices, hazardous material incidents, and other related emergency incidents. These duties may be performed in conjunction with other public agencies.

(3) *Subsection 1.1.1(3).*

Delete this subsection and substitute the following:

In conjunction with the department of planning and zoning, review of site development plans for adequate access, water supply, and other life safety issues. In conjunction with the Department of Inspections, Licenses and Permits, the review of design and construction drawings, plans, and specifications for life safety systems, fire protection systems, and other fire and life safety issues.

(4) *Subsection 1.1.1(5).*

Delete this subsection and substitute the following:

The inspection of existing occupancies, structures, and areas. In conjunction with the Department of Inspections, Licenses, and Permits, the inspection of the construction and design of new buildings and alterations and additions to existing buildings.

(5) *Subsection 1.1.1(6).*

Delete this subsection and substitute the following:

The maintenance and testing of existing fire protection systems and equipment and, in conjunction with the Department of Inspections, Licenses and Permits, the design, alteration, modification, and installation of new and existing fire protection systems and equipment.

(6) *Subsection 1.1.1(16).*

Delete this subsection and substitute the following:

In conjunction with the Department of Inspections, Licenses and Permits, the arrangement, design, construction and alteration of new and existing means of egress.

(7) *Subsection 1.3.3.1.*

Delete this subsection and substitute the following:

When this Code and any other referenced codes or code sections have conflicting requirements, the most restrictive requirement shall apply. The AHJ may accept alternative features or requirements that provide the same level of fire safety as the requirements of this Code. The AHJ's acceptance of alternatives shall be in writing.

(8) *Subsection 1.3.3.1.1.*

Add new subsection 1.3.3.1.1 after subsection 1.3.3.1 as follows:

If sections of this Code are less restrictive than the latest adopted version of the Maryland State Fire Prevention Code, the applicable provisions of the Maryland State Fire Prevention Code shall apply.

(9) *Section 1.4.2.*

Delete this section and substitute the following:

The AHJ may accept alternate methods of satisfying intent of this Code if the material, method, or work is at least the equivalent of that required by this Code in quality, effectiveness, durability, and safety and meets or exceeds the intent of this Code.

(10) *Section 1.7.1.*

Delete this section and substitute the following:

Administration. The provisions of this Code and sections 17.105, 17.106, 17.107, and 17.111 of the Howard County Code shall apply without restriction, unless specifically exempted.

(11) *Section 1.7.5.*

Insert the following at the end of this section:

In addition to the enforcement authority of the AHJ and the enforcement authority granted to the Department of Police by section 1.7.4 and section 65.1.3 of this Code, the Director of the Department of Inspections, Licenses and Permits, or the Director's authorized designee, may enforce the provisions of this Code when:

- (i) Reviewing plans for or inspecting new construction;
- (ii) Requested to conduct specific inspections authorized by the AHJ; or
- (iii) Inspecting commercial or residential buildings, structures, sites, or areas.

(12) *Subsection 1.7.7.1.*

Delete this subsection and substitute the following:

The AHJ shall designate persons authorized to inspect all buildings, structures, sites, or areas, including single-family dwellings where required by this Code, for the purposes of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with firefighting operations, endanger life or any violations of the provisions or intent of this Code or any other ordinance affecting fire safety.

(13) *Subsection 1.7.7.1.1.*

Add new subsection 1.7.7.1.1 after subsection 1.7.7.1 as follows:

Personnel performing inspections may document inspections through any appropriate means including the use of photography and video recording.

(14) *Subsection 1.7.7.7.*

Add new subsection 1.7.7.7 after subsection 1.7.7.6 as follows:

A person who refuses to allow an inspection of a building, structure, site, or area when the inspection is authorized by this Code is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a Fire Official may enforce this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subsection is a Class A offense. Each day that a violation continues is a separate offense.

(15) *Subsection 1.7.9.1.*

Add new subsection 1.7.9.1 after section 1.7.9 as follows:

A person interfering or causing a condition that would interfere with the enforcement of this Code is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a Fire Official may enforce this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subsection is a Class A offense. Each day that a violation continues is a separate offense.

(16) *Subsection 1.7.10.1.*

Add new subsection 1.7.10.1 after section 1.7.10 as follows:

A person impersonating a Fire Official is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a Fire Official may enforce this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subsection is a Class A offense. Each day that a violation continues is a separate offense.

(17) *Subsection 1.7.11.1.*

Delete this subsection and substitute the following:

Authority. The AHJ may investigate the origin, cause, and circumstances of any fire, explosion, potentially explosive device, hazardous materials incident, or other emergency situation. These duties may be performed in conjunction with other public agencies.

(18) *Subsection 1.7.11.1.1.*

Add new subsection 1.7.11.1.1 after subsection 1.7.11.1 as follows:

To the extent permitted by law, the County may pursue legal action to seek reimbursement of costs for emergency services provided in response to an arson from the person or persons who commit the arson.

(19) *Subsection 1.7.11.2.*

Delete this subsection and substitute the following:

Evidence. The AHJ may take custody of all physical evidence relating to the cause of a fire, explosion, hazardous materials incident, or other emergency situation.

(20) *Subsection 1.7.11.5.*

Add new subsection 1.7.11.5 after subsection 1.7.11.4 as follows:

A person interfering or causing a condition that would interfere with an investigation is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a Fire Official may enforce this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subsection is a Class A offense. Each day that a violation continues is a separate offense.

(21) *Subsection 1.7.13.1.*

Delete this subsection and substitute the following:

When requested by the Department of Inspections, Licenses, and Permits, the Department of Fire and Rescue Services shall assist the Department of Inspections, Licenses and Permits with the inspection of new construction, alterations, or the installation of processes or equipment covered by this Code.

(22) *Subsections 1.7.13.2 through 1.7.13.4.*

Delete these subsections.

(23) *Subsection 1.7.15.1.*

Add new subsection 1.7.15.1 after section 1.7.15.

Work subject to a stop work order by the AHJ shall immediately stop. The AHJ may rescind a stop work order after the situation has been corrected and inspected by the AHJ or an inspection by the Department of Inspections, Licenses and Permits deems the building is safe.

(24) *Subsection 1.7.15(4).*

Add new subsection 1.7.15(4) after subsection 1.7.15(3) as follows:

The AHJ may order the evacuation of a building or structure if the fire detection or suppression system is not in working order, the building or structure is overcrowded, or there is a violation of this Code that creates a hazardous condition, emergency, or imminent danger.

(25) *Subsection 1.7.15(5).*

Add new subsection 1.7.15(5) after subsection 1.7.15(4) as follows:

In addition to any other enforcement action, a person failing to obey an order to stop work, abate a condition, cease a use, or immediately evacuate a building, structure, site, or area is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a fire official may enforce this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subsection is a Class A offense. Each day that a violation continues is a separate offense.

(26) *Subsection 1.7.17.4.*

Add new subsection 1.7.17.4 after subsection 1.7.17.3 as follows:

Individuals designated as standby fire personnel (fire watch) must:

- (i) Have a functional knowledge of the building layout and the building's systems;
- (ii) Be able to operate valves, climb stairs, dial phones, and speak calmly and clearly in a stressful situation;
- (iii) Manage people in an emergency; and
- (iv) Operate a fire extinguisher.

(27) *Subsection 1.7.17.4.1.*

Add new subsection 1.7.17.4.1 after subsection 1.7.17.4 as follows:

Standby fire personnel shall walk the entire building at least one time each hour in order to check for smoke or fire and to ensure that all means of egress are accessible and unobstructed.

(28) *Subsection 1.7.17.4.2.*

Add new subsection 1.7.17.4.2 after subsection 1.7.17.4.1 as follows:

Standby fire personnel may also be required to operate a fire extinguisher. However, the primary responsibility of standby fire personnel is the evacuation and safety of the building's occupants.

(29) *Subsection 1.7.17.4.3.*

Add new subsection 1.7.17.4.3 after subsection 1.7.17.4.2 as follows:

Standby fire personnel shall not have any other duties while they are serving as standby fire personnel.

(30) *Subsection 1.7.17.4.4.*

Add new subsection 1.7.17.4.4 after subsection 1.7.17.4.3 as follows:

The standby fire personnel shall have the ability to communicate with the Howard County Police Department, Division of Communications (911 Center).

(31) *Subsection 1.7.17.4.5.*

Add new subsection 1.7.17.4.5 after subsection 1.7.17.4.3 as follows:

Standby fire personnel shall maintain a log every hour and shall note the area checked, the time it was checked and by whom. The log shall be maintained on the premises.

(32) *Subsection 1.7.17.4.6.*

Add new subsection 1.7.17.4.6 after subsection 1.7.17.4.5 as follows:

The property owner shall designate the lesser of either (1) one person per 100,000 sq. ft. of building space; or (2) one person for every five floors. The AHJ may require additional standby fire personnel. When multiple personnel are required, they shall have the ability to communicate with each other.

(33) *Subsection 1.7.17.4.7.*

Add new subsection 1.7.17.4.7 after subsection 1.7.17.4.6 as follows:

In the event of an emergency, the standby fire personnel shall:

1. Evacuate the occupants;
2. Call 911 and report the emergency and provide an exact building address and location of smoke or fire;
3. Notify other standby fire personnel;
4. Activate the impaired fire alarm and/or sprinkler system if possible; and
5. Direct responding fire personnel to the smoke/fire area.

(34) *Subsection 1.7.17.5.*

Add new subsection 1.7.17.5 after subsection 1.7.17.4 as follows:

A person failing to provide approved standby fire personnel (fire watch) or failing to carry out the duties of standby fire personnel is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a fire official may enforce this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this section is a Class A offense. Each day that a violation continues is a separate offense.

(35) *Subsection 1.8.1.1.*

Add new subsection 1.8.1.1 after subsection 1.8.1 as follows:

The incident commander has additional powers set forth in section 17.105 of the Howard County Code.

(36) *Section 1.9.3.*

Delete this section and substitute the following:

Any suit brought against the AHJ or any other individual who the AHJ has delegated the authority to enforce this Code because of an act or omission performed in the enforcement of this Code or other pertinent law implemented through the enforcement of this Code or enforced by the AHJ shall be defended by Howard County in accordance with Maryland law and title 23, subtitle 1 of the Howard County Code.

(37) *Section 1.10.*

Delete this section in its entirety.

(38) *Section 1.11.1.*

At the end of this section add "and the Maryland Public Information Act."

(39) *Section 1.11.2.*

At the end of this section add "and the Howard County Records Retention Policy."

(40) *Subsection 1.12.1.1.*

Add subsection 1.12.1.1 after subsection 1.12.1 as follows:

The AHJ may adopt regulations governing the issuance of any permit, certificate, or approval required by law. A permit required by a state or other County agency shall be obtained and a permit required by the Howard County Department of Inspections, Licenses and Permits shall be obtained for the construction, renovation, or alteration of any building, structure, area, or fire protection equipment.

(40A) *Section 1.12.8 .*

Delete this subsection and substitute the following:

A permit for a hazardous material is required in accordance with Table 1.12.8(a) through Table 1.12.8(d), and for a hazardous material identified in Section 60.1.1.1 of this Code.

(41) *Section 1.13.2.*

Delete "mandatory" and replace "shall" with "may".

(42) *Section 1.14.1.*

Delete this section and substitute the following:

When requested by the Department of Inspections, Licenses and Permits, the AHJ shall assist in the review of new construction, modifications, alterations, and the installation of equipment.

(43) *Section 1.14.2 through section 1.14.5.*

Delete these sections.

(44) *Subsection 1.15.1.1.*

Add new subsection 1.15.1.1 after subsection 1.15.1 as follows:

The AHJ may require review by an independent third party with expertise in the matter to be reviewed, at the person's expense, when:

- (i) A person requests an equivalent method, alternative, or modification to a Code requirement; or
- (ii) There is insufficient evidence of compliance with the Code on technical matters, uses, operations, or equipment.

(45) *Section 1.16.1.*

Delete this section and substitute the following:

Nothing in this section shall prevent enforcement of this Code using any other means provided by law, including equitable and criminal enforcement. Except in the case of a Class A offense and as set forth in subsection 1.16.1.1 of this Code, if the AHJ determines that a violation of this Code exists, the AHJ shall issue a written notice of violation to the property owner. Any violation that has not been abated within the time specified by the AHJ shall be a Class A violation for failure to abate, pursuant to subsection 17.104(b)(25) of this section.

(46) *Subsection 1.16.1.1.*

Add new subsection 1.16.1.1 after subsection 1.16.1 as follows:

Where a notice of violation is required, it may be served in one of the following methods:

- (1) Personal service;
- (2) Certified or registered mail, restricted delivery, return receipt requested;
- (3) First class mail to the last known address of the alleged violator; or
- (4) When service cannot be obtained by one of these methods, a copy of the notice of violation may be posted in a conspicuous place on the property.

(47) *Subsection 1.16.1.2.*

Add new subsection 1.16.1.2 after subsection 1.16.1.1 as follows:

The fire official may issue a citation authorized by title 24 of the Howard County Code without issuing a notice of violation first for any Class A offense. Without limitation, a violation of any of the following provisions of this Code is a Class A offense:

- (i) Section 1.7.7, Inspections;
- (ii) Section 1.7.9, Interference with enforcement;
- (iii) Section 1.7.10, Impersonation;
- (iv) Section 1.7.11, Investigation;
- (v) Section 1.7.15, Stop work or evacuation;
- (vi) Section 1.7.16, Imminent danger;
- (vii) Section 1.7.17, Standby fire personnel;
- (viii) Section 4.4.3, Means of egress;
- (ix) Section 10.2.7, Reckless endangerment;
- (x) Sections 13.1.2, 13.1.7, and 13.1.13, Regarding fire protection systems;
- (xi) Section 14.4, Means of egress reliability;

- (xii) Section 20.1.5.8.3, Regarding exceeding occupancy limits;
- (xiii) Section 60.1, Hazmat permitting; or
- (xiv) Chapter 65, Regarding explosives, fireworks, flame effects before audience and model rocketry.

(48) *Subsection 1.16.4.2.*

Delete this subsection.

(49) *Section 1.16.6.*

Add new section 1.16.6 after section 1.16.5 as follows:

When there is any violation of this subtitle, this Code, or any action taken under this Code, the fire official may institute appropriate action to prevent, enjoin, abate, or remove the violation. Alternatively and in addition to and concurrent with all other remedies provided by law, the fire official may enforce this subtitle and this Code by the use of civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this Code is a Class C offense except as otherwise specified in this Code.

(50) *Subsection 1.16.6.1.*

Add new subsection 1.16.6.1 after section 1.16.6 as follows:

If a person refuses or fails to comply with any provision of this subtitle, or to correct a violation within the time specified in the notice of violation, or an imminent danger exists, the Fire Official may petition the court for an order permitting entry upon the property to abate the violation at the owner's expense or to take custody of unlawful hazardous materials.

(51) *Section 1.17.*

Add new section 1.17 after section 1.16 as follows:

Authority to adopt fees. The County Council may adopt by resolution a schedule of fees for services performed by the AHJ including, without limitation, issuing permits and performing inspections, and for other services performed pursuant to this Code.

(52) *Section 2.1.*

Delete this section and substitute the following:

General. The documents listed in this chapter are requirements of this Code as if they were fully set forth in this Code, except for the:

- (i) NFPA 5000, Building Construction and Safety Code 2015 Edition;
- (ii) NFPA 54, National Fuel Gas Code, 2015 Edition; and
- (iii) NFPA 70, National Electric Code, 2014 Edition.

(53) *Section 2.1.1.*

Add new section 2.1.1 after section 2.1 as follows:

Except for specific text extracted from NFPA 1, a reference in this Code to "NFPA 5000, Building Construction and Safety Code 2015 Edition" means the Howard County Building Code adopted in title 3, subtitle 1 of the Howard County Code.

(54) *Section 2.1.2.*

Add new section 2.1.2 after section 2.1.1 as follows:

Except for specific text extracted from NFPA 1, a reference in this Code to "NFPA 54, National Fuel Gas Code, 2015 Edition" means the Howard County Plumbing and Gasfitting Code adopted in title 3, subtitle 3 of the Howard County Code.

(55) *Section 2.1.3.*

Add new section 2.1.3 after section 2.1.2 as follows:

Except for specific text extracted from NFPA 1, a reference in this Code to "NFPA 70, National Electrical Code, 2014 Edition" means the Howard County Electrical Code adopted in title 3, subtitle 2 of the Howard County Code.

(56) *Section 2.2.*

Add the referenced publication NFPA 1124 Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 Edition.

(57) *Section 3.2.2.*

Delete this section and substitute the following:

Authority having jurisdiction (AHJ). For the purposes of this Code the authority having jurisdiction is the Howard County Department of Fire and Rescue Services.

(58) *Section 3.2.8.1.*

Add new subsection 3.2.8.1 after subsection 3.2.8. as follows:

May. May is permissive and discretionary. When this Code states "the AHJ may require" indicates a requirement, provision, or practice that can be mandated by the AHJ depending upon the situation or circumstances.

(59) *Section 3.3.2.*

At the end of this section, add the following:

The AHJ shall specify the type of box or device.

(60) *Subsection 3.3.20.A.*

Add new subsection 3.3.20.A. after section 3.3.20 as follows:

Barbecue grill. Equipment used for outdoor cooking that uses electricity, charcoal, liquid propane gas, natural gas, or other fuel for its heat source.

(61) *Section 3.3.34.A.*

Add new section 3.3.34.A. after section 3.3.34 as follows:

Bulkhead door. A type of door assembly covering an opening in the ground that provides direct access to a basement, the floor of which is not more than eight feet below ground level. The door consists of either a single rigid leaf or two overlapping rigid leaves, or covers that need to be pushed or lifted upward in order to be opened. After opening the door, a person can walk up a series of steps to escape to the outside. A bulkhead door is also called a hurricane door.

(62) *Subsection 3.3.53.2.*

Delete "2.2 and substitute "2.1.3".

(63) *Subsection 3.3.53.3.*

Delete this subsection and substitute the following:

A reference in this Code to the "Mechanical Code" means the International Mechanical Code adopted pursuant to title 3, subtitle 1 of the Howard County Code.

(64) *Subsection 3.3.53.4.*

Delete "2.2" and substitute "2.1.2".

(65) *Subsection 3.3.68.A.*

Add subsection 3.3.68.A. after section 3.3.68

Consumer fireworks retail sales area. The portion of a consumer fireworks retail sales facility or store, including the immediately adjacent aisles, where consumer fireworks are located for the purpose or retail display and sale to the public.

(66) *Section 3.3.117.*

At the end of this section add "a use-in-common driveway, access place road, or fire department apparatus access road serving more than one single family dwelling may be considered a fire department access road or fire lane."

(67) *Section 3.3.122.*

Delete this section and substitute the following:

Fire lane. A fire department access road, curb, or roadway that is designated by the AHJ as required for access by emergency vehicles and that is marked with approved signs or other notices in accordance with this Code.

(68) *Subsection 3.3.125.A.*

Add new subsection 3.3.125.A. after subsection 3.3.125:

Fireworks. Any composition or device for the purpose of producing a visible or audible effect for entertainment purposes by combustion, deflagration or detonation, and that meets the definition of consumer fireworks or display fireworks as set forth in NFPA 1124 Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 Edition, and as referenced in Public Safety Article, § 10-101, annotated Code of Maryland and are subject to the requirements of chapter 65 of this Code and the Maryland State Fire Prevention Code.

(69) *Section 3.3.154.*

Delete this section and substitute the following:

Imminent danger. A condition or practice in an occupancy, structure, site, or area that poses a danger that could reasonably be expected to cause death, physical injury, or damage to property.

(70) *Section 3.3.164.A.*

Add new section 3.3.165.A. after section 3.3.165 as follows:

Lock-up. Except in a detention or correctional occupancy, an area where occupants are restrained and mostly incapable of self-preservation because of security measures that are not under the occupant's control.

(71) *Subsection 3.3.183.6.*

Delete this subsection.

(72) *Subsection 3.3.183.7.*

Delete "four or more".

(73) *Subsection 3.3.183.7.A.*

Add new subsection 3.3.183.7.A. after subsection 3.3.183 as follows:

Family day-care home. A day-care home, generally within a dwelling unit, in which eight or fewer clients receive care, maintenance, and supervision by an individual other than a relative or legal guardian for less than 24 hours per day.

(74) *Subsection 3.3.183.7.B.*

Add new subsection 3.3.183.7.B. after subsection 3.3.183.7.A. as follows:

Group day-care home. A day-care home, generally within a dwelling unit, in which not less than nine, but not more than 12, clients receive care, maintenance, and supervision by an individual other than a relative or legal guardian for less than 24 hours per day.

(75) *Subsection 3.3.183.7.C.*

Add new subsection 3.3.183.7.C. after subsection 3.3.183.7.B. as follows:

Day care center. A day care occupancy in which more than 12 clients receive care, maintenance, and supervision by an individual other than a relative or legal guardian, for less than 24 hours per day.

(76) *Subsection 3.3.183.16.*

Delete this subsection and substitute the following:

Lodging or rooming house. A building or portion of a building that:

- (i) Does not qualify as a one- or two-family dwelling;
- (ii) Provides sleeping accommodations for six or more people but not more than 16 people on a transient or permanent basis;
- (iii) Does not provide personal care services;
- (iv) May or may not provide meals; and
- (v) Does not have separate cooking facilities for individual occupants.

(77) *Subsection 3.3.183.22.*

Delete "not more than three" and substitute not more than five".

(78) *Subsection 3.3.183.25.*

Delete this subsection and substitute the following:

Residential board and care occupancy. A building or portion of a building that is used for lodging and boarding of six or more residents, not related by blood or marriage to the owner or operator, for the purpose of providing personal care services.

(79) *Subsection 3.3.198.A.*

Add new subsection 3.3.198.A. after section 3.3.199 as follows:

Person:

- (i) An individual, corporation, firm, partnership, association, organization, or any other group acting as a unit; or

- (ii) An executor, administrator, trustee, receiver, or other representative appointed according to law.

(80) *Section 3.3.217.*

Delete this section and substitute the following:

Recreational fire. The outside open burning of any material for pleasure, religious, ceremonial, cooking, or similar purposes that is subject to the rules and regulations set forth by the AHJ.

(81) *Subsection 4.4.3.1.4.*

Add new subsection 4.4.3.1.4 after subsection 4.4.3.1.3 as follows:

Visual obscuration systems associated with security or burglar alarm systems are not permitted.

(82) *Subsection 10.1.2.1.*

Add new subsection 10.1.2.1 after subsection 10.1.2 as follows:

When provisions of the Life Safety Code (NFPA 101) conflict with this Code, the requirements of this Code shall apply.

(83) *Section 10.2.7.*

Add new section 10.2.7 after section 10.2.6 as follows:

Reckless endangerment. Any person who recklessly engages in conduct, in violation of any provision of this Code, that creates a substantial risk of death or serious physical injury is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, or in addition to and concurrent with all remedies provided by law or equity, the fire official may enforce this section with civil penalties pursuant to title 24 of the Howard County Code. A violation of either section is a Class A offense. Each day that a violation continues is a separate offense.

(84) *Section 10.4.1.*

Delete section 10.4.1 and substitute the following:

Whenever a fire or emergency occurs in a building or there is a reason to believe a fire or emergency exists in a building, the building shall be immediately evacuated and may not be reoccupied without permission of the fire official in charge. If the building is provided with a manual fire warning system, a person who has knowledge of the fire or emergency shall activate the manual fire warning system. Complete evacuation is not required when alternative procedures have been detailed in a fire plan, including a plan to shelter in place that has been approved by the AHJ.

(85) *Section 10.9.5.*

Add new section 10.9.5 after section 10.9.4 as follows:

In addition to the requirements set forth in this section and requirements for specific occupancies as set forth in this Code, the requirements of title 12, subtitle 6 of the Howard County Code shall apply.

(86) *Section 10.10.1.*

Delete this section and substitute the following:

Except for cooking and recreational fires that meet the requirements of section 12.108 of the Howard County Code, open fires are prohibited.

(87) *Subsection 10.10.1.1.*

Delete this subsection and substitute the following:

Unless open flame devices or candles meet the following requirements, a person shall not use or allow to be used, open flames or burning candles in connection with any public meeting or gathering for the purpose of deliberation, entertainment, amusement, instruction, education, recreation, display, or similar purpose in any occupancy open to the public, including assembly, business, educational, daycare and or mercantile occupancies. Candles or open flame devices not meeting the following requirements may be used in connection with a worship service in any place of worship if it is used in such a manner as not to create a hazardous condition, emergency, or imminent danger. For a candle or device to be approved by the AHJ, the candle or device shall meet the requirements set forth below and all referenced and applicable codes.

- (i) Candles, disposable or refillable fuel cartridges, or other open-flame decorative lighting shall not use Class I, II, or IIIA liquids or liquefied petroleum gases (LPG). Examples include, but are not limited to the following:
 - a. Class I: gasoline, alcohol, turpentine;
 - b. Class II: diesel fuel, kerosene;
 - c. Class IIIA: mineral oil, linseed oil, oil based paints; and
 - d. Liquefied petroleum gases: propane, butane, butylenes, propylene.
- (ii) Except for candles, liquid or solid fueled lighting devices shall have a self-extinguishing captive-free floating snuffing device and shall not leak fuel at a rate of more than one-quarter teaspoon per minute if tipped over.
- (iii) Devices or holders shall be constructed to prevent the spilling of liquid fuel or wax at the rate of more than one-quarter teaspoon per minute when the device or holder is not in an upright position.
- (iv) Except for units that self-extinguish and do not spill fuel or wax at the rate of more than one-quarter teaspoon per minute if tipped over, devices or holders shall be designed to return to the upright position after being tilted to an angle of 45 degrees.
- (v) Except where openings on the sides are not more than three-quarter of an inch in diameter, flames of candles, disposable or refillable fuel cartridges, or other open-flame decorative lighting shall be enclosed. The opening on the top and the distance to the top shall be such that a single layer of tissue paper placed on the top will not ignite in ten seconds and the fuel container shall have no means of adjusting the height of the flame.
- (vi) Except where an open flame device self-extinguishes if the device is tipped over, chimneys shall be made of noncombustible material and shall be securely attached to the open-flame device.
- (vii) Disposable or refillable liquid fuel cartridges shall not be under pressure and shall be safely sealed for storage. The fuel container shall be sealed so that it cannot be refilled on the premises and so that the burner assembly cannot be removed from the fuel container.
- (viii) Chimney shades, if used, shall be made of noncombustible materials and securely attached to the open-flame device holder or chimney. The base, device, or holder and any decoration around or near the base must be noncombustible. Devices must be located so as to avoid ignition of any combustibles.

(88) *Subsections 10.10.1.2, 10.10.1.3 and 10.10.1.4.*

Delete these subsections.

(89) *Subsection 10.10.2.*

Add "sky lanterns," after "candles,"

(90) *Subsection 10.10.4.5.*

Add new subsection 10.10.4.5 after subsection 10.10.4.4 as follows:

Fuel for the fire shall consist only of seasoned dry firewood and shall be ignited with something other than a flammable liquid such as a small quantity of paper.

(91) *Subsection 10.10.4.6.*

Add new subsection 10.10.4.6 after subsection 10.10.4.5 as follows:

If severe winds are prevalent (greater than 10 MPH), the fire may not be ignited.

(92) *Subsection 10.10.6.1.*

Delete this subsection and substitute the following:

Barbecue grills, hibachis, gas-fired grills, charcoal grills, chimineas, luminaries, firepits, or other similar devices used for cooking, heating, or any other purpose, shall not be used or kindled on a balcony, under an overhanging portion of a building or structure, or within 15 feet of a building or structure. The AHJ may approve electric grills that do not use an alternative fuel. Chimineas, luminaries, fire pits, and similar devices that are part of the approved original construction shall be equipped with spark arrestors and the fire area shall not exceed three feet in diameter.

(93) *Section 10.10.7.*

Delete this section and substitute:

Patio heaters with an open flame shall not be within five feet of an exit or opening or used in a structure or enclosed area. Patio heaters with an open flame shall be secured, maintained, and kept away from combustibles. Propane fueled patio heaters shall also meet requirements in 69.3.11 of the NFPA 1.

(94) *Section 10.11.1.*

Delete this section and substitute the following:

The owner of a structure shall display Arabic numbers designating the address assigned to the structure by the Howard County Department of Planning and Zoning.

- (i) Numbers shall be at least three inches high for single-family detached and attached residences and six inches high for commercial, industrial, and multi-family structures.
- (ii) Numbers shall be posted on a contrasting background and displayed in a conspicuous place that is unobstructed and clearly visible from the street named in the official address of the structure.
- (iii) In addition to the numbers required on a structure, where the structure has more than one address or where more than one structure share a common entry driveway, numbers shall designate the addresses in sequence on a sign posted at the entry or common driveway.
- (iv) The AHJ may require address identification to be located on more than one side of the structure.
- (v) Address numbers at least six inches in height shall be installed on the rear access doors to all commercial establishments. Those doors which are located inside of a mall, office building or similar space with assigned suite numbers shall have their suite numbers posted with numerals or alphabet letters at least two and one-half inches tall.

(95) *Subsection 10.11.1.2.*

Delete this subsection.

(96) *Subsection 10.11.1.3.*

Delete this subsection.

(97) *Subsection 10.11.3.1.*

Delete this subsection and substitute the following:

Stairs serving three or more stories shall comply with 10.11.3.1.1 through 10.11.3.1.16.

(98) *Subsection 10.11.3.1.1.1.*

Add new subsection 10.11.3.1.1.1 after subsection 10.11.3.1.1.

Stairways serving three or more stories shall mark interior stairway doors to identify the stair designation and the floor number.

(99) *Subsection 10.12.2.1.*

Delete subsection 10.12.2.1.

(100) *Section 10.12.4.*

Add new section 10.12.4 after section 10.12.3 as follows:

A building or structure is a fire hazard if the building or structure or any portion of the building or structure is vacant and unsecured.

(101) *Section 10.12.5.*

Add new section 10.12.5 after section 10.12.4 as follows:

The AHJ may require all utilities to be disconnected in a vacant building or structure.

(102) *Section 10.12.6.*

Add new section 10.12.6 after section 10.12.5 as follows:

The AHJ may require the vacant or abandoned structure to be marked with symbols provided by the AHJ at the structure's front door that shall indicate one of the following:

- (i) Vacant—Normal stability at time of marking;
- (ii) Vacant—Interior hazards exists to such a degree that interior operations may be conducted only after examination, and with extreme caution; or
- (iii) Vacant—Every effort must be made to conduct operations from the exterior. When absolutely necessary to enter the building, adhere to the following:
 - a. Approval by the Officer in command is required;
 - b. Examination must be conducted before unit is committed;
 - c. Operating force and interior operational time to be kept to a minimum.

(103) *Subsection 10.13.1.1.*

Add the following at the end of subsection 10.13.1.1:

"And in accordance with the guidelines of the office of the Maryland State Fire Marshal or the AHJ".

(104) *Subsection 10.13.1.2.*

Add new subsection 10.13.1.2 after subsection 10.13.1 as follows:

The AHJ shall: Approve the placement of a natural cut or balled tree; limit the number of natural cut or balled trees displayed; and order the removal of any tree if the tree possesses a hazard to life or safety.

(105) *Subsection 10.13.3.1.*

Delete "by the manufacture as being fire retardant" with "by a testing laboratory recognized by the office of the state fire marshal or the AHJ".

(106) *Subsection 10.13.10.1.*

Insert the following at the end of this subsection:

In accordance with section 17.106 of the Howard County Code.

(107) *Section 10.15.1.*

Delete this section and substitute the following:

Outside storage of combustible or flammable material shall not be located within 15 feet of a property line, building, or structure. The volume of material shall not exceed 2,500 cubic feet.

(108) *Subsection 10.15.1.1.*

Add new subsection 10.15.1.1 after section 10.15.1 as follows:

The AHJ may require the area of outside storage be enclosed by a security fence at least six feet in height.

(109) *Subsection 10.15.1.2.*

Add new subsection 10.15.1.2 after subsection 10.15.1.1 as follows:

Outside storage of flammable material which exceeds 2,500 cubic feet in volume shall meet the requirements in this Code for the storage of the specific material.

(110) *Section 10.15.2.*

Delete this section.

(111) *Section 10.15.3.*

Add the following at the end of this section:

The separation distance may be increased where the AHJ determines that a hazard to the adjoining property exists.

(112) *Section 10.18.1.*

Delete this section and substitute the following:

Combustible materials shall be stored:

- (i) Orderly; and
- (ii) Thirty-six inches or more from heat producing equipment; or
- (iii) In accordance with the manufacturer's recommendation.

(113) *Section 10.18.7.*

After "building" insert "or on a patio, balcony, or deck".

(114) *Subsection 11.1.1.1.*

Add new subsection 11.1.1.1 after section 11.1.1 as follows:

An electrical appliance, fixture, or consumer product shall not be sold or used unless it is clearly labeled, marked, or stamped with the symbol of an electrical testing laboratory that is certified by the Maryland Office of the State Fire Marshal.

(115) *Subsection 11.1.1.2.*

Add new subsection 11.1.1.2 after subsection 11.1.1.1 as follows:

A minimum clear space of 36 inches shall be maintained in front of all electrical service equipment. The clear space shall be maintained on all sides of the equipment if access to these areas is required. Where the electrical service equipment is wider than 36 inches, the working space shall not be less than the width of the equipment. Nothing shall be stored within designated working spaces except as follows:

- (i) Where other dimensions are required or permitted by NFPA 70.
- (ii) Access openings in attics or under-floor areas which provide a minimum clear opening of 22 inches by 30 inches.

(116) *Subsection 11.1.7.3.1.1.*

Add new subsection 11.1.7.3.1.1 after subsection 11.1.7.3.1 as follows:

Doors into electrical control panel rooms shall be marked with a plainly visible and legible sign stating "electrical room" or similar approved wording. The disconnecting means for each service, feeder, or branch circuit originating on a switchboard or panel board shall be legibly and durably marked to indicate its purpose unless such purpose is clearly evident.

(117) *Subsection 11.2.1.1.*

Add new subsection 11.2.1.1 after subsection 11.2.1 as follows:

All push button type HVAC shutoffs shall be blue in color and shall include signage to indicate the type of shutoff.

(118) *Section 11.3.1.*

- (a) In subsection 11.3.6.3.1, delete "shall" and substitute "may".
- (b) In subsection 11.3.6.3.1.3, delete "shall" and substitute "may".
- (c) In subsection 11.3.6.3.1.5, delete the first "shall" and substitute "may".

(119) *Subsection 11.3.6.1.1.*

Delete the second sentence and replace with the following:

Keys for new elevators shall be cut to a uniform key code to comply with the Maryland State Elevator Code.

(120) *Subsection 11.5.2.4.*

Add new subsection 11.5.2.4 after subsection 11.5.2.3 as follows:

Kerosene heaters are prohibited in the following occupancies: educational, daycare, hotels and motels, places of assembly, health care, board and care, rooming and lodging, multi-family residential, and other occupancies or situations where the use or operation of kerosene heaters could create an emergency or imminent danger.

(121) *Section 11.9.1.*

Replace "approved by the Fire Department" with "approved by the AHJ".

(122) *Section 12.1.*

At the end of this section, insert "This Code requires that the building construction, fire protection, and life safety features be maintained by the owner to function as intended".

(123) *Subsection 12.3.3.1.1.*

Add new subsection 12.3.3.1.1 after subsection 12.3.3.1 as follows:

Missing ceiling tiles shall be replaced. Penetrations or openings in ceiling, wall, and floor assemblies shall be sealed to eliminate the possible spread of smoke or fire.

(124) *Section 13.1.2.*

Before "testing" insert "installation,".

(125) *Subsection 13.1.3.1.*

Add new subsection 13.1.3.1 after subsection 13.1.3 as follows:

Unless otherwise approved by the AHJ, a fire department connection for fire protection systems shall be:

- (i) Located on the side of the structure displaying the address or approved by the AHJ;
- (ii) Marked in the manner required by this Code; and
- (iii) Located within 100 feet of a fire hydrant.

(126) *Section 13.1.4.*

Delete this section and substitute the following:

Except for fire hydrants in a public right-of-way, a minimum clear space of 15 feet in diameter (seven and one-half feet on all sides) shall be maintained outside of a building or structure to permit access to and operation of fire protection equipment, fire department inlet connections, or fire protection system control valves. A minimum clear space of three feet shall be maintained on interior valves and equipment. An obstruction or condition that deters or hinders access by the AHJ is prohibited.

(127) *Subsection 13.1.5.1.*

Add new subsection 13.1.5.1 after subsection 13.1.5 as follows:

Each licensed company working on fire safety equipment shall forward to the AHJ, on the prescribed form or system, a separate certificate of inspection, along with the appropriate fees, for each fire suppression system that the licensed company may inspect, test or maintain. This certificate of inspection shall be submitted when the inspection is performed and shall verify that the AHJ standards and specifications regarding the inspection, testing or maintenance have been met and any deficiencies noted at the time of the annual inspection, testing or maintenance shall be noted, with any corrective action taken.

(128) *Section 13.1.13.*

Add new section 13.1.13 after section 13.1.12 as follows:

Except for a person performing installation, maintenance, and repair, a person shall not tamper with or render inoperable any fire protection or life safety system.

(129) *Subsection 13.1.14.*

Add new subsection 13.1.14 after section 13.1.13 as follows:

Unless otherwise approved by the AHJ, the following provisions shall apply to a fire department connection for fire protection systems:

- (i) A fire department connection for fire protection systems shall be located:
 - a. On the side of the structure displaying the address clearly visible to responding fire department units;
 - b. Within 100 feet of a fire hydrant.
- (ii) The appropriate sign shall be mounted on the building's wall between eight and 12 feet above the fire department connection.
- (iii) A free-standing fire department connection shall have the sign mounted on a pole directly behind the connection approximately six feet high.
- (iv) If required by the AHJ, signs shall have a white reflective background with a red reflective border, red reflective letters and a red reflective arrow. The border shall have a three-eighth-inch stroke. The letters shall be six inches high with a one-inch stroke. The arrow shall have a stroke not less than two inches. The overall sign measurements shall be 12 inches by 18 inches.
- (v) Any obstruction or condition that deters or hinders access to a fire department connection is prohibited. A minimum clear space of 15 feet (seven and one-half feet on all sides) shall be maintained.

(130) *Section 13.1.15.*

Add new section 13.1.15 after section 13.1.14 as follows:

A violation of either section 13.1.7 or 13.1.13 is a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, or in addition to and concurrent with all remedies provided by law or equity, the fire official may enforce this section with civil penalties pursuant to title 24 of the Howard County Code. A violation of either section is a Class A offense. Each day that a violation continues is a separate offense.

(131) *Subsection 13.2.2.1.*

Delete this subsection and substitute the following:

Where required by this Code, the Building Code, or the referenced codes and standards listed in chapter 2, standpipe systems shall be installed in accordance with section 13.2.1.

(132) *Subsection 13.2.2.2.*

Add the following at the end of this subsection:

"(6) In an automobile parking garage where the AHJ determines there is inadequate fire service access."

(133) *Subsection 13.2.3.1.*

Add the following at the end of this subsection:

"Standpipes do not have to be equipped with hose and nozzle for fire department use. However, if provided, the hose and nozzle shall be tested and maintained."

(134) *Subsection 13.3.1.2.*

Add the following at the end of this subsection:

Exception: for new ceiling installations, drop-out ceilings as referenced in NFPA 13, subsection 15.15, are prohibited.

(135) *Subsection 13.3.1.2.1.*

Add new subsection 13.3.1.2.1 after subsection 13.3.1.2 as follows:

The AHJ may require doors to sprinkler control rooms be marked in an approved manner.

(136) *Subsection 13.3.2.2.*

Delete this subsection and substitute the following:

In a new nonresidential building, a basement that is 2,500 square feet or more shall be protected throughout by an approved automatic sprinkler system. In an existing nonresidential building, a basement exceeding 2,500 square feet shall contain an automatic sprinkler system when a life safety evaluation is completed and the AHJ determines, based on the life safety evaluation that an imminent danger exists.

(137) *Subsection 13.3.2.7.2.*

Delete "more than 300" and substitute "100 or more".

(138) *Subsection 13.3.2.7.3.*

Delete this subsection and substitute the following:

The requirements of 13.3.2.7.2 shall not apply to the following:

- (i) An assembly occupancy that is less than 5,000 square feet in area and that has an occupant load of less than 100 persons;
- (ii) A gymnasium, skating rink, or swimming pool that is less than 5,000 square feet in area and that is used exclusively for participant sports with audience facilities for less than 100 persons;
- (iii) In an enclosed stadium or arena that is less than 5,000 square feet and that has an occupant load of less than 100 persons; or
- (iv) In an unenclosed stadium or arena:
 - a. In press boxes containing less than 1,000 square feet in area;
 - b. In storage facilities containing less than 1,000 square feet in area if the area is enclosed with more than 1-hour fire resistance rated construction; or
 - c. In enclosed areas underneath a grandstand if the area is enclosed with more than 1-hour fire resistance rated construction.

(139) *Subsections 13.3.2.7.5.2 and 13.3.2.7.5.3.*

Delete these subsections.

(140) *Subsection 13.3.2.8.1.*

Delete this subsection and substitute the following:

Where the occupant load exceeds 100, the AHJ may require the occupancy protected throughout by an approved supervised automatic sprinkler system in accordance with NFPA 13.

(141) *Subsection 13.3.2.8.2.*

Delete "15,000" and substitute "5,000".

(142) *Subsection 13.3.2.8.5.4.*

Add subsection 13.3.2.8.5.4 after section 13.3.2.8.5.3 as follows:

The AHJ may require sprinklers for existing stages and under existing stages when the AHJ determines, based on a life safety evaluation, that an imminent danger exists.

(143) *Subsection 13.3.2.9 through 13.3.2.18.6.*

Delete these subsections and substitute the following:

Subsection 13.3.2.9. A new educational occupancy, health care facility, detention or correctional facility, hotel, dormitory, or apartment building shall meet the requirements of the building code. The AHJ may require installation of an approved automatic sprinkler system in an existing educational occupancy, health care occupancy, detention or correction facility, hotel, dormitory, or apartment building when:

- (i) A life safety evaluation is completed and the AHJ determines, based on the life safety evaluation, that an emergency, or imminent danger exists; or
- (ii) Required by NFPA 101, Life Safety Code.

(144) *Subsection 13.3.2.19.1.*

Delete this subsection and substitute the following:

Except as provided in subsection 13.3.2.19.2, a new lodging or rooming house serving six or more residents shall be protected throughout by an approved automatic sprinkler system. An automatic sprinkler system may be required in an existing lodging or rooming house serving six or more residents when:

- (i) A life safety evaluation is completed and the AHJ determines, based on the life safety evaluation, that an emergency, or imminent danger exists; or
- (ii) Required by NFPA 101, Life Safety Code.

(145) *Subsection 13.3.2.19.2.*

Delete this subsection and substitute the following:

In a building containing less than 5,000 square feet in gross floor area and designed for fewer than six residents, an automatic sprinkler system is not required where every sleeping room has a door opening directly:

- (i) To the outside of the building at street or ground level; or
- (ii) To the outside leading to an exterior stairway.

(146) *Subsection 13.3.2.20.1.*

Add at the end "in accordance with the Howard County Building Code."

(147) *Subsection 13.3.2.21.1.1.*

Delete this subsection and substitute the following:

A building with an occupant load of six or more residents shall be protected throughout by an approved automatic sprinkler system.

(148) *Subsection 13.3.2.21.2.2.*

Delete this subsection and substitute the following:

In a conversion, an automatic sprinkler system shall not be required in a board and care home that serves five or fewer residents when all occupants have the ability to move as a group to a point of safety within three minutes.

(149) *Subsection 13.3.2.22.1.1.*

Add the following at the end.

An automatic sprinkler system may be required in an existing facility when a life safety evaluation is completed and the AHJ determines, based on the life safety evaluation, that an imminent danger exists.

(150) *Subsection 13.3.2.23.1(2).*

Delete this subsection and substitute the following:

Throughout a new mercantile occupancy exceeding 5,000 square feet in gross area

(151) *Subsection 13.3.2.23.1.*

Add new paragraph (5) as follows:

An automatic sprinkler system may be required in an existing mercantile occupancy when a life safety evaluation is completed and the AHJ determines, based on the life safety evaluation that an imminent danger exists.

(152) *Section 13.3.2.24.1.*

Add (5) at the end as follows:

(5) The gross floor area is more than 5,000 square feet and has an occupant load of 50 or more persons.

(153) *Subsection 13.3.2.25.1.*

Add new subsection 13.3.2.25.1 after subsection 13.3.2.25 as follows:

An automatic sprinkler system may be required in an existing underground or windowless structure when a life safety evaluation is completed and the AHJ determines, based on the life safety evaluation, that an imminent danger exists.

(154) *Subsection 13.3.2.26.2.3.*

Delete this subsection and substitute the following:

The AHJ shall determine a completion date for the installation of an approved automatic sprinkler system that does not exceed 12 years from the date of the approval of the intent to comply.

(155) *Subsection 13.3.2.27.*

Delete the title and substitute "new and existing storage occupancies".

(156) *Subsection 13.3.2.27.2.*

Delete this subsection and substitute the following:

General storage. An automatic sprinkler system shall be installed throughout all new storage occupancies with a gross floor area greater than 5,000 square feet.

(157) *Subsection 13.3.2.27.2.1.*

Add new subsection 13.3.2.27.2.1 after subsection 13.3.2.27.2 as follows:

An automatic sprinkler system may be required in an existing storage occupancy when a life safety evaluation is completed and the AHJ determines, based on the life safety evaluation, that an imminent danger exists.

(158) *Subsection 13.3.2.27.5.*

Delete "20,000" and substitute "2,500".

(159) *Subsection 13.3.2.29.1.*

Add new subsection 13.3.2.29.1. After subsection 13.3.2.29 as follows:

An existing day care home with 12 or fewer clients is not required to be protected by an automatic sprinkler system.

(160) *Subsection 13.3.2.29.2.*

Add new subsection 13.3.2.29.2 after subsection 13.3.2.29.1 as follows:

A new day care occupancy with more than 12 clients shall be protected throughout by an approved automatic sprinkler system.

(161) *Subsection 13.3.2.29.3.*

Add new subsection 13.3.2.29.3 after subsection 13.3.2.29.2 as follows:

An automatic sprinkler system may be required in an existing day care occupancy serving more than 12 clients when a life safety evaluation is completed and the AHJ determines, based on the life safety evaluation, that an imminent danger exists.

(162) *Subsection 13.3.3.3.1.*

Add new subsection 13.3.3.3.1 after subsection 13.3.3.3 as follows:

For new ceiling installations, drop-out ceilings as referenced in NFPA 13, subsection 8.14.13, are prohibited.

(163) *Subsection 13.4.1.1.1.*

Add new subsection 13.4.1.1.1 after subsection 13.4.1.1 as follows:

Unless approved by the AHJ, fire pump components, including pumps, drivers, or controllers, shall not be installed in below-ground vaults or pits.

(164) *Subsection 13.6.1.1.*

Delete this subsection and substitute the following:

Unless the AHJ approves alternative feature or requirement that provides the same level of protection or fire safety as this Code, the installation, maintenance, selection, and distribution of a portable fire extinguisher shall be in accordance with NFPA 10, standard for portable fire extinguishers, section 13.6 and the Public Safety Article of the Annotated Code of Maryland.

(165) *Table 13.6.1.2.*

Add the following to the end: "unless otherwise permitted by the AHJ".

(166) *Subsection 13.7.1.7.7.1.*

Add new subsection 13.7.1.7.7.1 after subsection 13.7.1.7.7 as follows:

The AHJ shall approve any device installed to prevent false alarms that is added to a manual fire alarm box or pull station.

(167) *Subsection 13.7.1.8.11.*

Add new subsection 13.7.1.8.11 after subsection 13.7.1.8.10 as follows:

A single station or multiple station smoke alarm shall meet the requirements set forth in the Public Safety Article of the Annotated Code of Maryland and the Building Code.

(168) *Subsection 13.7.1.8.12.*

Add new subsection 13.7.1.8.12 after subsection 13.7.1.8.11 as follows:

Electrical installation: Smoke alarms shall be installed and maintained in accordance with the electrical code and the most recently adopted edition of NFPA Standard 72.

(169) *Subsection 13.7.1.8.13.*

Add new subsection 13.7.1.8.13 after subsection 13.7.1.8.12 as follows:

The owner or owner's agent shall install all smoke alarms and shall annually inspect and maintain all smoke alarms in accordance with the manufacturer's warranty and suggested maintenance. The owner or owner's agent shall maintain a record of the maintenance schedule. Upon notification by a tenant that a smoke alarm is missing or inoperative, the owner or owner's agent shall repair or replace the smoke alarm. Notification shall be given by certified mail and first-class mail. If the tenant personally notifies the owner or the owner's agent of a mechanical failure of a smoke alarm, the owner or owner's agent shall provide a written, dated receipt acknowledging the notification.

(170) *Subsection 13.7.1.8.14.*

Add new subsection 13.7.1.8.14 after subsection 13.7.1.8.13 as follows:

Where a smoke alarm is required, a person shall not remove or render any smoke alarm inoperative.

(171) *Subsection 13.7.1.8.15.*

Add new subsection 13.7.1.8.15 after subsection 13.7.1.8.14 as follows:

Except for smoke alarms in a hotel or motel, an owner or owner's agent may require a tenant to pay a refundable deposit for smoke alarms, not to exceed the value of the smoke alarm.

(172) *Subsection 13.7.1.8.16.*

Add new subsection 13.7.1.8.16 after subsection 13.7.1.8.15 as follows:

A dwelling unit occupied by a person who is deaf or hearing impaired shall be equipped with a smoke alarm that, when activated, shall provide a signal that is approved by a nationally recognized testing laboratory for electrical appliances and is sufficient to warn a deaf or hearing-impaired person. An owner or their agent shall provide this type of smoke alarm upon the written request of the deaf or hearing impaired tenant.

(173) *Subsection 13.7.1.8.17.*

Add new subsection 13.7.1.8.17 after subsection 13.7.1.8.16 as follows:

Any battery operated smoke alarm replaced is required to be a ten-year-type detector with a sealed battery.

(174) *Subsection 13.7.1.10.5.*

Add new subsection 13.7.1.10.5 after subsection 13.7.1.10.4 as follows:

Where the fire alarm system does not provide for emergency forces notification in accordance with subsection 13.7.1.4.11, approved signs to provide instruction for emergency forces notification shall be provided and permanently affixed and maintained at each manual fire alarm box.

(175) *Subsection 13.7.2.13.1.3.*

At the end of the subsection add the following:

Standards governing smoke alarms shall be in accordance with title 9, subtitle 1 of the Public Safety Article of the Annotated Code of Maryland.

(176) *Subsection 13.7.2.14.5.3.*

Delete this subsection and substitute the following:

In lodging and rooming houses built prior to July 1, 1990, smoke alarms shall be hard wired to the building's power supply. In lodging and rooming houses built after July 1, 1990, smoke alarms shall have an integral battery backup power supply or an approved emergency power supply.

(177) *Subsection 13.7.2.14.5.4.*

Add new subsection 13.7.2.14.5.4 after subsection 13.7.2.14.5.3 as follows:

Except in a building protected by an automatic sprinkler system, smoke alarms are required in an interior corridor serving rooms of lodging and rooming houses. These alarms shall be connected to the building fire alarm.

(178) *Subsection 13.7.2.16.1.*

Add the following at the end of this subsection:

Single station smoke alarms shall be hard-wired directly to the building's power supply. Individual guestroom alarms shall not be connected to the building alarm system.

(179) *Subsection 13.7.2.16.5.2.*

- (i) After "permitted" insert "in hotels and dormitories built prior to July 1, 1990"; and
- (ii) At the end of this subsection add "In a hotel, motel, or dormitory built after July 1, 1990, smoke alarms shall have an integral battery backup power supply or an approved emergency power supply."

(180) *Subsection 13.7.2.16.5.3.*

Add new subsection 13.7.2.16.5.3 after subsection 13.7.2.16.5.2 as follows:

Except in a building protected by an automatic sprinkler system, smoke alarms are required in an interior corridor serving a guestroom of a hotel, motel, or dormitory. These alarms shall be connected to the building alarm system.

(181) *Subsection 13.7.2.16.5.4.*

Add new subsection 13.7.2.16.5.4 after subsection 13.7.2.16.5.3 as follows:

Single station smoke alarms shall be installed in each sleeping area of a hotel, motel, or dormitory. Single-station smoke detectors shall be hard-wired directly to the building's power

supply. Smoke alarms shall be installed in every room through which a person must pass to get from the sleeping area to the door leading from the guestroom or suite. Individual guestroom alarms shall not be connected to the building's alarm system.

(182) *Subsection 13.7.2.16.5.5.*

Add new subsection 13.7.2.16.5.5 after subsection 13.7.2.16.5.4 as follows:

A hotel or motel shall have available at least one smoke alarm for the deaf or hearing impaired for each 50 units (or portion thereof). The owner or owner's agent of the hotel or motel may require a refundable deposit, not to exceed the cost of the smoke alarm, for the use of a deaf or hearing impaired smoke alarm. The owner or owner's agent of a hotel or motel shall post, in a conspicuous place at the registration desk or counter, a permanent sign stating the availability of smoke alarms for the hearing impaired.

(183) *Subsection 13.7.2.18.1.3.*

Add new subsection 13.7.2.18.1.3 after subsection 13.7.2.18.1.2 as follows:

A dwelling unit in a multifamily residential building shall meet the following requirements:

- (i) A unit built before January 1, 1989, shall have smoke alarms hard-wired to the building's power supply.
- (ii) A unit built between January 1, 1989 and July 1, 1990, shall meet the requirements of paragraph (i), and, except in an attic, smoke alarms shall be installed on each level of a multilevel individual dwelling unit, including in a basement. All smoke alarms shall be interconnected so that all will sound if one smoke alarm is activated.
- (iii) A unit built after July 1, 1990, shall meet the requirements of paragraph (i) and (ii) and smoke alarms shall have an integral battery backup power supply.
- (iv) A unit built after October 10, 2001, shall meet the requirements of paragraph (i), (ii), and (iii) and smoke alarms shall be placed in each sleeping area.

(184) *Subsection 14.5.3.3(11).*

Add the following at the end: "The central control point shall be approved by the AHJ."

(185) *Section 14.5.3.1.1(3).*

Add new subsection 14.5.3.1.1(3)(e) after subsection 14.5.3.1.1(3)(d) as follows:

The request to increase the delay from 15 seconds to 30 seconds must be submitted to the AHJ in writing.

(186) *Subsection 14.5.3.4.5.*

Add new subsection 14.5.3.4.5 after subsection 14.5.3.4.4 as follows:

In lockups, as referenced in section 22.4.5.1.4 of NFPA 101 Life Safety Code, the release time for doors or other physical restraints shall not exceed 30 seconds.

(187) *Subsection 16.2.2.2.*

Delete this subsection and substitute the following:

Trash, debris, rubbish, and building materials shall not be burned on the premises.

(188) *Subsection 18.1.3.1.*

Delete "fire department" and substitute "AHJ".

(189) *Subsection 18.1.3.2.*

Delete "fire department" and substitute "AHJ".

(190) *Subsection 18.2.2.1.*

Delete the last sentence and replace with: the type of access box or system shall be specified by the AHJ.

(191) *Subsection 18.2.3.2.1.1.*

Delete this subsection.

(192) *Subsection 18.2.3.2.2.1.*

Delete this subsection.

(193) *Subsection 18.2.3.3.1.*

Add new subsection 18.2.3.3.1 after subsection 18.2.3.3 as follows:

Multiple access roads may be required when a development contains more than 100 residential units.

(194) *Subsection 18.2.3.4.1.1.*

Delete this subsection and substitute the following:

Except for use-in-common driveways fire department access roads shall have an unobstructed width of not less than 20 feet, unless approved by the AHJ. Use-in-common driveways shall comply with the Howard County design manual.

(195) *Subsection 18.2.3.4.2.*

Add the following to the end of the subsection:

The access road surface must be approved by the AHJ.

(196) *Subsection 18.2.3.4.6.1.*

Delete this subsection and substitute the following:

Grade. The maximum allowable grade is 15 percent with the durable and sustained grade of eight percent. The transition from the road to the driveway shall not exceed eight percent.

(197) *Subsection 18.2.3.5.3.*

Add new subsection 18.2.3.5.3 after subsection 18.2.3.5.2 as follows:

The AHJ may:

- (i) Designate part of any public or private roadway, driveway, or curb as a fire lane; and
- (ii) Designate how the fire lane shall be marked or established.

(198) *Subsection 18.2.3.5.4.*

Add new subsection 18.2.3.5.4 after subsection 18.2.3.5.3 as follows:

In determining where and how a fire lane shall be established, the AHJ shall consider the following:

- (i) The width of the roadway or driveway;

- (ii) The ability of any necessary emergency equipment to have ingress and/or egress to the occupancy or property;
- (iii) The size and turn radius of any necessary emergency vehicle or equipment;
- (iv) Access to fire hydrants fire connections, and fire exits;
- (v) Location of buildings or structures; and
- (vi) The potential or likelihood that a person would park a vehicle in the area.

(199) *Subsection 18.2.3.5.5.*

Add new subsection 18.2.3.5.5 after subsection 18.2.3.5.4 as follows:

Regarding fire lane designation, the AHJ may:

- (i) Conduct a site visit of the property to determine whether and/or how a fire lane should be designated; and
- (ii) Require a fire lane to be designated by the placement of fire lane signs, a red painted curb, a red hatched pattern, or any combination thereof.

(200) *Subsection 18.2.3.5.6.*

Add new subsection 18.2.3.5.6 after subsection 18.2.3.5.5 as follows:

For any fire lane that the AHJ determines shall be marked with fire lane signs:

- (i) All signs shall comply with the most recently adopted State Highway Administration Standard Sign Book;
- (ii) Signs shall be placed at the termination points of the fire lane;
- (iii) Signs shall be placed at least every 200 feet; and
- (iv) Signs shall be placed in such a way and in a location so that the signs shall not interfere with pedestrian or traffic movement.

(201) *Subsection 18.2.3.5.7.*

Add new subsection 18.2.3.5.7 after subsection 18.2.3.5.6 as follows:

For any fire lane that the AHJ determines shall be marked by a painted curb:

- (i) All curbs shall be painted with red traffic paint;
- (ii) The red painted marking shall be at least six inches wide; and
- (iii) Letters stating "NO PARKING FIRE LANE" shall be stenciled onto the red painted marking at each end and every 20 feet of the painted area. The letters shall be stenciled using white paint and shall be three inches high and located on the top surface of the curb as designated by the AHJ.

(202) *Subsection 18.2.3.5.8.*

Add new subsection 18.2.3.5.8 after subsection 18.2.3.5.7 as follows:

For any fire lane that the AHJ determines shall be marked by a red painted cross-hatching pattern:

- (i) The area shall be marked by red paint applied in a hatch pattern composed of parallel diagonal stripes running at a 30 to 60 degree angle across the width of the fire lane;
- (ii) The striping used to create the cross hatch pattern shall be at least six inches wide and the stripes placed at a maximum of 72 inches apart; and

- (iii) Letters stating "NO PARKING FIRE LANE" shall be stenciled using white paint within the cross hatch pattern; and
- (iv) The size of the letters may vary depending on the size of the fire lane marking.

(203) *Subsection 18.2.3.5.9.*

Add new subsection 18.2.3.5.9 after subsection 18.2.3.5.8 as follows:

The AHJ shall notify a property owner that a particular area is to be designated as a fire lane. The property owner shall, within 30 days of receipt of notification from the AHJ, install fire lane markings or signs in the location and by the method directed by the AHJ.

(204) *Subsection 18.2.3.5.10.*

Add new subsection 18.2.3.5.10 after subsection 18.2.3.5.9 as follows:

A property owner who fails to install or maintain fire lanes, fire lane markings or signs, or both markings and signs, in accordance with this section is guilty of a misdemeanor, and upon conviction is subject to a fine of up to \$1,000.00. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a Fire Official may enforce the provisions of this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. Each day that a violation continues is a separate offense.

(205) *Subsection 18.2.4.1.5.*

Add new subsection 18.2.4.1.5 after subsection 18.2.4.1.4 as follows:

Use in common driveways, or roads with similar names that provide access to structures may be considered a fire department access road.

(206) *Subsection 18.5.1.1.1.*

Add new subsection 18.5.1.1.1 after subsection 18.5.1.1 as follows:

All new fire hydrants shall be public unless the AHJ approves the use of private fire hydrants.

(207) *Subsection 18.5.2(2).*

Delete "800 feet" and substitute "500 feet".

(208) *Subsection 18.5.3(2).*

Delete "500 feet" and substitute "350 feet".

(209) *Subsection 18.5.5.1.1.*

Add new subsection 18.5.5.1.1 after subsection 18.5.5.1 as follows:

Any replacement private fire hydrants must meet Howard County standards as contained in the Howard County Design Manual.

(210) *Subsection 18.5.7.1.*

Delete "36 in" and substitute "60 in".

(211) *Subsection 18.5.10.3.1.*

Add new subsection 18.5.10.3.1 after subsection 18.5.10.3 as follows:

Private fire hydrants shall be painted yellow, reclaimed water hydrants shall be painted purple, and gray water hydrants shall be painted green.

(212) *Subsection 19.2.1.4.*

Delete "with an individual capacity of 1.5 yd³ or more" and substitute "10 feet to 15 feet".

(213) *Subsection 20.1.4.9.*

Add new subsection 20.1.4.9 after subsection 20.1.4.8 as follows:

A temporary special amusement occupancy or attraction that is occupied for less than 60 days, including, but not limited to, a haunted house, maze, or special amusement, shall meet the standards set forth by the AHJ and this Code.

(214) *Subsection 20.1.5.2.4(3).*

Delete this subsection and substitute the following:

Candles shall comply with section 10.10.1 of this Code.

(215) *Subsection 20.1.5.2.4(6).*

Insert new subsection 20.1.5.2.4(6) after subsection 20.1.5.2.4(5) as follows:

- (i) All devices in connection with the preparation of food shall be installed and operated to avoid hazard to the safety of occupants. These devices shall be of an approved type and shall be installed in an approved manner.
- (ii) It is recommended that only electric devices be utilized.
- (iii) Chafing dishes using an open flame must be designed for food warming operations only. Only devices (such as Sterno cans) designed for use with chafing dishes shall be used. Chafing dish containers for the devices must be in place. A snuffing device designed for use with the chafing dish container shall be kept in close proximity to the serving area.
- (iv) Extra fuel containers shall be kept at a location remote from the serving area.
- (v) Combustible materials or decorations shall not be used near the serving dishes.
- (vi) A responsible person shall be identified to ensure the devices are completely extinguished at the end of the event prior to disposal. Devices shall not be disposed of until cool to touch.
- (vii) A "flaming sword" or other equipment involving open flames and flamed dishes shall comply with this section.

(216) *Subsection 20.1.5.3.*

Add the following to the end of this subsection:

- (7) Open flame devices used for cooking and pyrotechnic displays shall be approved by the AHJ. A permit for pyrotechnic displays shall be obtained from the Office of the State Fire Marshal.

(217) *Subsection 20.1.5.5.4.12.*

Add at the end of the first sentence, delete "20.1.5.5.4.12.5" and substitute "20.1.5.5.4.12.10".

(218) *Subsection 20.1.5.5.4.12.6.*

Add new subsection 20.1.5.5.4.12.6 after subsection 20.1.5.5.4.12.5 as follows:

The person who caused the vehicle to be displayed shall provide a name and a 24 hour telephone number for a responsible person for the vehicle. This information shall be kept with the vehicle, the security office and the management office.

(219) *Subsection 20.1.5.5.4.12.7.*

Add new subsection 20.1.5.5.4.12.7 after subsection 20.1.5.5.4.12.6 as follows:

An ignition key and door key shall be made available and may be kept with the security office or the management office.

(220) *Subsection 20.1.5.5.4.12.8.*

Add new subsection 20.1.5.5.4.12.8 after subsection 20.1.5.5.4.12.7 as follows:

At no time shall the placement of the vehicle impede or otherwise block any exit or exit access.

(221) *Subsection 20.1.5.5.4.12.9.*

Add new subsection 20.1.5.5.4.12.9 after subsection 20.1.5.5.4.12.8 as follows:

Electric and hybrid vehicles follow the same requirements as this section.

(222) *Subsection 20.1.5.5.4.12.10.*

Add new subsection 20.1.5.5.4.12.10 after subsection 20.1.5.5.4.12.9 as follows:

LNG and LPG vehicles compressed flammable gases are not allowed. The Office of the Fire Marshal may permit limited use of flammable gases under AHJ approval.

(223) *Subsection 20.1.5.6.2.*

Delete this subsection and substitute the following:

The crowd manager shall receive training, approved by the AHJ, in crowd management techniques.

(224) *Subsection 20.1.5.8.3.*

Delete this section and substitute the following:

When the Code Official finds an overcrowded condition, obstruction in or to the means of egress, a locked exit door, or any other hazard to life safety, the event shall be stopped until the situation is corrected. The crowd manager, supervisor, and owner shall ensure that the number of patrons in the occupancy (building, structure, site, or area) does not exceed the posted occupant load. The responsible person in charge of the assembly occupancy shall:

- (a) Immediately prior to the beginning of the event point out the number and location of exits;
- (b) State or display the following: "notice. For your safety, look for your nearest exit. In case of an emergency—walk, do not run, to that exit" which shall be stated or displayed in one of the following methods:
 1. An oral announcement at the beginning of the event;
 2. Showing the notice on the motion picture screen;
 3. Printing the notice in bold letters not less than one-quarter inch in height on the back of the event program (nothing but the notice shall be placed on the back of the program); or
 4. Having a fixed sign or signs displaying the notice that can be easily read from each point in the assembly room;
- (c) Make an inspection before the event to verify that the doors are unlocked and that the means of egress are free of obstructions;
- (d) Correct any deficiencies found prior to the start of the event; and

- (e) Prevent overcrowding by blocking admittance of any person beyond the posted occupant load.

(225) *Subsection 20.1.5.9.1.*

Delete this section and substitute:

Smoking shall meet the requirements in section 12.606 of the Howard County Code.

(226) *Subsection 20.1.5.9.2.*

Delete this subsection.

(227) *Subsection 20.1.5.10.4.1.*

Delete this subsection and substitute the following:

Each room or space of assembly shall be posted with an approved legible sign in contrasting colors and conspicuously located near the main exit from the room or space stating the maximum number of occupants permitted within the space. The posting location shall be determined by the AHJ. The maximum number of occupants shall be determined in accordance with the most recently adopted edition of the NFPA Life Safety Code. An assembly room or space, which has a multiple-use capacity, shall be posted for all uses. The owner or manager of the occupancy shall install and maintain the signs. Signs shall be supplied by the AHJ.

(228) *Subsection 20.1.5.10.4.2.*

Delete this subsection.

(229) *Subsection 20.1.5.10.4.3.*

Delete this subsection.

(230) *Subsection 20.2.4.2.3.*

Delete this subsection and substitute the following:

Fire emergency egress drills for educational occupancies shall be conducted in accordance with regulations adopted pursuant to the Maryland State Fire Prevention Code and the Code of Maryland Regulations 29.06.01.07T.

(231) *Subsection 20.3.4.1.1.*

Delete this subsection and substitute the following:

A family day-care home shall meet the following requirements:

- (i) The family day-care home shall not serve more than eight clients;
- (ii) A child shall be counted as a client served if the child:
 - a. Is under the age of two years; and
 - b. Is the child of the day-care home owner or operator, or of an employee of the family day-care home;
- (iii) There shall not be more than four children under the age of two years; and
- (iv) For children under the age of two years, an adult to child ratio of at least one adult to every two children shall be maintained at all times.

(232) *Subsection 20.3.4.1.1.1.*

Add new subsection 20.3.4.1.1.1 after subsection 20.3.4.1.1 as follows:

A group day-care home shall meet the following requirements:

- (i) The home shall not serve more than 12 clients;
- (ii) A child shall be counted as a client served if the child:
 - a. Is under the age of two years; and
 - b. Is the child of the day-care home owner or operator, or of an employee of the group day-care home;
- (iii) There shall not be more than four children under the age of two years;
- (iv) The minimum staff to client ratio shall not be less than two staff for up to 12 clients or one adult for every six children; and
- (v) For children under the age of two years, an adult to child ratio of at least one adult to every two children shall be maintained at all times.

(233) *Subsection 20.3.4.1.7.*

Add new subsection 20.3.4.1.7 after subsection 20.3.4.1.6 as follows:

A day-care center is governed by the requirements for an educational occupancy if the day-care center provides day care for school-age children before and after school hours and provides care in a building which is in use as a public or private school.

(234) *Subsection 20.3.4.2.2.3.*

Add new subsection 20.3.4.2.2.3 after subsection 20.3.4.2.2.2 as follows:

A bulkhead door shall not be a primary means of emergency egress.

(235) *Subsection 20.3.4.2.2.4.*

Add new subsection 20.3.4.2.2.4 after subsection 20.3.4.2.2.3 as follows: A sliding door used as a required means of egress shall meet the following requirements:

- (i) The sliding door shall have only one, easily operated locking device that does not require special knowledge, effort, or tools to operate;
- (ii) There shall not be draperies, screens, or storm doors that could impede egress;
- (iii) The sill or track height may not exceed ½ inch above the interior finish floor;
- (iv) The surface onto which an exit is made shall be an all-weather surface, such as a deck, patio, or sidewalk;
- (v) The floor level outside the door may be one step lower than the inside, but not more than eight inches lower;
- (vi) The sliding door shall be open to a clear open width of at least 28 inches;
- (vii) Each day before day-care use, the sliding door shall be unlocked and tested to the full required width; and
- (viii) During periods of snow or freezing rain, the door track shall be kept clear of snow or freezing rain and the door opened periodically throughout the day in order to ensure proper operation.

(236) *Subsection 20.3.4.2.2.5.*

Add new subsection 20.3.4.2.2.5 after subsection 20.3.4.2.2.4 as follows:

If a deadbolt lock is provided with an approved interior latch, the deadbolt lock shall be of a captured key design from which the key cannot be removed from the interior side of the lock

when in the locked position. The lock shall be unlocked at all times when the home is occupied for the family day-care use, except that a double keyed, deadbolt lock may be used on the secondary means of egress if the key is readily accessible and the lock is unlocked when the day-care is in operation.

(237) *Subsection 20.3.4.2.3.5.4.*

Insert the following at the end of this subsection: except in day care homes with three or fewer clients for overnight lodging.

(238) *Subsection 25.1.3.6.*

Add new subsection 25.1.3.6 after subsection 25.1.3.5 as follows:

If artificial lighting is provided in the tent, then emergency lighting is required in the event that the artificial lighting fails.

(239) *Subsection 25.1.3.7.*

Add new subsection 25.1.3.7 after subsection 25.1.3.6 as follows:

A tent shall not block any exit from a structure or create a situation where the building occupants will exit through the tent to get to a safe area.

(240) *Subsection 25.1.3.8.*

Add new subsection 25.1.3.8 after subsection 25.1.3.7 as follows:

All tents shall have a minimum of one exit. Tents with a capacity of greater than 49 persons shall have two exits. Egress doors shall be of contrasting color. Exit signs shall be provided. Draperies, hangings or curtains used on exits shall comply with NFPA 1 section 14.10.2.

(241) *Subsection 25.1.9.3 1.*

Add new subsection 25.1.9.3.1 after subsection 25.1.9.3 as follows:

Portable distribution or termination boxes shall be designed so no live wires are exposed. Where installed outdoors, the boxes shall be weatherproof and mounted not less than six inches above the ground.

(242) *Subsection 25.1.9.4.*

Add new subsection 25.1.9.4 after subsection 25.1.9.3 as follows:

All electrical devices, wiring, and generators may be used if inspected and issued a permit by the Department of Inspections, Licenses and Permits prior to use.

(243) *Subsection 25.1.10.1.4.*

Add new subsection 25.1.10.1.4 after subsection 25.1.10.1.3 as follows:

Electric heating units used inside a tent shall be approved. Fuel fired devices shall be located on the exterior of the tent and air ducted to the tent.

(244) *Subsection 25.1.10.1.5.*

Add new subsection 25.1.10.1.5 after subsection 25.1.10.1.4 as follows:

Propane cylinders must be located not less than five feet from any tent. Tanks shall be secured in an upright position and protected from vehicle traffic.

(245) *Subsection 25.2.1.3.*

Add new subsection 25.2.1.3 after subsection 25.2.1.2 as follows:

Any tent over 120 ft² requires a permit from Howard County Department of Inspection, License and Permits. Tents and canopies used for food service require a permit from the Howard County Health Department. Tents shall be permitted on a temporary basis.

(246) *Subsection 25.2.1.4.*

Add new subsection 25.2.1.4 after subsection 25.2.1.3 as follows:

Tents and canopies shall not be set up inside a building unless approved by the AHJ.

(247) *Subsection 25.2.2.2(3).*

Add new subsection 25.2.2.2(3) after subsection 25.2.2.2(2) as follows:

(3) The tent or canopy shall have a label affixed stating that the tent complies with NFPA 701 or equivalent testing standard approved by the AHJ. Non-fixed certification may be acceptable providing it identifies the make and model of the tent.

(248) *Subsection 25.2.3.3.*

Delete "10 ft" and substitute "15 feet".

(249) *Subsection 25.2.3.4.*

Delete this subsection and substitute the following:

A separation of ten feet is required after every 100 feet of tents. A separation of ten feet shall be maintained between rows of tents. A row shall not be wider than 40 feet.

(250) *Subsection 25.2.4.1.1.*

Add new subsection 25.2.4.1.1 after subsection 25.2.4.1 as follows:

Hay, straw, shavings or similar combustible material shall not be permitted within the structure unless approved by the AHJ.

(251) *Subsection 26.1.5.2.*

Add new subsection 26.1.5.2 after subsection 26.1.5.1 as follows:

When the AHJ requires a hazard assessment, the assessment shall be conducted by a technically qualified person acceptable to the AHJ.

(252) *Subsection 26.1.5.3.*

Add new subsection 26.1.5.3 after subsection 26.1.5.2 as follows:

When the AHJ requires a hazard assessment, the assessment shall include a list of hazardous materials used in each laboratory. The list shall specify the chemical name, quantity and hazard class.

(253) *Subsection 26.1.5.4.*

Add new subsection 26.1.5.4 after subsection 26.1.5.3 as follows:

New laboratories or laboratories where the NFPA 45 Laboratory Hazard Classification changes shall post an informational placard near the main entrance to the laboratory. The placard shall state the building name or address, room number, NFPA 45 Laboratory Hazard Classification, maximum allowable quantities of flammable liquids both inside a storage cabinet and open use, and maximum quantities of flammable gases permitted within the laboratory.

(254) *Section 26.3.*

Add new section 26.3 after section 26.2 as follows:

All laboratories, laboratory suites, or laboratory units within the scope of NFPA 45, regardless of the laboratory classification in NFPA 45, shall be separated by at least one-hour fire resistance rated construction from non-laboratory areas. If a higher fire resistance rating is required by table 5.1.1 in NFPA 45 or the Building Code, the higher fire resistance rating shall be used. Rooms that are an incidental use to the laboratory shall be considered part of the laboratory for the purpose of this requirement and shall not require additional separation.

(255) *Section 27.2.*

Delete this section and substitute the following:

The fire safety requirements for the installation of a manufactured home and a manufactured home site, including an accessory building, structure, and community, shall comply with NFPA 501A, Standard for Fire Safety Criteria for Manufactured Home Installations, Site, and Communities, section 27.1 of this Code, and title 16, subtitle 5 of the Howard County Code.

(256) *Subsection 31.2.1.*

Add new section 31.2.1 after section 31.2 as follows:

- (i) A copy of the facility's Natural Wood Waste Recycling Facility or composting permit application, including the Operations Plan and the Emergency Preparedness Manual, shall be sent to the AHJ for review and recommendations to the Department of Planning and Zoning.
- (ii) A copy of the information required by paragraph (i) of this subsection shall be submitted to the AHJ with each State permit renewal (five-year renewals).

(257) *Subsection 31.3.4.3.2.1.*

Add new subsection 31.3.4.3.2.1 after subsection 31.3.4.3.2 as follows:

The primary road shall:

- (i) Be kept adequately clear in order to provide access the processing/storage area; and
- (ii) Be paved or constructed so as to provide all weather, year round, access by fire apparatus with a weight of 75,000 GVW.

(258) *Subsection 31.3.6.2.2.*

Add new paragraph 9 after paragraph 8 as follows:

A pile containing leaves and other extraneous or hogged material, including natural wood waste, shall be turned or reclaimed in accordance with State law and at a minimum every three months.

(259) *Subsection 31.3.6.3.1.*

Delete this subsection and substitute the following:

Piles may not exceed 18 feet in height for unground materials or 10 feet in height for ground materials, 50 feet in width, and 350 feet in length. When more than one pile exists, piles shall be divided by a fire lane having at least 25 feet of clear space at the base of the pile.

(260) *Subsection 31.3.6.3.2.*

Delete this subsection.

(261) *Subsection 31.3.6.3.2.1.*

Delete this subsection.

(262) *Subsection 31.3.6.3.2.2.*

Delete this subsection.

(263) *Subsection 31.3.6.3.2.3.*

Delete this subsection.

(264) *Subsection 31.3.6.3.5.1.*

Add new subsection 31.3.6.3.5.1 after subsection 31.3.6.3.5 as follows:

If the operation is located outside of a municipal water supply the following will apply:

- (i) The AHJ will require a reliable certified water supply system with the capability to supply 1,000 gallons per every 10,000 cubic feet of pile. The supply system must be capable of producing a minimum of 250 gpm (preferred is 500 gpm) for at least two hours.
- (ii) The Mulch/Wood Processing operation shall have a Fire Station located within five travel miles of the location.
- (iii) If the water supply is static it is to be certified by an engineer and capable to supply the amount required by paragraph (i) of this subsection. If the water supply is below the minimum amount, then the supply must be capable of at least 30,000 gallons at all times. The maximum size of water supply needed may be based on the proposed operation and approved by the AHJ.
- (iv) Based on the amount of material on site, other provisions such as sprinklers, pre-piped systems, or constant monitoring of the pile may be required.

(265) *Section 33.1.2.*

Delete this section and substitute the following:

Where required, a permit for outside storage shall be obtained from the Maryland Department of the Environment. A permit from the AHJ is required for the storage of 500 tires or more. A person may not store more than 5,000 tires.

(266) *Section 33.1.12.*

Add new section 33.1.12 after section 33.1.11 as follows:

The AHJ may require a security fence around the tire storage area.

(267) *Section 33.1.13.*

Add new section 33.1.13 after section 33.1.12 as follows:

The storage of fewer than 500 tires shall meet the following requirements:

- (i) Tires shall not be stored in vertical stacks;
- (ii) Storage piles shall not exceed ten feet in height;
- (iii) Storage piles shall not be larger than 1,250 cubic feet; and
- (iv) Tires shall be separated from the property line, buildings, structures, or other exposures by a minimum of 25 feet.

(268) *Section 33.2.2.3.*

Delete "20 ft (6m)" and substitute "ten feet"

(269) *Subsection 42.7.5.2.1.*

Add new subsection 42.7.5.2.1 after subsection 42.7.5.2 as follows:

The following information shall be conspicuously posted in a location approved by the AHJ:

- (i) The address of the unattended self-service facility; and
- (ii) The telephone number of the owner or operator of the unattended self-service facility.

(270) *Subsection 42.7.5.7.*

Add new subsection 42.7.5.7 after subsection 42.7.5.6 as follows:

An owner, manager, or employee shall conduct a daily site visit to ensure that all equipment is operating properly.

(271) *Subsection 42.7.5.8.*

Add new subsection 42.7.5.8 after subsection 42.7.5.7 as follows:

An owner, manager, or employee shall conduct inspections and maintenance of equipment at regular intervals and in accordance with the manufacturer's instructions.

(272) *Subsection 42.7.5.9.*

Add new subsection 42.7.5.9 after subsection 42.2.7.5.8 as follows:

Fuel dispensing equipment shall comply with one of the following:

- (i) The amount of fuel being dispensed is limited in quantity by a pre-programmed card; or
- (ii) The dispensing device shall be programmed or set to limit uninterrupted fuel delivery of not more than 25 gallons and shall require manual action to resume continued delivery.

(273) *Subsection 50.2.1.9.*

Delete this subsection and substitute the following:

Cooking equipment used in fixed, mobile, or temporary concessions, such as trucks, buses, trailers, pavilions, tents, under a canopy or any form of roofed enclosure, shall comply with NFPA 96 and this chapter.

(274) *Subsection 50.2.1.10.*

Add new subsection 50.2.1.10 after subsection 50.2.1.9 as follows:

Mobile Food Vending Platforms. All mobile food vending platforms that use propane or any other heat source for cooking shall be inspected by the AHJ. For purposes of this Code, mobile food vending platform means any pushcart, trailer, enclosed trailer, or enclosed truck that uses propane or any other heat source to prepare food or beverage for sale.

(275) *Subsection 50.2.1.10.1.*

Add new subsection 50.2.1.10.1 after subsection 50.2.1.10 as follows:

50.2.1.10.1 Licensing requirements. The owner or operator of a mobile food vending platform shall, before beginning operations, obtain an inspection and inspection sticker from the AHJ as follows:

- (i) The owner or operator of a mobile food vending platform shall provide the following information to the AHJ:
 - a. Evidence of a current Howard County health inspection;
 - b. A valid driver's license;
 - c. Current vehicle registration;
 - d. Current vehicle inspection sticker/paperwork; and
 - e. Current vehicle state inspection.
- (ii) Inspections of mobile food vending platforms. The AHJ may conduct inspections at any time as deemed necessary to ensure compliance with the provisions of this Code.
 - a. An inspection is required by any owner or operator of a mobile food vending platform that establishes business for any length of time in Howard County. The owner or operator shall request a one-day inspection sticker at least ten days prior to conducting business in Howard County.
 - b. The AHJ shall designate a location to conduct inspections. Inspections or reinspections shall be at designated times each month or may be arranged by appointment.
 - c. Once the inspection is satisfactorily completed, the AHJ shall issue an inspection sticker. Except for a one-day inspection sticker, the inspection sticker is valid for one calendar year from the last inspection.
 - d. Mobile food vending platforms that fail the inspection may not operate.
 - e. Any changes to items, processes, storage or configuration within the scope of the inspection must be approved by the AHJ in order to maintain the validity of an inspection sticker.
 - f. Hydro dates of propane cylinders will be checked by the AHJ.
- (iii) The owner or operator of a mobile food vending platform shall:
 - a. Obtain any other permits, including a hazardous materials permit;
 - b. Pay any other fees as required by law;
 - c. Display annual or one-day inspection stickers; and
 - d. Complete a daily checklist.

(276) *Subsection 50.2.1.11.*

Add new subsection 50.2.1.11 after subsection 50.2.1.10 as follows:

Fees related to mobile food vending platforms.

- (i) The AHJ may charge a fee for an inspection or reinspection of a mobile food vending platform.
- (ii) The County Council may adopt by resolution fees for the inspection and reinspection of mobile food vending platforms.
- (iii) An inspection shall not be performed where an operator has failed to pay previous inspection fees. Where an inspection cannot be performed for failure to pay fees, the mobile food vending platform may not operate.

(277) *Subsection 50.2.1.12.*

Add new subsection 50.2.1.12 after subsection 50.2.1.11 as follows:

Fire protection systems for mobile food vending platforms shall comply with NFPA 1 and the following:

- (i) Fire suppression systems shall comply with the appropriate provisions of this Code, NFPA 1, and NFPA 96.
- (ii) All mobile food vending platforms that have any commercial cooking equipment that produce grease laden vapors shall have an automatic fire-extinguishing system.
- (iii) If more than two frying vessels or ten gallons of frying media are used, a commercial hood (Type 1) shall be installed above all commercial cooking appliances or domestic cooking appliances used for commercial purposes.
- (iv) At the time of inspection, hood and exhaust systems must be clean and the hood shall have the appropriate sticker attached by a Maryland registered cleaner.
- (v) Fire extinguishers are required for all mobile food vending platforms as follows:
 - a. All fire extinguishers shall be maintained and inspected on an annual basis. A fire extinguisher (minimum size of 2A 40 bc) is required in addition to any Class K extinguisher. If deep fat fryers are used operators shall have and maintain a Class K portable fire extinguisher.
 - b. Portable fire extinguishers shall be located in conspicuous locations where they are readily accessible and immediately available for use.
 - c. If the platform is a towed trailer, the fire extinguisher shall be kept in the trailer, when the trailer is operating.
 - d. All employees working in the vehicle shall be trained in the proper use of the fire extinguishers.
 - e. Fire extinguishers shall bear a current inspection tag validated within the past 12 months or a receipt of purchase within the last 12 months shall be available for inspection.
- (vi) Ventilation control systems shall be appropriate for the cooking operations conducted. Ventilation systems shall be capable of exhausting all byproducts of cooking operations. The hood must be designed to adequately collect and exhaust fumes, smoke and vapors from the area over which it is installed. Hood systems shall be maintained and cleaned in accordance with this Code, NFPA 1, and NFPA 96.
- (vii) All fire extinguishing system shall be inspected by a certified fire protection company every six months. Records shall be maintained as required in this Code, NFPA 1, and NFPA 96.
- (viii) Records shall be submitted to the AHJ in an approved method.

(278) *Subsection 50.2.1.13.*

Add new subsection 50.2.1.13 after subsection 50.2.1.12 as follows:

Hazardous materials and storage of flammable liquids for mobile food vending platforms. The storage and use of flammable liquids shall comply with NFPA 1, and the following:

- (i) Individual containers, cartons, or packages shall be conspicuously marked or labeled in an approved manner.
- (ii) Hazardous materials or liquids shall be disposed of in the proper manner and shall not be released into any sewer, storm drain, ditch, drainage canal, creek, stream, river, lake or tidal water or on the ground, sidewalk, street, highway, or into the atmosphere.

(279) *Subsection 50.2.1.14.*

Add new subsection 50.2.1.14 after subsection 50.2.1.13 as follows:

Propane and natural gas handling requirements for mobile food vending platforms shall comply with NFPA and the following:

- (i) A "no smoking" sign next to or directly above the gas container and visible to the public. Such sign shall be posted with a minimum of two-inch lettering.
- (ii) The main shut-off shall be marked, in plain view, and be accessible.
- (iii) Propane bottles—The capacity limit of propane bottles shall be determined by the AHJ.
- (iv) LPG vessels shall be affixed to the portable food service platform in a safe and secure manner that provides while parked or in transit. All applicable Department of Transportation regulations shall be followed.
- (v) Propane and natural gas tanks shall be shut off while the mobile food vending platform is in motion, unattended and/or in overnight storage.
- (vi) Generator(s) and LPG storage compartments located on the exterior of the mobile food vending platform shall be enclosed. These compartments shall have venting to the exterior and shall not allow any venting to the interior of the vehicle. If an LPG storage compartment is added on the rear of the truck, the bumper shall extend beyond the compartment to provide added impact protection in accordance with NFPA 58-6.23.3.4.
- (vii) Storage or use of LPG cylinders within vehicle towing a mobile vending food platform is prohibited at all times.
- (viii) Mounting and placement of propane and natural gas tanks. The mounting of propane and natural gas tanks must withstand impact equal to four times the weight of the filled propane or natural gas container according to NFPA 58-6.23.3.4. Tanks must be secure (NFPA 58-5.2.4) and conform with NFPA standards relating to the safe mounting of tanks as described in NFPA 58-6.23.3.3.
 - a. Outside mounted in a semi-enclosed cabinet, with vents at the top and bottom to facilitate the diffusion of vapors, vapor-tight to the interior of the vehicle, with a weather-protected regulator and a leak indicator as described in NFPA 1192-6.4.8.
 - b. Outside mounted, secured on top and bottom and stabilized (e.g., with a strap), vapor-tight to the interior of the vehicle, mounted no less than 28 inches above the ground with a weather-protected regulator.

(280) *Subsection 50.2.1.15.*

Add new subsection 50.2.1.15 after subsection 50.2.1.14 as follows:

Electrical requirements. The electrical equipment on a mobile food vendor platform shall be in compliance with the Howard County Electrical Code.

(281) *Section 60.1.1.1.*

Add new section 60.1.1.1, immediately after section 60.1.1 as follows:

60.1.1.1 Hazmat Permitting. Notwithstanding any other provision of this Code, an annual permit issued by the AHJ is required for any facility that stores, receives, dispenses, uses, or handles any hazardous materials identified in subsection 60.1.1.1(i) of this Code. For the purposes of this section, the term "hazardous material" is equivalent to "hazardous substance" and "hazardous chemical".

- (i) There are five types of hazardous materials permits based on the type and quantity of hazardous material:

- a. Type I permits are required for hazardous chemicals identified in 40 CFR part 370, subject to the Threshold Planning Quantity ("TPQ") where applicable therein.
 - b. Type II, Type III, and Type IV permits are required for extremely hazardous substances, as defined in 40 CFR part 355, that have a TPQ of ten pounds or less, that do not otherwise require a type I permit, as follows:
 - 1. Type II permits are required for five pounds or more, up to ten pounds.
 - 2. Type III permits are required for one pound or more, up to five pounds.
 - 3. Type IV permits are required for amounts less than a pound.
 - c. Type V hazardous materials permits are required for any substance, in accordance with section 1.12.8 of this Code, that does not otherwise require a Type I, II, III, or IV permit.
- (ii) A permit application will not be accepted unless the following items are submitted with the permit application:
- a. A general site plan is required for Type I, II, and III facilities. A general site plan shall be drawn at a legible scale and shall include the location of buildings, exterior storage facilities, permanent access ways, evacuation routes, parking lots, internal roads, chemical loading areas, equipment cleaning areas, storm and sanitary sewer accesses, emergency equipment, and adjacent property uses.
 - b. A building floor plan is required for Type I, II, and III facilities. A building floor plan shall be drawn to a legible scale that shall include the identity of each hazardous materials storage areas within the building and shall indicate rooms, doorways, corridors, means of egress, and evacuation routes.
 - c. A hazardous materials inventory statement (HMIS) is required for all facilities. The inventory statement shall include: hazard class, common or trade name, chemical name, major constituents, and concentrations if a mixture. If the hazardous material is waste, the waste category, chemical abstract service number (CAS number) found in title 29 of the Code of Federal Regulations (CFR), whether the material is pure or a mixture, and whether the material is a solid, liquid, or gas, storage conditions related to the storage type, temperature, and pressure.
 - d. Safety data sheets (SDS) are required for all facilities and for all chemicals listed on the application.
 - e. Type I, II, and III facilities are required to provide a copy of a contract with a disposal/clean-up company or a plan to dispose of chemicals or clean-up spills or leaks.
- (iii) Any amendments to the hazardous materials inventory statements shall be provided to the AHJ within 30 days of the storage of any hazardous materials that either:
- a. Changes or adds a hazard class; or
 - b. That causes a five percent increase in the amount of any one hazard class.
- (iv) The business shall notify the AHJ in writing 30 days prior to vacating the property or area where hazardous materials are located. The AHJ shall conduct an inspection on the last day that the business occupies the property or area to confirm that all hazardous materials have been removed from the property or area. A violation of this subsection is a Class A offense. Each day that a violation continues is a separate offense.
- (v) Applications for a hazardous material permit shall be submitted annually by the following dates:
- a. Type I - Filing date: March 1st

- b. Type II - Filing date: August 1st
- c. Type III - Filing date: September 1st
- d. Type IV - Filing date May 1st
- e. Type V - Filing date: June 1st

Failure to apply for a hazardous materials permit is a Class A offense. Each day that a violation continues is a separate offense.

- (vi) A violation of this section is a Class A offense. Each day that a violation continues is a separate offense.

(282) *Subsection 60.1.1.1.1.*

Add new subsection 60.1.1.1.1 after subsection 60.1.1.1 as follows:

In addition to this Code, applicable requirements of the Public Safety Article of the Annotated Code of Maryland, shall apply. When a permit conflicts with a provision of this Code, the more stringent requirement applies.

(282A) *Subsection 60.1.2 .*

Delete the first paragraph and substitute the following:

Except for hazardous materials permit requirements, buildings, and portions thereof, containing high hazard contents limited to any of the following are not required to comply with this chapter.

(283) *Subsection 63.1.1.1.1.*

Add new subsection 63.1.1.1.1 after subsection 63.1.1.1 as follows:

Carbon dioxide (CO₂) beverage systems shall comply with NFPA 55.

(284) *Subsection 65.1.1.*

Delete this section and substitute the following:

Except as provided in subsections 65.1.1.1, 65.1.3, 65.1.4, and 65.1.5 of this Code, the storage, use, and handling of explosives, fireworks, or model rocketry shall comply with the requirements of this chapter, NFPA standards referenced within this chapter, section 60.1 and section 60.2 of this Code, and the requirements set for forth in the Public Safety Article of the Annotated Code of Maryland.

(285) *Subsection 65.1.1.1.*

Add new subsection 65.1.1.1 after subsection 65.1.1 as follows:

Unless the possession or discharge of the device is conducted under a state fire marshal permit and is subject to inspection by the AHJ, a person shall not possess, store, offer for sale, expose for sale, sell, use, burn, discharge, or explode a ground-based sparkling device, including but not limited to, non-aerial, non-explosive cone fountains, and cylindrical fountains.

(286) *Section 65.1.3.*

Add new section 65.1.3 after section 65.1.2 as follows:

In addition to the AHJ, the Howard County Department of Police may enforce section 65.1.1.1 of this Code.

(287) *Section 65.1.4.*

Add new section 65.1.4 after section 65.1.3 as follows:

A person possessing, selling, or discharging illegal fireworks, explosives, unlawfully stored hazardous materials, or model rocketry shall forfeit the same to the AHJ. The AHJ may seize illegal fireworks, explosives, unlawfully stored hazardous materials, and model rocketry.

(288) *Section 65.1.5.*

Add new section 65.1.5 after section 65.1.4 as follows:

A violation of this chapter is a Class A offense. A person who possess, sells, or discharges illegal fireworks, explosives, unlawfully stored hazardous materials, or model rocketry, or who fails to surrender illegal fireworks, explosives, or model rocketry to the AHJ, or who fails to get approval or follow the regulation set forth for flame effects is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a Fire Official may enforce this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subsection is a Class A offense. Each day that a violation continues is a separate offense.

(289) *Subsection 66.21.7.4.3.1.1.*

Add new subsection 66.21.7.4.3.1.1 after subsection 66.21.7.4.3.1 as follows:

A person shall obtain approval by the Maryland Department of the Environment and the Department of Inspections, Licenses and Permits to remove an underground tank. Removed tanks shall be taken away from the site within 24 hours.

(290) *Subsection 69.1.1.4.*

Add new subsection 69.1.1.4 after subsection 69.1.1.3 as follows:

Cylinders connected to a temporary heating device in a building under construction or being renovated shall be located outside the building and secured in a manner approved by the AHJ. An extra cylinder stored on a construction site shall be secured in manner approved by the AHJ.

(291) *Subsection 69.3.10.9.2.*

Delete this subsection and substitute the following:

Cylinders shall not be located on decks or balconies of dwellings of two or more living units.

(292) *Subsection 69.3.11.1.3.*

Delete this subsection and substitute the following:

Patio heaters shall not be located within five feet of an exit or opening or used under a tent or canopy.

(293) *Subsection 69.5.3.2.4.*

Add new subsection 69.5.3.2.4 after subsection 69.5.3.2.3 as follows:

Except for Class A mercantile occupancies, in mercantile occupancies the total weight of all cylinders shall not exceed ten lbs.

(C.B. 8, 2016, § 1; C.B. 1, 2017, § 1; C.B. 78, 2017, § 1)

Footnotes:

Editor's note— Council Bill No. 8-2016, § 1, adopted April 14, 2016, repealed the former § 17.104, and enacted a new § 17.104 as set out herein. The former § 17.104 pertained to similar subject matter and derived from C.B. 153, 1991; C.B. 81, 1997; C.B. 14, 2003, § 1; C.B. 52, 2004; C.B. 53, 2007, §§ 1, 2; C. B. 38, 2008, § 1.

Sec. 17.105. - Unsafe structures.

- (a) *Definitions.* For the purpose of this section, the following terms are defined as follows:
- (1) *Emergency* means a fire, explosion, medical condition, or other hazard that poses an immediate threat to life or property.
 - (2) *Fire official* means the Chief of the Department of Fire and Rescue Services, or the Chief's designee, is a fire official for the purpose of this section.
 - (3) *Imminent danger* means a condition or practice in an occupancy, structure, or area that poses a danger that could reasonably be expected to cause death, physical injury, or damage to property.
- (b) *Power to Abate.* Where there is evidence that an emergency exists, the Fire Official is authorized to summarily abate the emergency and to maintain order at the scene until the emergency is abated and persons and property are secured.
- (c) *No Liability for Trespass.* Without liability for trespass, when there is evidence that an emergency or imminent danger exists an authorized Fire Official may enter any building, including private dwellings, or any premises at or in the vicinity of the scene of the emergency or imminent danger for the purpose of abating the emergency, including a medical emergency, or imminent danger.
- (d) *Evacuation.* Authorized Fire Officials, when operating at an emergency or imminent danger, may:
- (1) Order any individual to evacuate any building, premises or area, including a private dwelling, at or in the vicinity of an emergency or imminent danger for the purpose of protecting a person and the public from injury.
 - (2) Order any convoy, caravan or train of vehicles, craft, or railway cars to be detached or uncoupled for the purpose of protecting persons, the public, and property.
- (e) *Unsafe Buildings:*
- (1) A building or structure that constitutes an emergency or imminent danger shall be posted by the Fire Official as an unsafe building or structure and occupancy shall be prohibited until the Fire Official determines that the emergency or imminent danger is abated. The Fire Official may adopt procedures to implement this section.
 - (2) A building or structure that is unsafe because of structural damage from any cause shall be posted as unsafe in accordance with the procedures set forth in the Howard County Building Code or pursuant to procedures adopted by the Fire Official.
 - (3) The owner of a building or structure that has been posted as unsafe is responsible for securing the unsafe building or structure to prevent occupancy.
 - (4) The Fire Official may require all utilities to be disconnected in an unsafe building or structure.
- (f) *Penalties.* An individual failing to obey any order given by a Fire Official when acting pursuant to this section is guilty of a misdemeanor and, upon conviction, is subject to a fine, not exceeding \$1,000.00, or imprisonment, not exceeding 30 days, or both. Alternatively, or in addition to and concurrent with all remedies at law or at equity, a Fire Official may enforce the provisions of this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this section is a Class A offense.

(C.B. 153, 1991; C.B. 52, 2004; C.B. 10, 2006, § 3)

Sec. 17.106. - Flammable materials may be declared a nuisance.

(a) *What Constitutes a Public Nuisance.*

- (1) This subsection does not apply to weeds, brush and grass on land actively devoted to:
 - (i) Agricultural uses; or
 - (ii) Conservation uses.
- (2) A Fire Official may declare the following materials a public nuisance, upon finding that they create or tend to create a fire hazard endangering life or property, or that they may interfere with emergency operations or endanger fire service personnel:
 - (i) Rubbish or trash;
 - (ii) Dry brush, noxious weeds or grass exceeding 12 inches in height;
 - (iii) Wood chips or hogged material, including natural wood waste; or
 - (iv) Debris or other material of a flammable nature.

(b) *Unlawful to Permit Public Nuisance.* It shall be unlawful for anyone to permit a public nuisance listed in subsection (a) to remain on any lot or parcel of ground.

(c) *Removal; Notice.* The Director of Fire and Rescue Services shall send a notice by registered or certified mail to the owner of any lot or parcel of ground where the Director determines that a public nuisance exists. The notice shall:

- (1) Require the property owner to abate the nuisance within ten days;
- (2) State that if the nuisance is not abated within ten days, the County may abate the nuisance at the expense of the property owner.

(d) *Extension.* If the property owner is unable to comply with a notice within ten days after its receipt, the property owner shall submit a request for an extension of time. Upon receipt of the request, the Fire Official may grant an extension of time, not to exceed 90 days. The request for an extension shall:

- (1) Be submitted to the Fire Official; and
- (2) State the reasons for the request.

(e) *Penalties:*

- (1) A person who fails to comply with a notice issued by the Fire Official is guilty of a misdemeanor and, upon conviction, is subject to a fine, not exceeding \$1,000.00, or imprisonment, not exceeding 30 days, or both. Alternatively, or in addition to and concurrent with all other remedies at law or at equity, the Department of Fire and Rescue Services may enforce the provisions of this section with civil penalties pursuant to title 24, "Civil Penalties" of the Howard County Code. A violation of this section is a Class C offense.
- (2) The Fire Official may bring action in court to enforce compliance with an order to comply with this subtitle or to correct a nuisance.
- (3) If a person refuses or fails to comply with the provisions of this subtitle or to correct a nuisance within the time specified in the notice of violation, the Fire Official may petition the court for an order permitting entry upon the property to abate the violation or correct the nuisance at the owner's expense.

(C.B. 153, 1991; C.B. 52, 2004; C.B. 78, 2017, § 1)

Sec. 17.107. - False emergency alarms.

(a) *Definitions.* For purposes of this section, the following definitions shall apply:

- (1) *Alarm system* means an automatic alarm system designed to notify the County's Emergency Communications/911 Center and the Department of Fire and Rescue Services.
- (2) *Alarm system contractor* means a person who installs, maintains, monitors, alters, or services an alarm system. An alarm system contractor does not include a person who only manufactures or sells alarm systems.
- (3) *Alarm user* means:
 - (i) A person in control of an alarm system within, on, or around any building, structure, facility, or site; or
 - (ii) The owner or lessee of an alarm system.
- (4) *False alarm* means a request for immediate assistance from the Department of Fire and Rescue, regardless of the cause of the request, that is not in response to an actual emergency situation.
 - (i) A false alarm shall include:
 - a. A negligently or accidentally activated signal;
 - b. A signal that is activated as the result of faulty, malfunctioning, or improperly installed or maintained equipment; or
 - c. A signal that is purposely activated in a nonemergency situation.
 - (ii) A false alarm shall not include:
 - a. A signal activated by unusually severe weather conditions or other causes beyond the control of the alarm user or alarm system contractor; or
 - b. A signal activated within 30 days after a new installation of an alarm system.
- (5) *Signal* means the activation of an alarm system that requests a response by the Department of Fire and Rescue Services.

(b) *Intentional Activation.* A person shall not intentionally activate a signal for a nonemergency situation. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, is subject to a fine, not exceeding \$1,000.00, or imprisonment, not exceeding 30 days, or both. In addition to and concurrent with all other remedies provided by law or equity, the Department of Fire and Rescue Services may enforce this section by civil remedies pursuant to title 24, "Civil Penalties" of the Howard County Code. A violation of this section is a Class A Offense.

(c) *Negligent or Accidental Activation.* The Department of Fire and Rescue Services may issue a civil citation, pursuant to article 24 "Civil Penalties" of the Howard County Code, to a person for the negligent or accidental activation of an alarm system. A violation of this subsection shall be a Class C offense. The negligent or accidental activation of an alarm system shall be a result of faulty, malfunctioning, or improperly installed or maintained equipment or for a false alarm if the number of activations of false alarms to which the Department of Fire and Rescue Services responds exceeds:

- (1) Three responses within a 30-day period; or
- (2) Eight responses within a 12-month period.

(C.B. 153, 1991; C.B. 52, 2004; C.B. 8, 2016, § 1)

State Law reference— False emergency alarms, Ann. Code of Md., Criminal Law article, § 9-607 et seq.

Sec. 17.108. - Option to install residential automatic sprinkler systems.

- (a) *Option to Buyer.* A seller of a new single-family dwelling shall offer the initial buyer an option to install a residential automatic sprinkler system. At the time of signature of the real estate sales contract the buyer shall acknowledge receipt of the disclosure information required in subsection (b) of this section and shall indicate whether the buyer intends to exercise the option to install a residential automatic sprinkler system to improve the life safety of the occupant and to reduce property damage from fire.
- (b) *Disclosure of Information.* At the time of signature of a real estate sales contract, a seller shall give the initial buyer information regarding a residential automatic sprinkler system on a form provided by the Department of Fire and Rescue Services. A seller shall disclose the estimated cost of installing a residential automatic sprinkler system to a buyer.
- (c) *Notice.* After signature of a real estate sales contract and prior to the issuance of a permit for the construction of a new single-family dwelling, a seller shall notify the Department of Inspections, Licenses and Permits, with a copy to the Department of Fire and Rescue Services, that the seller complied with the requirements of subsections (a) and (b) of this section. The notification shall be on a form provided by the Department of Fire and Rescue Services.
- (d) *Penalty for Failure to Provide Option and Notice.* Failure to offer the buyer the option to install an automatic sprinkler system, or failure to provide the required notification to the Department of Inspections, Licenses and Permits is cause to withhold the issuance of the building permit for the dwelling.
- (e) *Applicability.* This section shall not apply to:
 - (1) New homes constructed on lots where the water and sewer construction plans received final approval prior to January 1, 2005, if the house connection or water pressure will not support a residential sprinkler system; or
 - (2) New homes for which the contract of sale was signed prior to January 1, 2005.
- (f) *Seller Acknowledgement.* The seller is deemed to be the buyer, may exercise the option required in subsection (a), and sign the disclosure form required in subsection (b) only if:
 - (1) There is no signed contract of sale at the time the seller is issued a permit for the construction of the single-family dwelling; or
 - (2) There is no buyer at the time the seller is issued a permit for the construction of the single-family dwelling.

(C.B. 153, 1991; C.B. 81, 1997; C.B. 52, 2004)

Editor's note— C.B. 5-2010, § 4, adopted March 1, 2010 included a provision "...that Section 17.108, Option to Install Residential Automatic Sprinkler Systems of the Howard County Code shall terminate and be of no effect after December 31, 2010."

Sec. 17.109. - Emergency management.

- (a) *Local Organization for Emergency Management:*
 - (1) As required by State law, the local emergency organization for emergency management in Howard County is the Office of Emergency Management within the Department of Fire and Rescue Services.
 - (2) If appropriations are authorized in the budget, the Office of Emergency Management shall implement the programs and establish positions recommended by the Maryland Emergency Management Agency to meet Federal and State standards.

- (3) The Office of Emergency Management shall develop and implement local and State emergency management plans.
- (b) *Director of Emergency Management:*
 - (1) Unless a different person is designated by the County Executive and appointed by the Governor, the Director of Fire and Rescue Services shall be the Director of Emergency Management Operations and the authorized representative for purposes of requesting and responding to requests under the Maryland Emergency Management Assistance Compact.
 - (2) The Director of Emergency Management is responsible for organizing and directing the County's response to an emergency.
- (c) *Emergency Operations Plan:*
 - (1) The Office of Emergency Management shall prepare an emergency operations plan in accordance with applicable State and Federal laws and regulations.
 - (2) The Director of Emergency Management shall submit the emergency operations plan to the County Executive who shall adopt the plan by executive order or another procedure as may be required by State or Federal law.
- (d) *Authority to Assign Classified Personnel.* The Director of Emergency Management may assign personnel in the County classified service within the Department of Fire and Rescue Services to the Office of Emergency Management.

(C.B. 10, 2006, § 2)

State Law reference— Emergency management, Ann. Code of Md., Public Safety article, § 14-101 et seq.; local organizations for emergency management, Code of Md., Public Safety article, § 14-109.

Sec. 17.110. - Maryland emergency management assistance compact.

In accordance with the Annotated Code of Maryland, sections 37 through 39 of article 16A, Howard County's participation in the Maryland Emergency Management Assistance Compact, as set forth below, is hereby approved.

Maryland Emergency Management Assistance Compact.

Article 1. Purpose.

- (a) (1) The purpose of this compact is to provide for mutual assistance between the jurisdictions entering into this compact in managing an emergency.
- (2) This compact also shall provide for mutual cooperation in emergency related exercises, testing, or other training activities using equipment or personnel simulating performance of any aspect of the giving and receiving of aid by party jurisdictions during emergencies.

Article 2. Requests for Assistance.

- (b) (1) The senior elected official of each jurisdiction shall designate an authorized representative. The authorized representative of a party jurisdiction may request assistance of another party jurisdiction by contacting the authorized representative of that jurisdiction.
- (2) The provisions of this compact shall apply only to requests for assistance made by and to authorized representatives.
- (3) Requests may be verbal or in writing.

- (4) If verbal, the request shall be confirmed in writing at the earliest possible date, but no later than ten calendar days following the verbal request.
- (5) Written requests shall provide the following information:
 - (i) A description of the emergency support function for which assistance is needed;
 - (ii) The emergency support function shall include, but not be limited to, fire services, law enforcement, emergency medical services, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;
 - (iii) The amount and type of personnel, equipment, materials, and supplies needed and a reasonable estimate of the length of time they will be needed; and
 - (iv) The specific place and time for staging of the assisting party's response and a point of contact at that location.
- (6) There shall be frequent consultations between the Maryland Emergency Management Agency and appropriate representatives of the party jurisdictions with free exchange of information and plans generally relating to emergency capabilities.
- (7) A senior elected official or an authorized representative will advise the Maryland Emergency Management Agency of verbal requests and provide copies of written requests.

Article 3. Limitations.

- (c) (1) Any jurisdiction which is a party to this compact and which receives a request for assistance shall take such actions as are necessary to provide requested resources.
- (2) Any jurisdiction may withhold resources to the extent necessary to provide reasonable protection to its own jurisdiction.
- (3) Each party jurisdiction shall afford to the emergency responders of any party jurisdiction operating within the requesting jurisdiction under the terms and conditions of this compact, the same powers, duties, rights, and privileges as are afforded those of the jurisdiction in which they are performing emergency services.
- (4) Emergency responders will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the requesting jurisdiction.
- (5) Emergency responders shall have the same powers, duties, rights, and privileges as personnel of the requesting jurisdiction correspondent to performing the same function.
- (6) (i) The provisions of this article shall only take effect:
 1. Subsequent to a local declaration of a state of emergency by the requesting jurisdiction; or
 2. Upon commencement of exercises, testing, or training for mutual aid.
- (ii) The provisions of this article shall continue as long as:
 1. The exercises, testing, or training for the mutual aid are in progress;
 2. The state of emergency or the disaster remains in effect; or
 3. Loaned resources remain in the requesting jurisdiction.

Article 4. Liability.

- (d) (1) Officers or Emergency Responders of a party jurisdiction rendering aid in another jurisdiction pursuant to this compact shall be considered agents of the requesting jurisdiction for tort liability and immunity purposes.

- (2) No party jurisdiction or its Officers or Emergency Responders rendering aid in another jurisdiction pursuant to this compact shall be liable on account of any act or omission in good faith on the part of responding personnel while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith.
- (3) Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

Article 5. Supplementary Agreements.

- (e) (1) Nothing in this compact shall:
 - (i) Preclude any jurisdiction from entering into supplementary agreements with another jurisdiction; or
 - (ii) Affect any other agreements between jurisdictions.
- (2) Supplementary agreements may include, but are not limited to:
 - (i) Provisions for evacuation and reception of injured and other persons; and
 - (ii) The exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation, and communications personnel, equipment, and supplies.

Article 6. Reimbursement.

- (f) (1) Each party jurisdiction shall provide for the payment of workers' compensation and death benefits to injured members of the Emergency Responders of its own jurisdiction.
- (2) The requesting jurisdiction will reimburse the responding jurisdiction for all reasonable and necessary expenses incurred by the responding jurisdiction provided that any responding jurisdiction may:
 - (i) Assume in whole or in part such loss, damage, expense, or other cost;
 - (ii) Loan equipment or donate services to the requesting jurisdiction without charge or cost; and
 - (iii) Agree to any allocation of expenses between the responding and requesting jurisdiction.
- (3) Any two or more jurisdictions may enter into supplemental agreements establishing a different allocation of costs among those jurisdictions.
- (4) Records of expenses incurred in sufficient detail to satisfy auditing requirements shall be submitted by the responding jurisdiction as soon as possible following the termination of the assistance provided.

Article 7. Implementation.

- (g) (1) Party jurisdictions are encouraged to consult frequently with each other and with the Maryland Emergency Management Agency and to exchange information and plans relating to emergency management.
- (2) This compact shall become effective immediately upon its enactment into law by local jurisdictions.
- (3) Any party jurisdiction may withdraw from this compact by enacting a repeal of the same but no such withdrawal shall take effect until 30 days after the Senior Elected Official of the withdrawing jurisdiction has given notice in writing of such withdrawal to the Senior Elected Officials of all party jurisdictions.
- (4) Withdrawal from the compact shall not relieve the withdrawing jurisdiction from obligations assumed under article 4 or article 6 of this compact prior to the effective date of withdrawal.

- (5) Authenticated copies of this compact and of such supplementary agreements as may be entered into shall at the time of their approval be retained by each party jurisdiction and with the Maryland Emergency Management Agency.

Article 8. Validity.

- (h) (1) This compact shall be construed to effectuate the purposes stated in article 1 of this compact.
- (2) If any part or provision of this compact or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this compact which can be given effect without the invalid provision or application, and for this purpose the provisions of this compact are declared severable.

(C.B. 31,2003, § 1)

State Law reference— Emergency Management Assistance Compact, Code of Md., Public Safety article, § 14-702.

Sec. 17.111. - Fire damaged building or structure.

- (a) *Policy.* A building or structure significantly damaged by fire may collapse, reignite, cause air pollution, provide rodent habitat, or otherwise threaten the public health, safety, or general welfare. Such buildings should be made safe by either ensuring structural integrity, requiring repair, removing the remnants of such structure or otherwise abating the danger posed by the fire damaged building.
- (b) *Definition.* For purposes of this section, a fire damaged building or structure shall mean a building or structure or portion thereof which is either structurally unsound or no longer a structure as a result of fire damage and which causes actual danger to the public health and safety.
- (c) *Abatement of Fire Damaged Building or Structure.* It shall be unlawful for any fire damaged building or structure to remain on any lot or parcel of ground for more than six months, unless approved by the AHJ.
- (d) *Notification to Agencies.* Within five business days after initial response to a fire, the Department of Fire and Rescue Services shall notify the Howard County Health Officer and the Director of the Department of Inspections, Licenses and Permits, that a building or structure has been damaged by fire.
 - (1) Within five business days of receipt of the notification, the Director of the Department of Inspections, Licenses and Permits, and the Howard County Health Officer shall cause an inspection of the fire damaged building or structure to determine whether the fire damaged building poses a danger to the health and safety of the public;
 - (2) Within five business days after the fire, the Department of Fire and Rescue Services shall inspect the property to determine whether a fire hazard or imminent danger exists; and
 - (3) If it is determined that a violation of the County's fire prevention code, the health code, or the building code exists, a notice of abatement shall be issued within 48 hours of the inspection by the Department responsible for administering the code that is being violated.
- (e) *Abatement Notice.* The County shall send an abatement notice to the owner of any lot or parcel where a fire damaged building is located. The notice shall be served by either registered or certified mail, or by personal service. The notice shall:
 - (1) Provide a description of the required abatement.
 - (2) Require the property owner to abate the danger posed by the fire damaged structure within a reasonable time.

- (3) Inform the owner that if the danger is not abated, the County may seek a court order to abate the nuisance at the property owner's expense, which abatement may include the demolition of the structure or any portion thereof.
- (4) If, upon investigation, it is determined that a violation of the health code, the fire code or the building code exists, the owner shall be notified of:
 - (i) The specific section in violation;
 - (ii) The deadline for completing abatement; and
 - (iii) The potential civil or criminal penalties, including daily fines, provided by subsection (h) of this section.
- (f) *Extension Request.* The property owner may request in writing an extension of time to abate the fire damaged building based upon financial hardship or pending investigation of damage building or other good cause shown. The request must be received within at least seven business days from the owner's receipt of the County's initial abatement notice as provided in this section.
- (g) *Abatement by the County.* If the property owner fails to comply with the notice of abatement, the County may seek a court order to abate the danger to the public health and safety at the property owner's expense.
- (h) *Penalties.*
 - (1) Any person who fails to comply with a notice of abatement shall be guilty of a misdemeanor and, upon conviction, shall be subject to a penalty of not more than \$100.00 or by imprisonment, not to exceed 30 days, or both.
 - (2) Alternatively, and in addition to and concurrent with any other remedies provided by law, including subsection (g) above, this section may be enforced pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this shall be a Class B offense.
 - (3) In the event of any conflict between this section the remedies set forth in the fire prevention code, health code or building code for fire damaged buildings, this section shall control.
 - (4) Each day a violation of this section exists is a separate offense.

(C.B. 36, 2004; C.B. 8, 2016, § 1)

Sec. 17.112. - Emergency medical services insurance reimbursement program.

- (a) *Obligation to Provide Care and Transport; Prohibited conduct .*
 - (1) The Fire and Rescue Service must provide emergency medical services care and transport under applicable medical protocols to all individuals without regard to the individual's ability to pay or the individual's insurance coverage.
 - (2) Any personnel of the Fire and Rescue Service who respond to a request for emergency medical services may not ask for any information relating to an individual's insurance coverage during the provision of emergency medical services.
- (b) *Definitions .* In this section, the following terms have the meanings as indicated:
 - (1) *Charge* means the emergency medical services reimbursement charge.
 - (2) *Emergency medical services* means emergency medical care, transportation, or both emergency medical care and transportation, provided by the Fire and Rescue Service for an individual.
 - (3) *Federal poverty guidelines* means the applicable health care poverty guidelines published in the Federal Register or otherwise issued by the federal Department of Health and Human Services.

- (4) *Fire and Rescue Service* means the Howard County Department of Fire and Rescue Services and includes volunteer fire and rescue corporations recognized by section 17.103 of this Code.
- (5) *Program* means the emergency medical services insurance reimbursement program.
- (c) *Imposition of Charge* . The County may:
 - (1) Impose a charge for emergency medical services provided in the County by the Fire and Rescue Service; and
 - (2) Enter a mutual aid agreement with other jurisdictions regarding the collection of charges.
- (d) *Liability for Charge*. An individual who receives emergency medical services:
 - (1) Except as provided in subsection (e) or (f), is responsible for payment of the charge;
 - (2) Shall provide information requested by the County including, without limitation, information related to the individual's insurance coverage; and
 - (3) Shall assign insurance benefits to the County for the payment of the charge covered and reimbursed by the individual's insurance company.
- (e) *Uninsured Portion of the Charge* . A County resident shall not be required to pay any out-of-pocket expense relating to any emergency medical services provided because the resident is deemed to have paid any co-payment, deductible, or uninsured portion of the cost of emergency medical services through taxes paid to the County.
- (f) *Hardship Waiver* .
 - (1) Except as provided in paragraph (2) of this subsection, the County shall waive the charge for any individual whose household income is at or below 300 percent of the federal poverty guidelines. An individual must request a waiver on a form approved by the County.
 - (2) The County may deny a request for a waiver if the individual who claims financial hardship under this subsection does not furnish all the information required by the County.
- (g) *Use of Revenue and Collection of Funds* . Revenues collected by the program shall be:
 - (1) Collected and processed in accordance with fiscal procedures established or approved by the Howard County Department of Finance for the collection, disbursement, and accounting of funds;
 - (2) Deposited into the fire and rescue fund, with appropriations being made through the Annual Budget and Appropriation Ordinance.
- (h) *Rate schedule* . The County Council shall adopt by Resolution a Rate Schedule that shall be based on the cost of providing emergency medical services and may be adjusted annually based on inflation, as measured by an index reasonably related to the cost of providing emergency medical services.
- (i) *Regulations*. The County Executive may adopt regulations to implement the Program.

(C.B. 9, 2019, § 1)

SUBTITLE 2. - POLICE

Sec. 17.200A. - Department of Police.

- (a) *General Provisions*. General provisions applicable to this Department are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code:
 - (1) Appointment of Directors and Administrators.

- (2) Duties and responsibilities of Directors and Administrators.
 - (3) Rules and regulations.
 - (4) Grants.
 - (5) Subpoena powers.
- (b) *Head.* The Chief of Police shall head the Department of Police.
- (c) *Qualifications of Chief of Police.* The Chief of Police shall have comprehensive knowledge of the elements of police administration and of law enforcement standards, practices, and trends in prevention, detection and investigation of crimes. The Director shall have at least ten years of varied law enforcement experience, of which at least five years shall have been in increasingly responsible managerial work.
- (d) *Duties and Responsibilities.*
- (1) The Department of Police shall be responsible for operation and enforcement of the laws and rules and regulations concerning the following:
 - (i) The preservation of the public peace.
 - (ii) The prevention of crime.
 - (iii) The apprehension of criminals.
 - (iv) The protection of the rights of person and property.
 - (2) The Chief of Police shall be responsible for the efficiency, good conduct and discipline of the Department of Police.
 - (3) The Chief of Police shall have general supervision over the animal control function of Howard County, except for the issuance and renewal of animal licenses, which function is under the supervision of the Department of Inspections, Licenses and Permits.
 - (4) *Dispatch services.* The Department of Police shall provide dispatch services, and shall:
 - (i) Operate the 911 PSAP (public safety answering point).
 - (ii) Operate interface systems with other local and State and Federal law enforcement, fire, safety, medical, and emergency management agencies.
 - (iii) Operate the dispatch system to provide appropriate police and fire and rescue response to callers.
 - (iv) Serve as the message and dispatch center for County Departments and Agencies after normal business hours.
 - (5) *Other duties and responsibilities.* The Department of Police shall perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 62, 1988; C.B. 8, 1993; C.B. 10, 1994; C.B. 60, 2001, § 1)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 17.200. - Duties of Police Officers.

It shall be the duty of each Police Officer, at such time of the day or night he may be on duty, to preserve the public peace, prevent crime and protect the rights of persons and property and to arrest all offenders against the laws of the State and to take such offenders to the nearest commissioner for said County; and to this end the Police Officer or Officers so appointed shall be Peace Officers in and for Howard County.

(1894, Ch. 496, § 101B; P.L.L. 1930, Art. 14, § 232; 1947, Ch. 666, § 232)

Sec. 17.201. - Levy for expenses.

The County Council of said County shall have the power to levy annually a sufficient sum, upon the taxable property within any designated locality or localities, as the case may be, in Howard County, to pay the salaries of said officers, and for such other and property expenses as in its judgment it deems reasonable and proper.

(1894, Ch. 496, § 101C; 1918, Ch. 17; P.L.L. 1930, Art. 14, § 233; 1935, Ch. 229; 1936 Sp. Sess., Ch. 27; 1943, Ch. 129; 1943, Ch. 609; 1947, Ch. 666, § 233)

Sec. 17.202. - Mileage payments for Sheriff, Constables.

The County Executive of Howard County shall pay to the Sheriff, Sheriff's Deputies, or Constables, upon presentation of proper vouchers, a sum not exceeding \$0.20 per mile going and returning by the most practicable route for conducting and transporting prisoners from the place where such prisoners may be delivered to their custody by the court to the place of detention.

(1933, Ch. 93)

Sec. 17.203. - Removal of Chief of Police.

The County Executive may at any time remove, dismiss or discharge the Chief of Police for any offense against law or good morals, for neglect of duty, inefficiency or breach of discipline.

(1894, Ch. 496, §§ 101A, 101E; P.L.L. 1930, Art. 14, §§ 231, 235; 1947, Ch. 666, §§ 231, 235; 1961, Ch. 634, § 1; 1963, Ch. 764, § 1)

Annotation— Police officer could not be dismissed without the benefit of a hearing. The fact that individual was acting as "Chief of Police," an office not specifically provided for at time of dismissal, did not divest him of his status as a "Police Officer" and the protection afforded by the statute. **Board of County Commissioners v. Moxley** (1960), 158 A 2d. 895, 222 Md. 113.

Sec. 17.204. - Authority to send Officers and equipment beyond County borders.

- (a) *In General.* Personnel of the Police Department, both sworn and nonsworn, together with all necessary equipment, may lawfully go or be sent beyond the territorial limits of Howard County to any point within or without the State of Maryland:
- (1) Upon the instruction of the Chief of Police or his designees acting at the request of the State of Maryland, another State or the District of Columbia, a County or a municipal corporation;
 - (2) Pursuant to any mutual aid agreement to which Howard County is a party; or
 - (3) Pursuant to any statute of the State of Maryland, ordinance of Howard County or the common law.
- (b) *Authority.* On behalf of the County, the County Executive may enter into a mutual aid agreement under subsection (a)(2) of this section with:
- (1) Any State;
 - (2) Any County or municipal corporation;

- (3) The Maryland-National Capital Park and Planning Commission;
 - (4) The District of Columbia; or
 - (5) The Federal Government or any agency of the Federal Government.
- (c) *Mutual Aid Agreements.* A mutual aid agreement under subsection (a)(2) of this section shall, as required by subsection 2-105(e) of the criminal procedure article of the Annotated Code of Maryland, provide that each of the parties to the agreement shall:
- (1) Waive any and all claims against all the other parties to the agreement which may arise out of their activities outside their respective jurisdictions under the agreement; and
 - (2) Indemnify and save harmless the other parties to the agreement from all claims of third parties for property damage or personal injury which may arise out of the activities of the other parties to the agreement, outside their respective jurisdictions under such agreement.
- (d) *Report.* Subject to section 22.1000 of the County Code, the Department of Police shall submit an annual report to the County Council on or before each January 31 that lists each agreement made under the authority of this section that was in effect during the previous year. The report shall identify each jurisdiction and unit that is a party to the agreement.

(C.B. 68, 1981; C.B. 26, 1996; C.B. 43, 2009, § 1; C.B. 43, 2018, § 1)

Sec. 17.205. - Authority not limiting.

The authority contained in section 17.204 is not intended to limit the authority currently existing for police personnel to act outside of the territorial limits of Howard County.

(C.B. 68, 1981)

Sec. 17.206. - Rental program for Police Officers.

The Howard County Department of Police is authorized to establish a program which would allow Police Officers to live in apartments rent free or with a reduced rent in certain communities upon agreement by the landlord in order to provide an additional element of security in those communities. Any such program promulgated by the Police Department shall be subject to review by the Ethics Commission.

(C.B. 21, 2006)

SUBTITLE 3. - ANIMALS³

Footnotes:

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Editor's note— C.B. 66, 1984 repealed former title 17, subtitle 3, §§ 17.300—17.325, and added a new subtitle, §§ 17.300—17.307, which was further amended by C.B.'s 32, 1985; 11, 1986; and 62, 1988. The subtitle was formerly derived from C.B. 64, 1979, and C.B. 22, 1983. Subsequently, C.B. 69, 1989 amended the subtitle to read as set out in §§ 17.300—17.310. C.B.'s 32, 1992; 10, 8, 1993; 1994; 75, 1994; 36, 1995; 16, 1997; 50, 1999; 46, 2002 further amended the subtitle. C.B. 51, 2004 amended the subtitle in its entirety to read as set out in §§ 17.300—17.320.

State Law reference— Crimes relating to animals, Ann. Code of Md., Criminal Law article, § 10-601 et seq.

Sec. 17.300. - Definitions.

Terms in this subtitle have the meanings indicated:

- (a) *Alter* means a surgical procedure or chemical treatment that renders an animal incapable of reproducing.
- (b) *Animal* means every nonhuman vertebrate species, including but not limited to dogs, cats, livestock, and fowl. *Animal* includes every living creature sold or exchanged as a commercial item.
- (c) *Animal Control Administrator—Administrator* means the appointed Manager of the Animal Control Division or the Manager's designee.
- (d) *Animal control facility* means a facility owned or operated by Howard County or under contract with Howard County for the care, confinement, disposition, and detention of animals.
- (e) *Animal Control Officer* means any Howard County employee enforcing this subtitle and supervised by the Animal Control Administrator.
- (f) *Animal exposed to rabies* means an animal which:
 - (1) Has been bitten by an animal which has rabies;
 - (2) Has been bitten by an animal which has been in proximity to an animal which has rabies; or
 - (3) Has been exposed to an animal which has rabies.
- (g) *Animal sanctuary* means a facility that performs at least one of the following functions:
 - (1) Rescues, rehabilitates, and releases, when possible, native wildlife; or
 - (2) Provides permanent housing to the following categories of nonreleasable animals, as defined in this subtitle:
 - (i) Wild animals; or
 - (ii) Exotic animals.
- (h) *At large* means:
 - (1) Except as provided in paragraph (2) of this subsection, a domesticated animal is at large when it is:
 - (i) Off the property of its owner (property of the owner does not include any public right-of-way or easement, common area of condominiums or apartments, common access road or walkway, or any area open to the public); and
 - (ii) Not in a container, carrier, or cage or secured by a leash or lead and under the control of a responsible person capable of immediate and effective restraint of the animal.
 - (2) A domesticated animal is not at large when it is:
 - (i) Under the control of a responsible person capable of immediate and effective restraint of the animal and being trained or used in herding, hunting, or tracking;
 - (ii) Being trained in obedience;
 - (iii) On park property, as defined in section 19.201 of the County Code, which has been designated by the Director of Recreation and Parks as a facility for animals, provided the owner of the animal complies with the rules of the facility; or
 - (iv) On private property that is enclosed and posted as a dog park.
- (i) *Board* means the Animal Matters Hearing Board.

- (j) *Cat fancier* means a household, consisting of one or more persons, which owns or keeps three or more cats which are registered with a National Breed Registration Association, and:
 - (1) Breeds the cats to produce not more than a total of two litters per year per household (a litter being two or more kittens living to the age of four weeks); or
 - (2) Exhibits the cats in shows.
- (k) *Cruelty* means an act of commission or omission whereby unjustified physical pain, suffering, or death is caused or permitted, including failure to provide proper drink, air, space, shelter, shade, protection from the elements, sanitary conditions, veterinary care, or nutritious food in sufficient quantity. Customary and normal veterinary and agricultural husbandry practices, including but not limited to dehorning, castration, docking tails and limit feeding, are not considered to be acts of cruelty. During an activity in which physical pain is necessarily caused, such as food processing, animal training, hunting, trapping, experimentation, or pest elimination, *cruelty* shall mean a failure to employ the most reasonable humane method available.
- (l) *Department* means the Howard County Department of Inspections, Licenses and Permits.
- (m) *Director* means the Howard County Director of Inspections, Licenses and Permits or the Director's designee.
- (n) *Disposition* means:
 - (1) Adoption or placement as a pet in an approved home;
 - (2) Performance of euthanasia;
 - (3) In the case of a wild or exotic animal, release into a suitable habitat or to a suitable care facility such as a humane society shelter, zoo, or sanctuary; or
 - (4) Redemption by the animal's owner.
- (o) *Dog fanciers* means a household, consisting of one or more persons, which owns or keeps three or more dogs which are registered with a National Breed Registration Association, and:
 - (1) Uses the dogs for the noncommercial purposes of hunting or practicing tracking;
 - (2) Breeds the dogs to produce not more than a total of two litters per year per household (a litter being two or more pups living to the age of four weeks); or
 - (3) Exhibits the dogs in shows, field trials, or obedience trials.
- (p) *Domesticated animal* means an animal of a species that normally is bred, raised, and accustomed to live in or about human habitation, and normally is dependent on humans for food or shelter. Domesticated animals include but are not limited to livestock and poultry and pets such as dogs, cats, ferrets, rabbits, hamsters, guinea pigs, mice, rats, canaries, parrots, parakeets, and mynah birds.
- (q) *Exotic animal* means an animal of a species that is not indigenous to Howard County and is not a domesticated animal. *Exotic animal* includes any hybrid animal which results from the breeding of an exotic animal and a domesticated animal.
- (r) *Facility* means a building or property, other than a private residence, in which animals are maintained.
- (s) *Health Officer* means the Howard County Health Officer or the Health Officer's designee.
- (t) *Immediate destruction* means destruction of an animal without waiting the required number of days for identification of the animal's owner or for the animal to be deemed abandoned.
- (u) *Livestock* means domesticated animals usually kept on a farm, including but not limited to poultry, cattle, sheep, goats, pigs, horses, ponies, mules, donkeys, and llamas.

- (v) *Neglect* means an act of omission or commission whereby an animal is deprived of access to adequate water, food, shelter, shade, air, or sanitary conditions, or is chained or otherwise confined, lacking freedom of movement adequate to ensure access to any of the above.
- (w) *Owner* means a person who keeps, possesses, harbors, has custody of, exercises control over, or has a property right in any animal, residence, or facility. If the person is a minor, the parent or legal guardian of the minor shall be considered the owner. *Owner* does not include a veterinary hospital or a commercial boarding or grooming facility caring for the pets of others.
- (x) *Severe injury* means a physical injury that results in lacerations requiring sutures or cosmetic surgery, broken bones, severe bruises, or deep puncture wounds.
- (y) *Shelter* means a structure of adequate size, construction and design to protect an animal from all types of inclement weather, provide adequate ventilation, and allow an animal to maintain normal internal body temperature.
- (z) *Sworn statement* means a formal nuisance complaint made on a form distributed by the Animal Control Division and requiring the complainant to swear, under the penalty of perjury, that the alleged offense is true. A sworn statement does not have to be attested to by a third party.
- (aa) *Wild animal* means an animal that is not a domesticated animal, is incapable of being completely domesticated, or requires the exercise of art, force, or skill to keep it in subjugation. *Wild animal* includes any hybrid animal which results from the breeding of a wild animal and a domesticated animal.

(C.B. 51, 2004; C.B. 7, 2014, § 1)

Sec. 17.301. - Rabies vaccinations; licenses and tags; fees.

(a) *Rabies Vaccinations for Certain Animals:*

- (1) *Requirement to vaccinate.* The owner of every dog, cat, and ferret over the age of four months shall continuously protect the animal against contracting rabies by having the animal vaccinated. A currently valid vaccination certificate issued by a licensed veterinarian shall constitute prima facie evidence that the animal is vaccinated.
- (2) *Exemptions.* A dog, cat, or ferret is not required to be vaccinated against rabies if the animal:
 - (i) Does not have a bite history and, in the written opinion of a licensed veterinarian, is in a medical condition in which vaccination is not advisable, provided the exemption continues only as long as the medical condition persists; or
 - (ii) Has received a rabies titer from a United States Department of Agriculture approved facility.
- (3) *Types of vaccination.* The Health Officer shall approve the types of rabies vaccination that may be used.
- (4) *Prerequisite to issuance of license.* Unless the animal is exempt from vaccination under paragraph (2) of this subsection, the Department shall not issue a dog or cat license for any animal that is not currently vaccinated for rabies.
- (5) *Violations.* In addition to any enforcement action taken under this subtitle, the Animal Control Administrator or the Health Officer shall give the owner of any dog, cat, or ferret that is not vaccinated against rabies in accordance with this section notice that the animal will be subject to impoundment if it is not vaccinated within seven days.
- (6) *Rabies vaccination prior to release.* Except as provided in paragraph (2) of this subsection, a dog, cat, or ferret shall not be released for adoption or after being impounded unless a rabies vaccination has been administered by a licensed veterinarian at the expense of the adopter or owner.

(b) *Dog and Cat Licenses.* A dog or cat license is issued by the Department in accordance with this subsection.

- (1) *License required.* Unless the animal is kept temporarily for sale at a commercial kennel or other commercial facility, an individual who owns or has custody of a dog or cat over the age of six months shall obtain a license for the animal from the Department within 30 days after establishing residency in the County or within 30 days after the animal reaches the age of six months.
- (2) *License renewal.* A license for a dog or cat shall be renewed annually on a schedule determined by the Department, except that the owner may obtain a three-year license if it coincides with the expiration of a three-year rabies vaccination for the animal.
- (3) *Information issued with licenses:*
 - (i) With each license and renewal issued, the Department and the Animal Control Division shall provide a copy of a pamphlet that summarizes existing animal control laws to each dog and cat owner.
 - (ii) Once each existing dog and cat owner has been through a license renewal cycle, the Department shall only issue a pamphlet that summarizes the existing animal control laws to an owner seeking a new license.
- (4) *Change of ownership.* Upon change of ownership of a dog or cat, the former owner and the new owner shall notify the Department in writing of the change.
- (5) *License fee.* License fees are established by the County Council under section 17.312 of this subtitle.

(c) *License Tag:*

- (1) *License tag issued.* The Director shall issue an individual license tag for each dog and cat licensed, and upon payment of a replacement fee by the owner shall issue a duplicate if the tag is lost.
- (2) *Tag to be worn; tag nontransferable.* Each dog and cat licensed shall wear the tag issued for it attached to a collar or harness. A license tag shall not be obscured or defaced in any way, and shall not be transferred from one animal to another.
- (3) *Exemptions:*
 - (i) A dog or cat with a microchip imbedded under the skin which contains information identifying the owner of the animal is not required to wear a license tag.
 - (ii) An animal participating in an organized activity such as a dog or cat show is not required to wear a license tag.
- (4) *Removal.* No person other than the owner, the owner's agent, or the Animal Control Administrator may remove a license tag from a dog or cat.

(d) *License Exemptions.* The following types of dogs and cats are exempt from the licensing and tag requirements of this section:

- (1) *Owned by nonresident.* A dog or a cat owned by a nonresident, if it is temporarily in the County for less than 30 days and is wearing a current, valid license tag issued by another jurisdiction;
- (2) *Residing in certain institutions.* A dog or cat confined to the premises of an educational and research institution or an incorporated benevolent society devoted to the care or hospital treatment of lost, strayed, or homeless animals;
- (3) *Police dog.* Under section 2-313 of the public safety article of the Annotated Code of Maryland, a dog owned by the State or its political jurisdiction for police work; and
- (4) *Farm cat.* A cat that is kept for rodent and pest control on real property that is assessed as an agricultural use by the State Department of Assessments and Taxation and is used in an

agricultural operation as that term is defined in section 12.111 (The "Howard County Right-to-Farm Act") of the Howard County Code.

- (e) *Fees.* Based upon recommendations from the Board, the Animal Control Administrator, and the Director, the County Council shall adopt a resolution approving a schedule of fees for animal control services and license fees that:
- (1) Shall provide that the license fees cover in part the costs of administering and enforcing this subtitle;
 - (2) Shall provide that if the dog is actually in use for such a purpose in a service or therapeutic setting, no license fee is charged for a service dog trained to provide physical support for individuals who are hearing, visually, or mobility impaired;
 - (3) In order to encourage owners to have their animals altered, shall provide that the license fee for altered dogs and cats is lower than the fee for unaltered dogs and cats;
 - (4) Shall provide that there is a single license fee for dog and cat fanciers which covers the issuance of a license to each dog and cat owned by the fancier;
 - (5) Shall provide that if every dog and cat in the person's residence has been altered, there is a single license fee that covers the issuance of a license for each dog or cat owned by a person who, within his or her residence or in its immediate vicinity, owns or keeps three or more dogs or cats which are altered;
 - (6) May include a reduced fee for senior citizens; and
 - (7) Except for license and vaccination fees, authorizes the Administrator to waive a fee if special circumstances exist.

(C.B. 51, 2004)

Sec. 17.302. - Nuisances.

- (a) *Definition.* A nuisance occurs when:
- (1) A domesticated animal runs at large;
 - (2) A domesticated animal is present on a school ground on a day when school is in session and the animal is not controlled by a leash or adequate restraining device;
 - (3) A domesticated animal interferes with an organized activity or an individual in a public recreation area;
 - (4) A domesticated animal (other than a horse, pony, mule, or donkey involved in a legally permitted parade or a police mount on duty) defecates anywhere except on the private property of its owner unless the owner removes the feces and disposes of them in a sanitary manner;
 - (5) A female domesticated animal in heat is not confined indoors or in a properly ventilated building or other outdoor secure enclosure, except that a female animal in heat is not a nuisance when allowed out of the building or secure enclosure:
 - (i) In order to urinate or defecate, provided that the animal is on a leash and controlled by the owner or a responsible person at least 18 years of age designated by the owner; or
 - (ii) In order to be taken for treatment, boarding, breeding, training, or showing, provided that while en route the animal is on a leash or lead and controlled by the owner or a responsible person at least 18 years of age designated by the owner;
 - (6) Any residence or facility where animals are kept is dangerous, unsanitary, or offensive because the residence or facility is too small for the number of animals kept or because it is not maintained in a sanitary manner;

- (7) A domesticated animal disturbs garbage on public property or garbage properly placed for disposal;
 - (8) A domesticated animal chases vehicles;
 - (9) A domesticated animal disturbs the public peace;
 - (10) A domesticated animal damages the property of persons other than the animal's owner; or
 - (11) The odor of a domesticated animal fouls the air and creates an unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept, except that there is no nuisance if the odor comes from livestock maintained in accordance with generally accepted agricultural management practices.
- (b) *Declaring an Animal, Residence, or Facility a Nuisance.* The Administrator may declare an animal, residence, or facility a nuisance if the owner has received three nuisance citations for the same or different nuisances within the previous 24 months and the citations have been paid or upheld.
- (c) Within seven days of declaring an animal, residence, or facility a nuisance, the Administrator shall give the owner written notice of:
- (1) The declaration; and
 - (2) The owner's right to appeal the declaration to the Board within seven days.

(C.B. 51, 2004)

Sec. 17.303. - Dangerous and potentially dangerous animals.

- (a) *Declaration.* The Animal Control Administrator may:
- (1) Declare an animal potentially dangerous if the animal has:
 - (i) Bitten a person;
 - (ii) Attacked without provocation; or
 - (iii) While off its owner's property, killed or inflicted severe injury to a domesticated animal; or
 - (2) Declare an animal dangerous if the animal has:
 - (i) Without provocation killed or inflicted severe injury on a person or a domesticated animal; or
 - (ii) Been declared potentially dangerous by the Animal Control Administrator and has subsequently:
 - a. Bitten a person;
 - b. Attacked without provocation; or
 - c. While off its owner's property, killed or inflicted severe injury to a domesticated animal.
- (b) *Notification to Owner.* Within seven days of declaring an animal dangerous or potentially dangerous, the Administrator shall give the owner written notice of:
- (1) The declaration;
 - (2) The owner's right to appeal the declaration to the Board within seven days of the notice; and
 - (3) The enforcement action the Administrator intends to take.
- (c) *Confinement.* The owner of a dangerous animal shall:
- (1) Keep it securely confined indoors or in a pen or structure:
 - (i) In which all gates and entrances are kept securely closed and locked;

- (ii) That is suitable to prevent the entry of young children; and
 - (iii) That is designed in accordance with the requirements of the Administrator or the Board to prevent the animal from escaping;
- (2) Not leave it unattended on the owner's property unless the animal is confined indoors or in a secure structure designed to restrain the animal in accordance with the requirements of the Administrator or the Board;
- (3) Not permit the animal to go beyond the owner's real property unless the animal is:
 - (i) Leashed and muzzled or otherwise securely restrained as appropriate for the species of animal; and
 - (ii) Under the control of a person at least 18 years of age who is capable of immediate control and restraint of the animal; and
- (4) Comply with any order by the Administrator to institute control and confinement measures for the animal.
- (d) *Identification of Dangerous Animals.* The owner of an animal declared dangerous or potentially dangerous shall, at the owner's expense, arrange for a licensed veterinarian to implant a microchip in the animal identifying it as a dangerous animal and, if required by the Administrator, ensure that the animal wears clearly visible identification supplied by the Administrator, such as a collar-mounted tag clearly identifying the animal as dangerous.
- (e) *Notice to Animal Control Administrator.* The owner of an animal which has been declared dangerous or potentially dangerous shall notify the Animal Control Administrator when any of the following occur:
 - (1) When the animal is not under control and confinement measures ordered under this section;
 - (2) Immediately upon transfer of the animal to another owner, giving the name and address of the new owner; or
 - (3) Immediately upon changing residence, including changing residence within the County.
- (f) A person who acquires an animal which has been declared dangerous or potentially dangerous in another jurisdiction shall immediately notify the Administrator upon acquiring ownership of the animal and shall provide the Administrator with the previous owner's name and address and the control and confinement requirements established by the jurisdiction which declared the animal dangerous or potentially dangerous.
- (g) *Notice to Subsequent Owners.* If the owner of a dangerous animal or a potentially dangerous animal transfers the animal to another owner, the owner shall notify the new owner of the animal's dangerous behavior and the terms of its confinement and control.

(C.B. 51, 2004)

State Law reference— Dangerous dogs, Ann. Code of Md., Criminal Law article, § 10-619.

Sec. 17.304. - Threat to public safety.

- (a) *Prohibited Behavior.* A threat to public safety and welfare occurs when a domesticated animal:
 - (1) Kills or endangers the life or health of a domesticated animal or person;
 - (2) Attacks a person, other than a person:
 - (i) Teasing, tormenting, or otherwise deliberately inciting the animal;
 - (ii) Committing a tort or crime on the property of the owner of the attacking animal; or

- (iii) Attacking the owner of the animal or a member of the owner's immediate family;
- (3) Attacks another domesticated animal, other than an animal at large on the property of the owner of the attacking animal;
- (4) Molests or otherwise interferes with the freedom of movement of a person at any place; or
- (5) Approaches people or other domesticated animals in an apparent attitude of attack.
- (b) *Declaration.* If an animal exhibits behavior prohibited by subsection (a) of this section, the Administrator may declare the animal to be a threat to public safety and welfare.
- (c) *Notice to Owner.* Within seven days of declaring an animal to be a threat to public safety, the Administrator shall give the owner written notice of:
 - (1) The declaration; and
 - (2) The owner's right to appeal the declaration to the Board within seven days.

(C.B. 51, 2004)

Sec. 17.305. - Neglect and cruelty.

A person shall not perform or permit another person to perform any of the following acts:

- (a) Subject an animal to cruelty or neglect;
- (b) Poison a domesticated animal;
- (c) Leave ground glass where an animal can ingest it;
- (d) Cruelly kill, maim, shoot, or otherwise injure an animal, except that:
 - (1) A licensed hunter may shoot wild animals during the permitted hunting season;
 - (2) A licensed trapper may trap wild animals pursuant to law; and
 - (3) The owner or tenant of land may shoot an animal which preys upon or destroys the owner's or tenant's livestock, provided the animal is not a protected or endangered species under County, State, or Federal law;
- (e) Abandon a domesticated animal;
- (f) Deliberately injure, abuse, or run down an animal with a vehicle;
- (g) Deliberately encourage animals to fight, engage in cockfighting or dog fighting, raise animals for fighting, or organize or participate in any way in animal fights; or
- (h) Tease, torment, or deliberately incite an animal, provided that:
 - (1) Ordinary activities of people on their own property such as mowing or playing with children and ordinary activities of passersby such as walking or jogging on the sidewalk in front of the animal owner's property are not deliberate incitements, however excited or disturbed the animal becomes from these activities; and
 - (2) Training of an animal for police work by the State or by a political jurisdiction of the State shall not be considered teasing, tormenting, or deliberately inciting the animal.

(C.B. 51, 2004)

State Law reference— Animal cruelty and related offenses, Ann. Code of Md., Criminal Law article, § 10-603 et seq.

Sec. 17.305A. - Outdoor shelter and water requirements for dogs.

(a) *Purpose.*

- (1) The purpose of this section is to avoid risk to the health or safety of dogs.
- (2) As provided in section 17.312(e), the Animal Control Administrator may adopt regulations to set standards to implement this section.

(b) *In general.*

- (1) This section applies to dogs that are kept outside without free access to a residence when:
 - (i) The owner is absent; or
 - (ii) The dog is unattended for 30 minutes or longer.
- (2) This section does not apply to a working dog that is not tethered and is trained and kept outside for the purpose of guarding livestock or fowl.
- (3) In addition to general requirements to keep an animal free from cruelty and neglect, as defined by this subtitle, the owner of a dog shall:
 - (i) Ensure that the dog is protected from the weather as required by this section; and
 - (ii) Not subject a dog to prolonged exposure to weather that causes or could cause the death of or harm to the dog, including but not limited to hypothermia, hyperthermia, and frostbite or a similar condition.

(c) *Adequate shade and shelter.*

- (1) The dog shall have access to a shelter that:
 - (i) Is of a proper size to allow the dog to adjust position and is insulated so that the dog is able to maintain proper body temperature;
 - (ii) Is enclosed and made from materials that protect the dog from the weather; and
 - (iii) Has an entrance that protects the dog from the weather.
- (2) There shall be bedding made of dry wood shavings, straw, or other non-absorbent material in the shelter provided in a quantity that insulates the shelter to protect the dog from cold and damp weather.

(d) *Water requirements.* The owner shall ensure that the dog has access to potable liquid water at all times as needed to maintain proper health.

(e) *Sanitation.* The dog shelter and the area in which the dog may move shall be kept clean and sanitary.

(C.B. 39, 2018, § 1)

Sec. 17.305B. - Tethers for dogs.

(a) This section applies to dogs that are kept outside when:

- (1) The owner is absent; or
- (2) The dog is unattended for 30 minutes or longer.

(b) *Tethers.* For purposes of this section, a tether means a chain, rope, line, or similar restraint that connects a dog to a shelter, tree, fence, or any other stationary object.

(c) *Generally prohibited.* Except as otherwise provided in subsection (c) of this subsection, an owner may not keep a dog on a tether.

(d) *Exceptions.*

- (1) An owner may keep a dog on a tether while the owner completes a temporary task.
- (2) An owner may use a tether while supervising the dog and:
 - (i) The owner intends to allow the dog to eliminate; or
 - (ii) The owner is exercising the dog.

(C.B. 39, 2018, § 1)

Sec. 17.305C. - Animal safety alerts.

- (a) *In general.* Whenever the Animal Control Administration considers that an alert is warranted, the Animal Control Administrator shall issue an animal alert advising the public of the animal safety precautions that the Animal Control Administrator considers appropriate.
- (b) *Publicity.* If an animal safety alert is issued:
 - (1) The alert shall be posted on the Animal Control website and social media websites; and
 - (2) The Animal Control Administrator may issue a public press release.

(C.B. 39, 2018, § 1)

Sec. 17.306. - Care of animals.

- (a) *Care of Livestock.* The owner of livestock shall:
 - (1) Provide adequate food, water, and shelter for the animals;
 - (2) Provide fencing strong enough and high enough to contain the livestock; and
 - (3) Confine breeding studs.
- (b) *Care of Horses, Ponies, Mules, Donkeys, and Llamas:*
 - (1) *Light; ventilation; food troughs.* A building or shed used for stabling horses, ponies, mules, donkeys, or llamas shall be well lighted, ventilated, and provided with sufficient feed troughs or boxes.
 - (2) *Cleanliness of buildings and sheds.* A building or shed used for stabling horses, ponies, mules, donkeys, or llamas shall be kept clean and in good repair at all times, all manure shall be removed from the buildings regularly as needed, and any manure pile shall be at least 25 feet away from a building or shed housing horses, ponies, mules, donkeys, or llamas.
 - (3) *Size of box stalls.* Box stalls for horses and mules that are 14 hands, two inches high or larger shall be at least ten feet wide.
- (c) *Care of Domesticated Birds:*
 - (1) *Birds and poultry near private residences and public buildings.* An owner of birds or poultry other than homing pigeons shall not allow the birds or poultry to fly, run, or stray within 50 feet of a private residence, other than the owner's residence, or within 50 feet of a building used by the public.
 - (2) *Food, water, shelter, cleanliness.* The owner of the birds or poultry shall provide them with adequate food, water, shelter, and sanitary conditions.

(C.B. 51, 2004)

Sec. 17.307. - Other regulated activities.

- (a) *Sale, Barter, or Giving Away of Animals as Toys or Novelties.* A person shall not sell, offer for sale, barter, or give away live animals as toys, premiums, incentives, inducements, or novelties, except that animals may be given away for agricultural or conservation projects, or with the approval of the Maryland Secretary of Agriculture under section 10-610 of the Criminal Law Article of the Annotated Code of Maryland.
- (b) *Coloring or Dyeing.* A person shall not color, dye, stain, or otherwise change the natural color of chickens, ducks, other fowl, or rabbits.
- (c) *Gambling Involving Animals.* Except for legitimate sporting events such as horse races and dog shows, a person shall not involve an animal in a game of chance or an event involving gambling.
- (d) *Wild or Exotic Animals Prohibited.* A person shall not keep, hold for sale, offer for sale, or sell a wild or exotic animal, even if the animal is well-trained, de-clawed, de-fanged, ostensibly domesticated, and affectionate to people, except that:
 - (1) A circus or animal show holding a valid permit from any public authority for temporary operation is exempt from this subsection for the term of the permit;
 - (2) A licensed veterinarian may temporarily keep such an animal only for the purpose of professional medical treatment of the animal;
 - (3) The holder of a valid permit issued by a State or Federal authority to keep a wild or exotic animal is exempt from this subsection only to the extent provided in the permit;
 - (4) Unless prohibited by State law, a person may keep or sell small animals such as hamsters, gerbils, guinea pigs, mice, rats, other small rodents, rabbits, ferrets, birds, fish, and nonpoisonous amphibians and reptiles; or
 - (5) An animal sanctuary is exempt from this subsection if the sanctuary meets all State and Federal licensing and permitting requirements.
- (e) *Traps:*
 - (1) *Permitted types.* Snap type traps designed to catch rats and mice and box type traps designed to capture the entire animal in an enclosure may be set.
 - (2) *Prohibited types.* A person shall not use leg-hold traps.
 - (3) *Consent of owner.* A person shall not place a trap on any property without written consent of the property owner, except that the Administrator may set traps with verbal permission of the property owner.
 - (4) *Snare and body-gripping traps—Proximity to residences.* An owner or lessee of private real property may place, set, maintain, or operate snare or body-gripping traps on the property, provided that no such trap is placed, set, maintained, or operated within 150 yards of the permanent residence of another person.
 - (5) *Checking traps.* A person who sets a trap shall:
 - (i) Check the trap daily; and
 - (ii) Remove any animal in the trap immediately.
 - (6) *Department of Natural Resources.* An authorized agent of the Department of Natural Resources may set traps related to wildlife control anywhere in the County after notifying the Animal Control Administrator when and where the traps will be set.
- (f) *Vehicle Accidents Involving Animals.* A person who injures or kills a domesticated animal while driving a vehicle shall:
 - (1) If it is safe to do so, stop at the scene of the accident and render such assistance as is practicable; and

- (2) Make a reasonable effort to locate the owner and inform the owner of the accident, or notify the Animal Control Administrator or Police Department of the accident as soon as possible.

(C.B. 51, 2004)

State Law reference— Transfer or coloring of chicks, Ann. Code of Md., Criminal Law article, § 10-614.

Sec. 17.308. - Destruction of animals.

- (a) *Humane Destruction.* When an animal is destroyed under this subtitle it shall be destroyed in a humane manner and in accordance with written procedures established by the Administrator.
- (b) *Supervision.* Each individual responsible for destroying animals shall be examined periodically by a supervisor or licensed veterinarian to ensure that the procedures are being carried out in a humane manner.
- (c) *Destruction.* The Administrator may destroy an animal with the consent of the owner, or without the consent of the owner:
 - (1) Immediately if a veterinarian concurs and the animal is critically ill, is critically injured, or has a contagious disease which may infect animals or humans;
 - (2) Immediately and without the concurrence of a veterinarian if the animal is dangerous and the identity of its owner is unknown;
 - (3) If the Administrator has made a reasonable effort to identify the owner of the animal and notify the owner of the animal's condition, or the owner is unable or unwilling to provide for the animal's immediate treatment;
 - (4) If the animal is deemed abandoned under section 17.310 of this subtitle;
 - (5) If the animal is not available for adoption under section 17.311 of this subtitle; and
 - (6) If the animal has not been adopted within five days of being declared abandoned.
- (d) *Liability of Animal Control Administrator.* The Administrator is not liable for immediate destruction of an animal, even if the animal's owner is later identified.
- (e) *Destruction by Order of Health Officer.* The Health Officer may, under the health-general article of the Annotated Code of Maryland, order the immediate destruction of a diseased animal.

(C.B. 51, 2004)

Sec. 17.309. - Enforcement.

- (a) *Generally.* The Animal Control Administrator may take enforcement action based on:
 - (1) Personal observation;
 - (2) The observation of an Animal Control Officer or Police Officer;
 - (3) For a nuisance violation other than disturbing the public peace, a sworn statement from a citizen concerning the citizen's personal experience with the animal, if the statement is received within 30 days after the most recent incident;
 - (4) For a violation of disturbing the public peace, a sworn statement from a citizen concerning three separate incidents that occurred not less than two days apart and not more than 30 days apart, if the statement is received within 30 days of the most recent incident;

- (5) For all other types of violations, a sworn statement from a citizen concerning the citizen's personal experience with an animal, if the statement is received within one year and one day after the incident; and
 - (6) Bite reports, animal control records, or other documented information.
- (b) *Enforcement Options.* To enforce this subtitle, the Animal Control Administrator may:
- (1) Issue a civil citation;
 - (2) Issue a cease and desist order;
 - (3) Require that an owner take measures to control and confine an animal;
 - (4) Require that an owner take measures to abate conditions that constitute a cruel or neglectful act;
 - (5) Impound an animal in accordance with section 17.310 of this subtitle;
 - (6) Destroy an animal; and
 - (7) Take any other action necessary to enforce this subtitle.
- (c) *Enforcement by Police Officer.* A Howard County Police Officer may:
- (1) Issue a cease and desist order or a civil citation, or both, to an animal's owner upon observing:
 - (i) An unlicensed dog or cat;
 - (ii) A nuisance other than a disturbance of the public peace; or
 - (iii) A person committing a cruel or neglectful act against an animal;
 - (2) Impound a wild or exotic animal kept in violation of this subtitle; and
 - (3) Kill an animal that is at large if the Administrator determines that the animal:
 - (i) Poses an immediate threat to a person or domesticated animal;
 - (ii) Has been declared to be dangerous or a threat to public safety by the Administrator;
 - (iii) Cannot be caught and impounded; and
 - (iv) Cannot be tranquilized.
 - (4) The County shall incur no liability as a result of the death or injury of an animal based on the Administrator's decision to tranquilize or kill the animal.
- (d) *Nuisance Enforcement by Administrator.* Except as provided in subsection (e) of this section, the Administrator shall enforce a nuisance violation as follows:
- (1) *Informal complaints.* The Administrator shall:
 - (i) Send a notice of complaint to an animal owner upon receipt from a person of an informal complaint of a nuisance, if the person provides the mailing address of the owner and the date, time, location, and nature of the alleged nuisance violation; and
 - (ii) If the complainant requests, keep the complainant's identity confidential;
 - (2) *First violation.* The Administrator may issue a cease and desist order, a civil citation, and recommendations for control and confinement measures when a nuisance violation occurs;
 - (3) *Second violation.* If an owner's animal commits a subsequent nuisance violation within 24 months after committing a nuisance violation, the Administrator:
 - (i) Shall issue an order requiring the owner to take control and confinement measures for the animal and specifying a schedule for complying with the order; and
 - (ii) May impound the animal if the owner does not comply with the order within the time specified.

- (4) *Third violation.* If an owner's animal commits a third nuisance violation within 24 months after committing a nuisance violation, the Administrator may declare the animal a nuisance in accordance with section 17.302 of this subtitle.
- (e) *Disturbance of the Public Peace Enforcement.* Notwithstanding any other provision of this section to the contrary, the Administrator shall enforce a disturbance of the public peace violation as follows:
 - (1) *First violation.* The Administrator may issue a civil citation to an owner whose animal disturbs the public peace;
 - (2) *Second violation.* If an owner receives a second citation for allowing an animal to disturb the public peace, the Administrator may recommend that the owner take control and confinement measures for the animal; and
 - (3) *Subsequent violation.* If an owner's animal receives a third citation for allowing the animal to disturb the public peace, the Administrator:
 - (i) Shall issue an order requiring the owner to take control and confinement measures for the animal and specifying a schedule for complying with the order; and
 - (ii) May impound the animal if the owner does not comply with the order within the time specified.
- (f) *Right of Entry:*
 - (1) The Animal Control Administrator may enter private property or premises to:
 - (i) Investigate possible violations of this subtitle;
 - (ii) Impound animals under this subtitle; and
 - (iii) Enforce this subtitle.
 - (2) If the owner, tenant, or other occupant of private property or premises fails to consent to or interferes with the right of entry of the Animal Control Administrator, the Administrator may apply for a judicial order permitting entry.

(C.B. 51, 2004)

Sec. 17.310. - Impoundment and redemption.

- (a) *Impoundment.*
 - (1) The Administrator may impound:
 - (i) A dog, cat, or ferret whose owner has failed to have the animal vaccinated against rabies within seven days after being notified to do so;
 - (ii) An animal whose owner has failed to comply with control, and confinement measures ordered by the Administrator within the time specified by the order;
 - (iii) An animal that has been declared a nuisance by the Administrator, or an animal whose owner receives three citations for disturbing the public peace in a 24-month period, if the citations have not been appealed or have been upheld on appeal;
 - (iv) An animal at large;
 - (v) An animal declared dangerous or potentially dangerous by the Administrator or by another jurisdiction;
 - (vi) An animal declared a threat to public safety and welfare;
 - (vii) An animal whose health or safety is endangered through its owner's cruelty or neglect;
 - (viii) A wild or exotic animal kept in violation of this subtitle;

- (ix) An animal adopted from the County shelter but which has not been spayed or neutered within the period required by the Administrator; and
 - (x) An animal adopted from the County shelter whose owner has not complied with the terms of the adoption agreement.
- (b) If an animal is impounded and the owner does not provide control and confinement measures in accordance with the schedule established by the Administrator, the animal shall be considered abandoned and shall be disposed of under this subtitle.
- (c) *Location.* The Administrator shall determine the place of an animal's impoundment and may, at the request and expense of the animal's owner, impound the animal in a private kennel or veterinarian's facility. The owner of the kennel or veterinarian's facility shall not release the animal from impoundment without permission of the Administrator.
- (d) *Notice.* If the Administrator impounds an animal without first notifying the owner, the Administrator shall make a prompt and reasonable effort to notify the owner of the impoundment, the reason for the impoundment, and the conditions the owner must meet in order to redeem the animal.
- (e) *Redemption:*
- (1) *General requirements.* The owner of an impounded animal may redeem the animal by:
 - (i) Satisfying the conditions established by the Administrator for the animal, including any control and confinement measures;
 - (ii) Paying all fines and penalties due;
 - (iii) Paying the redemption fee;
 - (iv) Paying all charges for shelter and board of the animal during impoundment, including any extraordinary charges incurred by the County in impounding, transporting, feeding, treating, and sheltering the animal;
 - (v) Providing proof of ownership of the animal;
 - (vi) Meeting the licensing requirements of this subtitle;
 - (vii) Providing proof that the animal is vaccinated for rabies; and
 - (viii) Meeting any other redemption requirements of this subtitle that apply to the animal.
 - (2) *Rabies.* The owner of a dog, cat, or ferret impounded for failure of the owner to vaccinate the animal for rabies may redeem the animal when the animal has been vaccinated against rabies.
 - (3) *Wild or exotic animals.* The owner of an impounded wild or exotic animal may redeem the animal if the Administrator is satisfied that the owner has definite intentions to immediately remove the animal from the County, or has received the required State and Federal permits to legally possess the animal.
- (f) *Animal Permanently Impounded.* An animal ordered permanently impounded may be disposed of in the same manner as an animal abandoned by its owner.
- (g) *Care of Injured Animals.* Except as provided in section 17.306 of this subtitle, when the Administrator or a Howard County Police Officer has an injured domesticated animal whose owner is unknown, the Administrator or Officer shall take the animal to a veterinarian or animal hospital under contract to the County where it shall be cared for until its condition warrants its return to the animal control facility or disposition. In an emergency, the animal may be taken to the nearest veterinarian.
- (h) *Liability:*
- (1) The County is not liable if an impounded animal becomes sick or dies during impoundment, or dies after routine care or other care prescribed by a veterinarian.
 - (2) The Animal Control Administrator is not liable for any injuries sustained by an animal as a result of impoundment, transport, and handling of an impounded animal.

- (i) *Animal Deemed Abandoned.* An animal is deemed to have been abandoned when:
- (1) The animal is impounded, its owner is not known, and the animal has not been redeemed within three working days of impoundment;
 - (2) The animal is impounded for being at large and has not been redeemed within three working days;
 - (3) The animal is impounded because the owner has not complied with an order of quarantine for the animal and has not redeemed the animal within three working days of notice that the animal may be released;
 - (4) The animal is wild or exotic and has not been returned to its owner within three working days of notice of impoundment;
 - (5) The animal is a stray reported to the Animal Control Division and has not been reclaimed by its owner within 30 days of the report;
 - (6) The animal is permanently impounded and the owner has not appealed the impoundment, or the impoundment has been upheld on appeal;
 - (7) The animal has been adopted from the animal control facility and has been permanently impounded by the Animal Control Administrator for failure to have the animal spayed or neutered;
 - (8) The animal is impounded as a threat to public safety and welfare and has not been redeemed;
 - (9) The animal is impounded as a dangerous animal and has not been redeemed;
 - (10) The animal is impounded as a result of cruel or neglectful acts and has not been redeemed;
 - (11) The animal is impounded for failure to vaccinate for rabies and has not been redeemed;
 - (12) The animal is impounded as a nuisance animal and has not been redeemed;
 - (13) The animal has been spayed or neutered at a clinic contracted for by the County, and the owner has not retrieved the animal within three working days of the date specified by the clinic;
 - (14) The animal is given up and left at the animal control facility by its owner;
 - (15) The animal was adopted from the County shelter and is impounded because its owner has not complied with the terms of the adoption agreement; or
 - (16) The animal is impounded under this subtitle for any other reason and has not been redeemed.

(C.B. 51, 2004)

Sec. 17.311. - Adoption.

- (a) *Adoption.* At the discretion of the Administrator an abandoned animal may be made available for adoption.
- (b) *Adoption Exceptions.* An animal is available for adoption immediately upon being declared abandoned, except:
 - (1) An animal the Administrator believes is unsafe;
 - (2) A wild or exotic animal;
 - (3) An animal that has been declared dangerous or potentially dangerous;
 - (4) An animal a veterinarian has found to be too unhealthy for adoption or suffering from a contagious disease that makes the animal unsuitable for adoption;

- (5) An animal impounded for being a threat to public safety and welfare, declared to be a threat to public safety and welfare, or whose owner has been cited for the animal being a threat to public safety and welfare; and
 - (6) An animal the Administrator believes is too young for adoption.
- (c) *Persons Not Eligible to Adopt.* The following persons are not eligible to adopt an animal unless the Animal Matters Hearing Board permits them to do so upon appeal:
- (1) A person with two or more paid or upheld civil citations issued under this subtitle in the previous 24 months;
 - (2) A person who has been found guilty of cruel or neglectful acts;
 - (3) A person who has been found guilty of improperly confining or controlling a dangerous animal;
 - (4) A person who has not complied with an order of the Board issued after a mandatory hearing of the Board;
 - (5) A person who, in the opinion of the Administrator, will not or cannot properly care for an animal; and
 - (6) A person who has not complied with the spaying and neutering provisions of this subtitle in the prior adoption of an animal.
- (d) *Spaying/Neutering of Adopted Animals:*
- (1) Within a period to be specified by the Administrator, depending on the age, sex, health, and species of the animal, an adopted animal shall be spayed or neutered by a licensed veterinarian at the expense of the adopter.
 - (2) The Administrator may issue an adopter a cease and desist order and a civil citation for failure to spay or neuter an adopted animal within the specified period. The Administrator shall rescind the cease and desist order and civil citation if the adopter returns the adopted animal to the animal control facility or provides proof that the animal has been spayed or neutered prior to the payment due date specified on the citation. Each month the violation continues is a separate offense.
- (e) *Appeal.* A person denied adoption of an animal under subsection (c) of this section may appeal the decision to the Animal Matters Hearing Board within three days of the denial. The Administrator is not required to hold the animal for which adoption was denied while the denial is appealed.
- (f) *Liability.* Howard County shall not be liable for any expenses incurred by an adopter of an animal for the treatment of injuries or illnesses of the animal which existed prior to or occurred after adoption.
- (g) *Disposition of Animals Not Adopted:*
- (1) No animal may be sold or given up for commercial or experimental purposes.
 - (2) Wild and exotic animals may be released to a suitable habitat or to a suitable care facility such as a Humane Society shelter, zoo, or sanctuary.
 - (3) Animals which are declared abandoned may be destroyed in accordance with section 17.308 of this subtitle.

(C.B. 51, 2004)

Sec. 17.312. - Animal Control Division.

- (a) *Administration.* Except for the licensing provisions administered by the Department of Inspections, Licenses and Permits, the Animal Control Division shall administer this subtitle under the direction of the Chief of Police.

- (b) *Animal Control Division.* General provisions regarding the division are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (c) *Administrator.* The Animal Control Administrator shall be the head of the Animal Control Division. The Chief of Police shall exercise general supervision of the of Animal Control Division.
- (d) *Administrator's Qualifications.* The Animal Control Administrator shall have:
 - (1) Considerable knowledge of the care, handling, feeding, and characteristics of domestic animals;
 - (2) Considerable knowledge of the local and State laws governing animal protection and control; and
 - (3) At least five years of experience in business or public administration, including two years in animal control work, and at least two years of managerial or supervisory experience.
- (e) *Administrator's Duties.* The Animal Control Administrator shall:
 - (1) Serve as Executive Secretary to the Animal Matters Hearing Board;
 - (2) Administer and enforce the animal control laws;
 - (3) Maintain records of microchip identification numbers cross-referenced to the animal license files;
 - (4) Maintain records of rabies vaccinations cross-referenced to the animal license files;
 - (5) Administer the animal control facility;
 - (6) Supervise the Animal Control Officers and other employees of the Animal Control Division;
 - (7) Adopt written regulations necessary to implement this subtitle;
 - (8) Publicize the requirements of this subtitle including but not limited to breed-specific requirements to those who are required to comply with this subtitle; and
 - (9) Perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 51, 2004; C.B. 39, 2018, § 1)

Sec. 17.313. - Notification procedures.

- (a) Notification required by this subtitle shall be made as provided in this subsection.
- (b) *By Mail.* If a notification required by this subtitle is made by mailing a notice, the notice is adequate if it is delivered to a U.S. post office for delivery or is deposited in a mailbox or other mail receptacle regularly serviced by the U.S. Postal Service.
- (c) *Notice of Impoundment.* The Animal Control Administrator shall give an owner of an impounded animal notice of the impoundment by:
 - (1) Placing a telephone call to the owner;
 - (2) Delivering the notice directly to the owner;
 - (3) Leaving the notice at:
 - (i) The owner's usual or last-know-address;
 - (ii) The address given on the animal's collar or microchip; or
 - (iii) The address indicated in the licensing records maintained by the Department; or

- (4) Mailing the notice to:
 - (i) The person's usual or last-known address;
 - (ii) The address given on the animal's collar or microchip; or
 - (iii) The address indicated in the licensing records maintained by the Department.
- (d) *Notification of Intent to Immediately Destroy Animal.* When the Animal Control Administrator intends to immediately destroy an animal, the Administrator shall give notice to the animal's owner by:
 - (1) Placing a telephone call to the owner; or
 - (2) Verbally notifying the owner in person.
- (e) *Other Notifications.* Except as otherwise provided in this subtitle, notifications necessary to satisfy other requirements of this subtitle may be made by:
 - (1) Delivering the notice directly to the owner; or
 - (2) Mailing the notice to or posting the notice at:
 - (i) The owner's usual or last-known address;
 - (ii) The address given on the animal's collar or microchip; or
 - (iii) The address indicated in the licensing records maintained by the Department.

(C.B. 51, 2004)

Sec. 17.314. - Contractual services.

- (a) *Removal of Dead Animals.* The Chief of Police may contract for the collection and disposal of dead animals from County property and rights-of-way. If the animal's owner is known, the Animal Control Administrator may notify the owner to arrange for prompt disposition of the animal. If the animal is collected and disposed of by the County, the owner shall be notified that the animal has been disposed of. The owner may be held liable to the County for the cost of collection and disposal.
- (b) *Spaying and neutering clinic:*
 - (1) *County clinic.* The Chief of Police may establish a clinic at which citizens may have dogs and cats spayed or neutered by a licensed veterinarian. The Chief of Police may contract for spaying and neutering services to be performed by licensed veterinarians at their own places of business.
 - (2) *Medical care.* The spaying and neutering shall be performed in a humane manner. Each animal to be spayed shall receive a presurgical examination by the licensed veterinarian. The animal shall receive a rabies vaccination if proof of a current vaccination cannot be provided by the owner.
 - (3) *Fees.* The fee for neutering or spaying shall be determined by the Chief of Police. If a rabies vaccination is necessary, a separate fee shall be assessed.
 - (4) *Ownership consent.* The owner of the animal shall certify ownership or authority to seek the service and shall sign a consent to the surgery.
 - (5) *Retrieval of animal.* The owner shall retrieve the animal on a date specified by the clinic. Failure to retrieve the animal on the date specified may result in an additional charge for board. Any animal not retrieved within three working days after the specified date shall be deemed to be abandoned.

(C.B. 51, 2004)

Sec. 17.315. - Interfering with enforcement.

- (a) *Prevention of Enforcement.* A person shall not prevent, attempt to prevent, or threaten to prevent the Animal Control Administrator, an Animal Control Officer, or a Police Officer from enforcing this subtitle.
- (b) *Concealment; Denial of Ownership.* A person shall not conceal a domesticated animal, a wild animal, or an exotic animal from the Animal Control Administrator, or falsely deny ownership of any animal.
- (c) *Information to Enforce This Subtitle.* A person shall not provide false information or refuse to provide requested information to the Animal Control Officer, the Health Officer, or a Police Officer when the information is required to enforce this subtitle.

(C.B. 51, 2004)

Sec. 17.316. - Reporting animal bites; investigation.

- (a) *Report Required.* The following individuals and agencies shall report all bites, injuries, and attacks by animals on humans to the Health Department or Animal Control Division:
 - (1) The owner of an animal that has attacked, bitten, or injured a human; and
 - (2) A hospital, physician, or other health care provider who has treated a bite or injury inflicted by an animal on a human.
- (b) *Reporting Requirements.* When a report is required by this section, the report shall be made within the following times:
 - (1) An attack, injury, or bites shall be reported no later than one business day following the occurrence or treatment.
 - (2) When the Health Department receives a report of an incident in which an animal has bitten or injured a human or a domesticated animal, it shall notify the Animal Control Administrator within 24 hours after receiving the report and shall send the Administrator all complaints and supporting information regarding the incident.
 - (3) When the Police Department receives a report of an incident in which an animal has bitten or injured a human or a domesticated animal, it shall notify the Animal Control Administrator within 24 hours after receiving the report and, if a bite or injury is involved, shall notify the Health Officer within 24 hours. The Police Department shall send the Administrator and the Health Officer all complaints and supporting information regarding the incident.
 - (4) When the Animal Control Division receives a report of an incident in which an animal has bitten or injured a human being or a domesticated animal, it shall notify the Health Officer within 24 hours after receiving the report.
- (c) *Investigation of Incidents.* The Administrator shall review all reports of incidents in which an animal has attacked, bitten, or injured a human being or a domesticated animal, may investigate the incident and, if necessary, take enforcement measures consistent with this subtitle.

(C.B. 51, 2004)

Sec. 17.317. - Quarantine.

- (a) *Quarantine.* If the Health Officer quarantines an animal, or if the Administrator quarantines an animal under authority delegated by the Health Officer, the provisions of this section apply.

- (b) *Release.* A quarantined animal may not be released from quarantine, sold, given away, or otherwise disposed of until a Health Department Representative or a veterinarian has examined the animal and found it free of rabies, within 24 hours after examining a quarantined animal for rabies, the veterinarian shall report the results of the examination to the Health Officer.
- (c) *Quarantine after Bite or Injury.* If the Health Officer quarantines an animal after the animal has bitten or injured a human, the animal shall be quarantined under the following conditions:
 - (1) The Administrator may require that the animal be impounded for the quarantine period;
 - (2) If the animal is not impounded for the quarantine period:
 - (3) Quarantine shall be at a location approved by the Administrator; and
 - (4) If the animal's owner meets conditions established jointly by the Administrator and the Health Officer that protect the public and other animals from exposure to the animal, the animal may be quarantined on the owner's property.
- (d) *Impoundment of Animal Not Kept Quarantined.* If the Administrator determines that an animal has not been kept quarantined in accordance with this section, the Administrator may impound the animal until it is released from quarantine by the Health Officer.

(C.B. 51, 2004)

Sec. 17.318. - Civil penalties for violations.

- (a) *Civil Citations.* The Animal Control Administrator may issue a civil citation to a person who violates this subtitle.
 - (b) *Right to Appeal.* A person who receives a civil citation under this subtitle may appeal the citation to the Animal Matters Hearing Board within 15 days of receiving the citation.
 - (c) *Board Action.* When a civil citation is appealed to the Board, the Board may:
 - (1) Affirm the citation;
 - (2) Reverse the citation;
 - (3) Affirm the citation and reduce the amount of the fine imposed for violations of any section except section 17.303 of this subtitle; or
 - (4) For a violation of section 17.303 of this subtitle, affirm the citation and waive the fine if the owner agrees to destruction of the animal.
 - (d) *Collection; Date Payable.* A civil fine imposed under this subtitle shall be payable to and collected by the Director of Finance of Howard County within 30 days of imposition. If the owner of the animal, residence, or facility appeals the civil citation, the due date of the fine shall be extended to 30 days after a decision of the Animal Matters Hearing Board upholding or modifying the citation.
 - (e) *Notification of Appeals.* The Animal Matters Hearing Board shall notify the Director of Finance of all pending appeals, requesting that the Director postpone the collection of the fine until the Board has made a decision. The Board shall notify the Director of Finance of the outcome of all appeals.
 - (f) *Penalty Not Paid.* If a fine is not collected by the Director of Finance within 30 days of issuance of a civil citation or within 30 days of the Board's upholding the civil citation, the Office of Law may institute civil proceedings to collect the fine. The amount of the fine shall increase by half the amount of the original fine for each 30 days or portion thereof it remains unpaid.
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- (g) *Fines for Violations of Certain Sections.* The amount of the civil penalty for a violation of this subtitle is:

Code Section Violated	Amount of Fine	
17.301 and 17.306	First Offense	\$25.00
	Second Offense in 24-Month Period	50.00
	Third Offense in 24-Month Period	100.00
	Subsequent Offenses	250.00
17.302	First Offense	50.00
	Second Offense in 24-Month Period	100.00
	Third Offense in 24-Month Period	200.00
	Subsequent Offenses	200.00
17.303	\$250.00 to \$500.00; Board may waive fine if owner agrees to destruction of animal	
17.304 and 17.305	First Offense	100.00
	Second Offense in 24-Month Period	150.00
	Third Offense in 24-Month Period	300.00
	Subsequent Offenses	500.00
17.305A and 17.305B	First Offense	100.00
	Second Offense in a 24-Month period	150.00
	Third Offense in a 24-Month period	300.00
	Subsequent Offenses	500.00
17.307	First Offense	100.00
	Second Offense in 24-Month Period	150.00

	Third Offense in 24-Month Period	300.00
	Subsequent Offenses	500.00
17.311(d)(2)		100.00
17.315	First Offense	100.00
	Second Offense in 24-Month Period	150.00
	Third Offense in 24-Month Period	300.00
	Subsequent Offenses	500.00
17.316	First Offense	25.00
	Second Offense in 24-Month Period	50.00
	Third Offense in 24-Month Period	100.00
	Subsequent Offenses	200.00
17.317		300.00

(h) Each day that a violation continues is a separate offense.

(C.B. 51, 2004; C.B. 22, 2005; C.B. 39, 2018, § 1)

Sec. 17.319. - Criminal penalties for violations.

- (a) The Animal Control Administrator, a Howard County Police Officer, or a citizen may apply to the district court for the issuance of a criminal summons for a violation of this subtitle.
- (b) A person who violates this subtitle is guilty of a misdemeanor and on conviction is subject to the following fines:

Code Section Violated	Amount of Fine
17.301	Failure to Vaccinate for Rabies Up to \$500.00

	Failure to License or Renew License	25.00
	Failure to Wear License Tag	25.00
17.302	First Offense	50.00
	Second Offense	100.00
	Third Offense	200.00
	Subsequent Offenses: \$200.00 and 30 days' imprisonment, or both	
17.303	Up to \$500.00 and 90 days' imprisonment, or both	
17.304	First Offense	\$100.00
	Second Offense	300.00
	Third Offense	500.00
	Subsequent Offenses: \$1,000.00 and 60 days' imprisonment, or both	
17.305	Cruelty or Neglect	Up to \$1,000.00
	Poisoning Domesticated Animal	Up to 1,000.00
	Leaving Ground Glass Where Animal Can Ingest It	100.00
	Cruelly Killing or Injuring Animal	250.00 to 500.00
	Abandoning Domesticated Animal	250.00 to 500.00
	Deliberately Killing or Injuring Animal with Motor Vehicle	250.00 to 500.00
	Deliberately Encouraging an Animal to Fight	50.00 to 500.00

	Organizing or Participating in Animal Fight	50.00 to 500.00
	Breeding or Raising Animals for Fighting	50.00 to 500.00
17.306	Failure to Provide Adequate Care for Livestock	100.00 to 500.00
	Violations Regarding Care of Domesticated Birds	100.00 to 500.00
17.307	Keeping Wild or Exotic Animals.	250.00 to 500.00
	Setting Prohibited Traps	100.00 to 500.00
	Failure to Stop After Killing or Injuring Domesticated Animal with Vehicle	50.00
	Sale or Barter of Animals as Toys or Novelties	25.00 per animal
	Animals Involved in Games of Chance	200.00
	Dyeing Animals	100.00 per animal
17.315	Interfering with Officer by Providing False Information or Refusing to Provide Requested Information	100.00 to 150.00
	Unlawful Concealment of Animal	100.00
17.316		25.00
17.317		100.00

(C.B. 51, 2004)

Sec. 17.320. - Animal Matters Hearing Board.

(a) *Membership:*

- (1) *General provisions.* General provisions applicable to the Board are set forth in subtitle 3, "Boards and Commissions" of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (2) *Number of members.* There is an Animal Matters Hearing Board consisting of seven members.
- (3) *Qualifications:*
 - (i) All members of the Board shall be residents of Howard County.
 - (ii) One of the members shall be a veterinarian licensed to practice in Howard County.
 - (iii) Three of the remaining members shall have some experience in animal matters.
 - (iv) Not more than two members shall be residents of the same council district.
- (4) *Executive Secretary.* The Animal Control Administrator or the Administrator's designee shall serve as Executive Secretary to the Board and shall attend all meetings of the Board.
- (5) *Meetings.* The Board shall meet at least once each month and, if necessary to fulfill its duties and responsibilities, more frequently at the call of the Chairperson.

(b) *Duties and Responsibilities.* The Board shall:

- (1) Subject to section 22.1000 of the County Code, submit an annual report to the Chief of Police, the County Executive, and the County Council concerning its responsibilities, including recommendations pertaining to legislation, regulations, and fiscal planning;
- (2) Recommend standards for the operation and maintenance of County animal control facilities;
- (3) Recommend standards and procedures for the control, collection, custody, and disposal of animals;
- (4) Review the annual budget for the operation of the animal control facility and make recommendations to the Chief of Police;
- (5) Advise the Chief of Police, the County Executive, and the County Council on animal control regulations and legislation;
- (6) Hold hearings under this subtitle;
- (7) Review and affirm, reverse, or modify actions and decisions of the Animal Control Administrator pursuant to this subtitle;
- (8) Issue written decisions and orders; and
- (9) Carry out any other duties mandated by law.

(c) *Notice of Board Hearings:*

- (1) When the Board schedules a hearing, it shall give at least 14 days' written notice of the date, time, location, and subject of the hearing to:
 - (i) The owner of the animal; and
 - (ii) Any person who filed a sworn statement regarding the animal.
- (2) The notice shall include a copy of any citation issued and sworn statement filed in connection with the subject of the hearing.

- (3) The Board shall notify a person of a Board hearing by mailing a notice to the person's usual or last-known address, except that it shall notify a person charged with a violation of this subtitle by:
 - (i) Delivering the notice directly to the person;
 - (ii) Mailing the notice first-class mail, return receipt requested; or
 - (iii) Posting the notification at the person's usual or last-known address.

(C.B. 51, 2004; C.B. 43, 2018, § 1)

Sec. 17.321. - Appeals.

- (a) *Appeal to Board.* A person may appeal to the Board any of the following actions of the Administrator within seven days after the Administrator's action:
 - (1) A declaration that the person's animal, residence, or facility is a nuisance;
 - (2) A declaration that the person's animal is dangerous or potentially dangerous;
 - (3) A declaration that the person's animal is a threat to public safety;
 - (4) An order requiring the institution of control and confinement measures for the person's animal, but only if the animal has been impounded in connection with the order;
 - (5) Impoundment of the person's animal;
 - (6) Permanent impoundment of the person's animal; and
 - (7) A declaration that the person is not eligible to adopt an animal.
- (b) A person who receives a civil citation under this subtitle may appeal the citation to the Board in accordance with section 17.318 of this subtitle.
- (c) *Board Action.* When an action of the Administrator is appealed to the Board, the Board may affirm, reverse, or modify the decision, and may order any enforcement action that the Administrator is authorized to take by this subtitle.
- (d) *Notice.* When a hearing is scheduled under this section, the Board shall give notice of the hearing in accordance with subsection 17.320(c) of this subtitle.
- (e) *Hearing.* The hearing shall be conducted in accordance with title 2 (the Howard County Administrative Procedure Act) of this Code.
- (f) *Appeal of Board Decision.* Any person, including the Animal Control Administrator, who is aggrieved by a decision and order of the Board may, within 30 days thereof, appeal the decision to the Board of Appeals. The appeal shall be on the record.
- (g) *Enforcement of Board Decision.* If a person fails to comply with a decision of the Board within the time specified by the decision, the Administrator may petition the court for injunctive relief or otherwise institute legal action to enforce the Board's decision.

(C.B. 51, 2004)

SUBTITLE 4. - CONSUMER PROTECTION⁴

Footnotes:

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State Law reference— Consumer protection Act, Ann. Code of Md. Commercial Law article, § 13-101 et seq.

Sec. 17.400. - Definitions.

- (a) *Person* means an individual proprietor, partnership, corporation, firm, cooperative, association or any other group of individuals, however organized.
- (b) *Consumer* means a purchaser, lessee, recipient or prospective purchaser, lessee or recipient of goods, merchandise, services, debts, obligations or credit, including a co-obligor or surety which are primarily for personal, household, family or agricultural purposes.
- (c) *Services* means building repair and improvement services, professional services, the repair of automobiles, television sets, and other similar services, and the repair or installation of plumbing, heating, electrical or mechanical devices.
- (d) *Merchant* means any person who offers or makes available to consumers, either directly or indirectly, merchandise, goods, services or credit.
- (e) *Merchandise* means any objects, wares, goods, commodities, intangibles or real estate.
- (f) *Administrator* means the head of the Office of Consumer Protection.
- (g) *Advisory Board on Consumer Protection* , hereinafter known as the "Board," shall consist of seven members. Each appointment shall be for an overlapping five-year term, and each appointee shall hold office until a successor is appointed and confirmed. A vacancy on the Board shall be filled for the unexpired term of the departing member. All members of the Board shall be designated by the County Executive, subject to confirmation by the County Council. The members of the Board shall serve without compensation, but they may be reimbursed for all expenses reasonably incurred in the performance of their duties as may be provided in the budget.

(C.B. 7, 1975; C.B. 47, 1979; C.B. 33, 1980; C.B. 2, 1981; C.B. 62, 1989; C.B. 12, 2016, § 1)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 17.401. - Office of Consumer Affairs.

- (a) *General Provisions*. General provisions applicable to this Office are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Head* . The Consumer Protection Administrator shall head the Office of Consumer Protection. The Director of Community Resources and Services shall exercise administrative supervision over the Office of Consumer Protection.
- (c) *Qualifications of Consumer Protection Administrator* . The Consumer Protection Administrator shall have thorough knowledge of methods and practices of protecting consumer interest, including knowledge of County, State and Federal laws, and knowledge of the methods and techniques of investigating complaints and charges of unlawful trade practices. The Administrator shall have at least five years of experience in community service or related work, including one year dealing with consumer protection or trade practices and at least one year of managerial experience.
- (d) *Duties and Responsibilities* . The Office shall have the following duties:
 - (1) To regulate solicitors and peddlers pursuant to subtitle 7, "Solicitors and Peddlers," of title 14, "Inspections, Licenses, and Permits," of the Howard County Code.

- (2) To receive, investigate and conciliate complaints and initiate its own investigation of deceptive or unfair trade practices against consumers; to hold hearings, compel the attendance of witnesses, administer oaths, take the testimony of any person under oath, and, in connection therewith, require the production of any evidence relating to any matter under investigation or in question by the Office.
- (3) To issue summons to compel the attendance of witnesses and the production of documents, papers, books, records and other evidence in any matter to which this subtitle applies. Any such summons shall be served by the Sheriff or Deputy Sheriff of the political subdivision in which is located the residence of the person or the main office of the firm, association, partnership or corporation against whom or which the summons is served. In case of disobedience to a summons, the County, on behalf of the Office, may apply to a court of appropriate jurisdiction for an order requiring the attendance and testimony of witnesses and/or the production of records or a document. After notice to the person summoned as a witness or directed to produce records and documents, and upon a finding that the attendance and testimony of the witness or the production of the records and documents is relevant or necessary for the proceeding of the Office, the court may issue an order requiring the attendance and testimony of the witness and the production of records and documents. Any failure to obey such an order of the court may be punished as contempt of court.
- (4) To issue cease and desist orders with respect to consumer practices declared to be in violation of this subtitle by the Office. If, upon all the evidence, the Administrator of the Office finds that the respondent has engaged in a deceptive or unfair trade practice within the scope of any provision of this subtitle, it shall so state its findings. The Office thereupon shall issue and cause to be served upon the respondent an order requiring the respondent to cease and desist from the deceptive or unfair trade practice and to take such affirmative action as equity and justice may require to effectuate the purposes of this subtitle.
- (5) To refer to appropriate governmental or regulatory agencies, either public or private, having jurisdiction over consumer protection matters, any information concerning an apparent or potential violation of any consumer protection laws.
- (6) To present the interests of consumers before administrative and regulatory agencies and legislative bodies.
- (7) To assist, advise and cooperate with other local, State and Federal agencies and officials to protect and promote the interest of the County consumer public.
- (8) To assist, develop and conduct programs of consumer education and information through public hearings, meetings, publications or other material prepared for distribution to the consumer public of the County.
- (9) To undertake activities to encourage local business and industry to maintain high standards of honesty, fair business practices and public responsibility in the production, promotion and sale of merchandise, goods and services and the extension of credit.
- (10) To exercise and perform such other functions or duties consistent with the purposes or provisions of this subtitle which may be deemed necessary or appropriate to protect and promote the welfare of County consumers.
- (11) To render annual reports as to the number of complaints filed, the nature thereof and the disposition thereof and the other relevant activities of the Office undertaken during the previous year.
- (12) To make administrative rules and regulations as may be necessary to ensure the orderly operation of the Office and to promulgate standards further defining the "unfair or deceptive trade practices" as set forth in this subdivision. These rules and regulations and standards shall take effect no earlier than 60 days after their adoption by the Office. Any regulation adopted hereunder shall be in accordance with the Administrative Procedure Act [title 2, subtitle 1 of this Code.]

- (13) To administer subtitle 5, "New Home Contract of Sale," of title 17, "Public Protection Services," of the Howard County Code, according to the provisions of section 17.505, "Administration, Enforcement and Penalties," of subtitle 5 of title 17 of the Howard County Code.
- (14) To administer subtitle 9 "Landlord Tenant Relations" of title 17 "Public Protection Services" of the Howard County Code.
- (15) To adopt written regulations necessary to implement subtitle 9 "landlord tenant relations" of title 17 "Public Protection Services" of the Howard County Code.

(C.B. 7, 1975; C.B. 33, 1980; C.B. 62, 1988; C.B. 23, 1989; C.B. 12, 2016, § 1; C.B. 20, 2018, § 1)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 17.402. - Advisory Board on Consumer Affairs.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members .* There is an Advisory Board on Consumer Protection which shall consist of seven members.
- (c) *Qualifications:*
 - (1) All members shall be residents of Howard County.
 - (2) The membership shall reflect a cross-section of the consumer and business interests.
 - (3) At least two members shall represent a consumer interest group.
 - (4) At least two members shall represent a business interest group.
 - (5) From the remaining members, at least one member shall represent an economically disadvantaged group.
- (d) *Executive Secretary .* The Consumer Protection Administrator or the Administrator's designee shall serve as Executive Secretary of the Board and shall attend all meetings of the Board.
- (e) *Meetings.* The Board shall meet on call by the Chairman as frequently as required to perform its duties.
- (f) *Duties and Responsibilities .* The Board shall carry out all duties and responsibilities assigned to it by law.
 - (1) The Board may annually review the programs of the Office of Consumer Protection and make recommendations to the Administrator prior to the submitting of the annual budget.
 - (2) Subject to section 22.1000 of the County Code, the Board shall submit an annual report to the County Executive and to the County Council.
 - (3) The Board may advise the Office in carrying out its duties.
 - (4) The Board may hold public hearings as deemed necessary, including hearings for the purpose of forming recommendations on inclusion or exclusion of persons or organizations from applications of the provisions of this subtitle.
 - (5) At the directive of the County Executive or by resolution of the County Council, the Board shall review and make recommendations on any matter related to consumer protection.

(C.B. 7, 1975; C.B. 2, 1981; C.B. 62, 1988; C.B. 12, 2016, § 1; C.B. 43, 2018, § 1)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 17.403. - Deceptive or unfair trade practice prohibited.

- (a) It shall be unlawful for any merchant to engage in a deceptive or unfair trade practice with respect to any consumer whether or not any consumer has, in fact, been misled, deceived or damaged thereby. Deceptive or unfair trade practices include, but are not limited to:
- (1) Representations that merchandise, goods or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits or quantities that they do not have.
 - (2) Representations that the merchant has a sponsorship, approval, status, affiliation or connection that he does not have.
 - (3) Representations that merchandise or goods are original or new, if they are deteriorated, altered, reconditioned, reclaimed or secondhand.
 - (4) Representations that merchandise, goods or services are of particular standard, quality, grade, style or model, if they are of another.
 - (5) A misrepresentation as to a material fact which has a tendency to mislead.
 - (6) The failure to state a material fact, if such failure deceives or tends to deceive.
 - (7) Disparaging the merchandise, goods, services or business of another by false or misleading representations of material facts.
 - (8) Advertising or offering merchandise, goods or services without intent to sell them or sell them as advertised or offered.
 - (9) Advertising or offering merchandise, goods or services with intent not to supply reasonably expected public demand, unless the advertisement or offer discloses a limitation of quantity or other qualifying conditions.
 - (10) Making false or misleading representations of fact concerning: The reasons for, existence of or amounts of price reductions; or the price in comparison to price of competitors or ones own price at a past or future time.
 - (11) Knowingly falsely stating that services, replacements or repairs are needed.
 - (12) Falsely stating the reasons for offering or supplying merchandise, goods or services at sale or discount prices.
 - (13) The harassment of any person, either by telephone, cards or letters, with regard to any act other than legal process.
 - (14) Any deception, fraud, false pretense, false premise, misrepresentation or the knowing concealment, suppression or omission of any material fact with the intent that consumers rely upon such concealment, suppression or omission in connection with the sale or advertisement of any merchandise or goods or with the subsequent performance of services, whether or not any person has, in fact, been misled, deceived or damaged thereby.
 - (15) Any false, falsely disparaging or misleading oral or written statement, visual description or other misrepresentation of any kind which has the capacity, tendency or effect of deceiving or misleading consumers and is made in connection with the sale, lease, rental, loan or bailment of merchandise, goods or services, the offering for sale, lease, rental, loan or bailment of merchandise, goods or services, the extension of consumer credit or the collection of consumer debts.

- (16) Failure to provide a written estimate of repairs, alterations, modifications or servicing when requested by a consumer and then performing such subsequent repair, alteration, modification or servicing of the item without providing the estimate as requested.
- (17) Making repairs, alterations, modifications or servicing exceeding by ten percent or more the price quoted in a written estimate, without prior written or verbal approval of a consumer.
- (18) Failure to reassemble or restore an electrical or mechanical apparatus, appliance, chattel or other goods or merchandise to its tendered condition, unless a service or labor charge is paid, without notification of the service or labor charge prior to receiving the tendered item.
- (19) Failing to supply to a consumer a copy of a sales or service contract, lease, promissory note, trust agreement or other evidence of indebtedness which that person may execute or has, in fact, executed.
- (20) Selling or leasing or providing merchandise, goods or services on a credit sale basis with knowledge by the merchant, at the time of the transaction, that there was no reasonable probability of payment in full of the obligation by the consumer.
- (21) Selling, leasing or providing merchandise, goods or services with knowledge by a merchant, at the time of the transaction, of the inability of the consumer to receive substantial benefits from the merchandise, goods or services sold or leased.
- (22) Selling, leasing or providing merchandise, goods or services where there exists a gross disparity between the price of the merchandise, goods or services sold or leased and the value of the merchandise, goods or services measured by the price at which similar merchandise, goods or services are readily obtainable in transactions by like buyers or lessees. Any insurance commission or rebate received by a merchant shall be considered in determining the existence of a gross disparity.
- (23) The fact that the merchant failed to disclose that he contracted for or received a commission fee or rebate for insurance with respect to credit sales.
- (24) The fact that the merchant has knowingly taken advantage of the inability of the consumer to reasonably protect his interests by reason of physical or mental infirmities, ignorance, illiteracy or inability to understand the language of the agreement.
- (25) Replacing parts or components in an electrical or mechanical apparatus, appliance, chattel or other goods or merchandise when such parts or components are not defective, unless this replacement is specifically requested by the consumer.
- (26) Falsely stating or representing that repairs, alterations, modifications or servicing have been made when they have not been.
- (27) Insertion by a merchant, in a contract of sale or lease, of a clause or condition which is so one sided as to be unconscionable under the circumstances existing at the time of the making of the contract.

(C.B. 7, 1975; C.B. 33, 1980)

Sec. 17.404. - Exclusion.

This subtitle shall not apply to:

- (1) Professional services of lawyers or medical and dental practitioners engaged in their respective professional endeavors;
- (2) Any television or radio broadcasting station or to any publisher or printer of a newspaper, magazine or other form of printed advertising who broadcasts or prints an advertisement which violates this subtitle, except insofar as such station or publisher or printer engaged in deceptive

or unfair practices in the sale or offering for sale of its own merchandise, goods or services or has knowledge of the advertising being in violation of this subtitle;

- (3) Public service companies subject to the jurisdiction of the public service commission, as provided in article 78 of the Annotated Code of Maryland (1969 Replacement Volume).

The Office shall have the authority to receive complaints concerning the aforesaid excluded merchants and to refer these complaints to the appropriate professional agency or group.

(C.B. 7, 1975; C.B. 33, 1980)

Sec. 17.405. - Restraining unlawful acts.

Whenever the Administrator has reason to believe that a merchant is using, has used or is about to use any method, act or practice declared by section 17.403 of this subtitle to be unlawful, and that proceeding would be in the public interest, the Administrator may refer this matter to the Office of Law for an action in the name of the County against such merchant to restrain, by temporary or permanent injunction, the use of such method, act or practice, upon the giving of appropriate notice to that merchant. Any court of competent jurisdiction may issue restraining orders, temporary or permanent injunctions or other appropriate forms of relief.

(C.B. 7, 1975)

Sec. 17.406. - Private action.

- (a) Any consumer who purchases or leases merchandise, goods or services primarily for personal, family, household or agricultural purposes, as herein defined, and thereby suffers any ascertainable loss of money or property, real or personal, as the result of the use or employment by any merchant of a method, act or practice declared unlawful by section 17.403 of this subtitle, may bring an action under the rules of civil procedure in the court of appropriate jurisdiction in Howard County or in the appropriate court of the County in which the merchant resides or has his principal place of business, to recover actual damages. This court may, in its discretion, award punitive damages and provide such equitable relief as it deems necessary or proper.
- (b) In any action brought by a consumer under this section, the court may award, in addition to the relief provided in this section, reasonable attorney's fees and costs.

(C.B. 7, 1975; C.B. 33, 1980)

Sec. 17.407. - Filing of complaints by consumer.

Any consumer who has reason to believe that he or she has been subjected to an unlawful trade practice, as set forth in section 17.403, may file a complaint in writing with the Administrator, which shall state the name and address of the person alleged to have committed the violation complained of and the particulars thereof, and such other information as may be required by the Office.

(C.B. 7, 1975)

Sec. 17.408. - Procedures and enforcement.

- (a) *Administration.* Upon the filing of a complaint, as set forth in this subtitle, the Administrator of the Office shall cause such investigation as he or she deems appropriate to ascertain facts and issues. In making such investigations and determinations the Office may use the authority granted to it in section 17.401.

- (b) *Reasonable Grounds a Violation Has Occurred.* Whenever the Administrator determines that there are reasonable grounds to believe a violation has occurred, the Office shall commence with one or more of the following procedures, which it, in its sole discretion, deems appropriate:
- (1) *Conciliation.* Attempt to conciliate the matter, either by methods of initial conference and persuasion with all interested parties and such representatives as the parties may choose to assist them, or by such other methods as this office shall, in its discretion, deem appropriate. In attempting such conciliation to assist a complaining consumer to resolve the individual dispute, the Office may utilize the goods services of the Advisory Board on Consumer Protection. Conciliation conferences shall be informal, and nothing said or done during such initial conference shall be made public by the Office, the Board, or its members, unless the parties agree thereto in writing. The terms of the conciliation agreed to by the parties may be reduced to writing and incorporated into a written conciliation or settlement agreement to be signed by the parties, which written agreement is for conciliation purposes only and does not constitute an admission by any party that the law has been violated. A written conciliation or settlement agreement shall be signed, on behalf of the Office, by the Administrator of the Office.
 - (2) *Assurance of compliance or of discontinuance.* Accept a written assurance of compliance or assurance of discontinuance with respect to any matter which involved the violation of section 17.403 of this subtitle from any merchant who has engaged or was about to engage in any unlawful trade practice. Any such assurance shall be a matter of public record and shall be signed by the Administrator. No assurance of compliance or assurance of discontinuance shall constitute admission by any party thereto that there has been a violation of any law or regulation.
 - (3) *Refer to Office of Law.* Refer any matters to the Office of Law for appropriate action if in the opinion of the Administrator, such action is the most effective procedure to enforce or administer the provisions of this subtitle.
- (c) *Failure to Adhere to Assurance of Compliance or Discontinuance.* It shall be a violation of this subtitle to violate or fail to adhere to any provision contained in a written assurance of compliance or assurance of discontinuance or conciliation agreement. Any failure by the Office to act with regard to a violation of any provision of a written assurance or agreement shall not constitute a waiver of any right of the Office or provision of such assurance or agreement.
- (d) *Cooperation of Licensing Authorities and Other Government Agencies.* The Office is authorized to seek the cooperation of the licensing authorities and contact any Department of the Government of the County in connection with any investigation under this subtitle by the Office of any person licensed to do business within the County or having a contractual relationship with the Government of the County.
- (e) *Dismissal for Lack of Reasonable Grounds.* If the Administrator determines that the complaint lacks reasonable grounds upon which to base a violation of this subtitle, the Administrator may dismiss such complaint or order such further investigation as may be necessary.
- (f) *Referral to Office of Law.* If the Office, with respect to any matter which involves a violation of section 17.403, fails to effect an assurance of compliance or discontinuance or determines that a complaint is not susceptible of settlement, the Office may transmit the matter to the Office of Law for appropriate legal action.
- (g) *Other Venues and Remedies.* Nothing herein shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled or from filing any complaint with any other agencies or court of law or equity.
- (h) *Financial Stipulations and Conditions.* Any written assurance of discontinuance, conciliation or settlement agreement or any cease and desist order provided for by this subtitle may include stipulations or conditions for the payment, by the violator, of the cost of the investigation by the Office or its staff and may also include stipulations or conditions for the restitution, by the violator, to the consumer of money, property or other things received from such consumer in connection with a violation of this subtitle. The aforesaid stipulations and conditions shall not preclude the Office from

utilizing any other stipulation, condition or remedy, including the payment of stipulated penalties, it deems necessary to correct a violation of this subtitle.

(i) *Arbitration of Disputes:*

- (1) *Submission to arbitration.* Notwithstanding any other provisions of this title, the Office may enter into an agreement with a person in the County or State to submit a dispute arising under this title to arbitration in accordance with the Maryland Uniform Arbitration Act.
- (2) *Arbitration programs.* The Office may administer a program of voluntary arbitration of consumer disputes, including:
 - (i) The recruitment and training of volunteer arbitrators;
 - (ii) The education of the public and business community as to the benefits of arbitration.
- (3) *Clerical support.* The Office shall provide office space and clerical help for arbitration tribunals.

(C.B. 7, 1975; C.B. 32, 1994; C.B. 12, 2016, § 1)

Sec. 17.409. - Restitution or compensatory damages.

In any action brought pursuant to this subtitle, the County shall be authorized to seek appropriate restitution or compensatory damages for any consumer who has been harmed by any violation of this subtitle.

(C.B. 7, 1975)

Sec. 17.410. - Office investigation.

In the event the Administrator has reason to suspect that a merchant has engaged in an unlawful trade practice, as defined in this subtitle, the Administrator is hereby authorized to initiate an investigation of such suspected unlawful trade practice and to file, in writing, a statement of charges, which shall detail the alleged violation or violations, a copy of which shall be served on the merchant forthwith. A statement of charges may be filed at the commencement of an investigation or at such subsequent time as the Administrator, in the Administrator's sole discretion, deems appropriate. In no event shall legal action be instituted until at least 15 days following a statement of charges, during which time the respondent person shall be afforded an opportunity to appear before the Administrator for the purpose of negotiating a written assurance of discontinuance, as provided in this subtitle.

(C.B. 7, 1975)

Sec. 17.411. - Costs.

In any action brought under the provisions of this subtitle, the Office shall be entitled to recover from a violator the Office's costs for investigation and hearing.

(C.B. 7, 1975)

Sec. 17.412. - Penalties.

- (a) *Civil Penalties.* The Office of Consumer Protection may enforce the provisions of this subtitle with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A first violation of this subtitle shall be a Class B offense. Subsequent violations shall be Class A offenses.

- (b) *Penalty Recoverable in Civil Action.* Alternatively or in addition to and concurrent with other remedies, any merchant who commits a violation of any of the provisions of this subtitle relating to unlawful trade practices shall be liable for the payment to the County of a penalty, recoverable in a civil action of up to \$500.00 for each violation.
- (c) *Injunctive and Other Relief.* In addition, any merchant shall be subject to injunctive or other appropriate action or proceeding to correct any violation of this subtitle. Any court of competent jurisdiction may issue restraining orders, temporary or permanent injunctions or other appropriate forms of relief.

(C.B. 7, 1975; C.B. 32, 1985; C.B. 12, 2016, § 1; C.B. 20, 2018, § 1)

Sec. 17.413. - Severability.

The provisions of this subtitle are severable and, if any provision, sentence, clause, section or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this subtitle or their application to other persons and circumstances. It is hereby declared to be the legislative intent that this subtitle would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included therein, and if persons or circumstances to which the subtitle or any part thereof is inapplicable had been specifically exempted therefrom.

(C.B. 7, 1975)

SUBTITLE 5. - NEW HOME CONTRACT OF SALE

Sec. 17.500. - Definitions.

- (a) *New home* means any newly constructed residential dwelling unit. *New home* includes any single-family home, town house, row house, cooperative or condominium unit which has not been previously conveyed or sold to a buyer and includes any newly constructed residential dwelling unit constructed on real property owned by the seller or on real property owned by a buyer.
- (b) *Resale home* means any residential dwelling unit, including any single-family home, town house, row house, cooperative or condominium unit other than a "new home."
- (c) *Buyer* means the purchaser of a new home or resale home, provided, however, that the home is intended to be occupied by the buyer within three months following settlement.
- (d) *Agent of buyer* means any person expressly empowered by the buyer to execute a contract of sale or designated by the buyer to serve as the buyer's representative at a presettlement inspection at the buyer's sole cost and expense and, providing further, such designated person expressly agrees and consents to represent the buyer at the presettlement inspection. *Agent of buyer* does not include an employee or agent of the seller or an independent licensed real estate agent or sub-agent representing a seller.
- (e) *Seller* means any person or firm engaged in the business of constructing new homes, whether on real property owned by the seller or on real property owned by the buyer, or to whom a new home has been conveyed for resale in the course of business, or any person or firm engaged in selling a resale home. *Seller* does not include an agent of seller.
- (f) *Agent of seller* means any person expressly designated by the seller to represent the seller in the sale of a new or resale home and includes an employee of a seller or an independent, licensed real estate agent or sub-agent representing a seller in the sale of a new or resale home.

- (g) *Agent* shall include the singular as well as the plural and, in addition to a person, shall also include a firm, partnership, corporation or other form of business entity.

(C.B. 23, 1989; C.B. 47, 1991)

Sec. 17.501. - Right to new home presettlement inspection.

- (a) Not less than 14 hours nor more than 72 hours prior to the date of actual settlement, a buyer of a new home, or the agent of the buyer, shall have the right to inspect the new home. If mutually agreed upon in writing, the buyer and seller may provide for more than one presettlement inspection or for the pre-settlement inspection to occur less than 14 hours or more than 72 hours prior to the date of actual settlement. Not later than 14 calendar days prior to the date of actual settlement, the seller shall notify the buyer in writing of the proposed date and time of the presettlement inspection. Such written notice shall include three proposed presettlement inspection times on at least two different dates. The presettlement inspection unless agreed to otherwise by the buyer, shall be scheduled to commence between the hours of 10:00 a.m. and 8:00 p.m. The buyer upon receipt of the notice of presettlement inspection as herein provided from the seller, shall promptly notify the seller or the agent of the seller of which of the presettlement inspection dates and times proposed by the seller are accepted by the buyer. The seller shall make every reasonable effort to designate dates and times for the presettlement inspection reasonably convenient to the buyer.
- (b) The seller shall allow a reasonable time for the buyer or the agent of the buyer to conduct the presettlement inspection and shall provide the buyer or the agent of the buyer with reasonable access to the interior and exterior of the new home and the real property being conveyed, if applicable. At the time of the presettlement inspection, the seller shall arrange to have all utilities servicing the new home to be connected and turned on in order for the buyer or the agent of the buyer to inspect and test all fixtures, electrical, mechanical, including appliance, plumbing, heating and air-conditioning systems as installed in the new home.
- (c) Both the buyer and the seller, as well as the agent of the buyer and the agent of the seller, if requested to do so by their respective clients, may attend the presettlement inspection.
- (d) The right of a buyer to a presettlement inspection as provided for in this subtitle may not be waived in the contract of sale and any such purported waiver may not be enforced by the seller in a court of law.
- (e) A contract of sale for a new home shall include a notice advising the buyer of the buyer's rights as set forth in subsections (a), (b), (c) and (d) of this section. Said notice shall be deemed sufficient for the purposes of this section if the notice substantially informs the buyer of the buyer's right as set forth in subsections (a), (b), (c) and (d) of this section. The failure of the seller or agent of the seller to include the notice required by this section in the contract of sale shall not cause the contract of sale to be invalid, void, voidable or otherwise unenforceable by the seller or buyer.

(C.B. 23, 1989; C.B. 47, 1991)

Sec. 17.502. - Notice to buyers of new or resale homes of the availability of plans for road construction and land use in the County.

- (a) Sellers of new or resale homes shall notify buyers that the property may be affected by plans for roadway capital improvements and land use in Howard County and that such plans are available for examination at the Department of Planning and Zoning, 3430 Courthouse Drive, Ellicott City, Maryland 21043. Such notice shall take the following form:
- (1) Each contract for the sale of real property shall contain a clearly identified provision that notifies a prospective buyer of the buyer's right to examine the current Howard County general plan maps and current generalized zoning map.

- (2) A prospective buyer shall indicate by signing an addendum to the contract or a separate section of the contract printed in boldface type, that:
 - (i) The seller has notified the buyer of the buyer's right to examine the current general plan maps and current generalized zoning map; and
 - (ii) The buyer acknowledges such notification by the seller and understands that in order to become fully informed of current and future roadway improvements and land use plans, the buyer should consult the Howard County Department of Planning and Zoning, 3430 Courthouse Drive, Ellicott City, Maryland 21043.
 - (3) A seller of a new home shall have available in a model home or sales office a copy of the current general plan maps and generalized zoning map for Howard County. If a model home or sales office is not located in the same subdivision as the property, the seller of a new home shall have a copy of the maps available at the property.
 - (4) If notice of the availability of the general plan maps and generalized zoning map is provided to the buyer at the time of or within two days of entering into the contract of sale, then, not later than 11:59 p.m. on the second County Government business day immediately following the date of the buyer's acknowledgement of availability of the maps as required by this section, the buyer shall have the right, upon written notice to the seller, to rescind the contract of sale and to receive the return of all deposit money paid. If notice of the availability of the maps is provided to the buyer more than two days before entering into the contract of sale, then the buyer shall not have the right to rescind the contract of sale.
- (b) A contract of sale for a new or resale home shall include as an addendum or as a separate section of the contract a notice advising the buyer of the buyer's rights as set forth in subsection (a) of this section.
 - (c) The failure of the seller to provide notice of the availability of the maps required by this section or to include the notice required by this section in the contract of sale shall not cause the contract of sale to be invalid, void, voidable, or otherwise unenforceable by the seller or buyer.

(C.B. 47, 1991; C.B. 35, 1995)

Sec. 17.503. - Notice regarding oral statements or promises.

- (a) A seller of a new home shall include in the contract of sale, in conspicuous type or form, a notice to the buyer concerning oral statements, representations, warranties, or promises made by the seller or agent of the seller. Such notice shall be separately captioned or identified in the contract of sale and shall be in substantially the following form:

**NOTICE TO THE BUYER:
ORAL STATEMENTS, REPRESENTATIONS,
WARRANTIES AND PROMISES**

Any oral statements, representations, warranties or promises made to you prior to your execution of this contract of sale by the seller or agent of the seller may not be enforceable by you against the seller or agent of the seller in any subsequent legal or administrative proceeding unless such statements, representations, warranties or promises are in writing and signed by yourself and the seller, or agent of the seller. Any statements, representations, warranties or promises made to you by the seller or agent of the seller, upon which you rely, and which are not contained in this printed contract of sale form must be stated in a written addendum attached to this contract form which is to be signed by both yourself and the seller in order to make such statements, representations, warranties or promises part of the agreement between yourself and the seller and enforceable in any legal or administrative proceeding.

- (b) The failure of the seller or agent of the seller to include the notice required by this section in the contract of sale shall not cause the contract of sale to be invalid, void, voidable, or otherwise unenforceable by the seller or buyer.

(C.B. 23, 1989; C.B. 47, 1991)

Sec. 17.504. - Administration, enforcement and penalties.

- (a) This subtitle shall be administered by the Office of Consumer Protection.
- (b) The Office of Consumer Protection may enforce the provisions of this subtitle with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle shall be a Class B offense.
- (c) Alternatively or in addition to and concurrent with other remedies, a person who commits a violation of this subtitle is liable to the County for a penalty of up to \$500.00 for each offense, recoverable in a civil action.
- (d) The Office of Consumer Protection may seek an injunction to prohibit a person who has engaged or is engaging in a violation of this subtitle from continuing or engaging in the violation.

(C.B. 23, 1989; C.B. 47, 1991; C.B. 43, 2001, § 1; C.B. 12, 2016, § 1)

Sec. 17.505. - Applicability of this subtitle.

This subtitle shall apply to any written contract of sale for a new or resale home entered into between a buyer and seller on or after the effective date of this subtitle and shall not apply to any written contract of sale for a new or resale home entered into between a buyer or seller prior to the effective date of this subtitle, or to any written extension, amendment or modification to any written contract of sale of a new or resale home entered into between a buyer or seller prior to the effective date of this subtitle.

(C.B. 23, 1989; C.B. 47, 1991)

Sec. 17.506. - Severability.

If any word, clause, paragraph or section of this subtitle shall be ruled invalid or unconstitutional by a court of competent jurisdiction, it shall not affect the validity of this subtitle as a whole or any part thereof other than that portion so judged to be invalid or unconstitutional.

(C.B. 47, 1991)

SUBTITLE 6. - TOWING FROM PRIVATE PROPERTY

Sec. 17.600. - Purpose; scope; definition.

- (a) *Purpose.* The purpose of this subtitle is to protect the health, safety, and welfare of County residents and to regulate and authorize the County Council to set maximum rates for the towing of vehicles from private property. This subtitle does not authorize the towing or holding of any vehicle. To the extent that legal authority to tow or hold a vehicle without the consent of its owner exists, that authority shall be derived from other statutes or the common law. This subtitle restricts the exercise of any such legal authority.
- (b) *Scope:*

- (1) This subtitle applies to the towing of a vehicle from private property without the consent of the vehicle owner.
- (2) This subtitle does not apply to:
 - (i) Towing initiated by the vehicle owner;
 - (ii) Towing approved or requested by a Police Officer, firefighter, or rescue squad member in the course of removing impediments to traffic or during the course of a criminal investigation or under State law regulating abandoned vehicles;
 - (iii) Towing a vehicle during a repossession of the vehicle;
 - (iv) Towing from a marked fire lane;
 - (v) Towing from a designated as a parking space for persons with disabilities;
 - (vi) Towing from the yard or driveway of a single-family dwelling; or
 - (vii) Towing from land immediately adjoining an electric or telephone utility building or structure that is not open to the general public.
- (c) *Definitions.* Words and phrases used in this subtitle shall have their usual meanings, except as defined below:
 - (1) *Property manager* means any person who manages property on behalf of an owner.
 - (2) *Property owner* includes any person in lawful possession or control of property. The owner of general common elements of a condominium is the Council of unit owners or the Council's agent for parking management. The owner of limited common elements of a condominium is the unit owner or owners who have the Executive right to use the common elements, or the agent of that unit owner or owners.
 - (3) *Redemption area* means an area or building where a vehicle owner may pay any charges necessary to redeem a vehicle.
 - (4) *Storage site* means any land or building used by a towing service to store towed vehicles.
 - (5) *Tow or towing* means the removal or preparation to remove any vehicle by another vehicle for compensation.
 - (6) *Tow truck* includes any vehicle which may tow or attempt to tow a vehicle from private property.
 - (7) *Trespass towing service or towing service* means any person who tows any vehicle from private property for compensation without the consent of the vehicle owner.
 - (8) *Unauthorized vehicle* means any vehicle which a property owner has not consented to have parked on the property.
 - (9) *Vehicle* means a device that is able to transport persons or property on a public highway and is required to be registered pursuant to title 13 of the transportation article of the Annotated Code of Maryland.
 - (10) *Vehicle owner* means the person in whose name title to a vehicle is registered.

(C.B. 90, 1991; C.B. 43, 2001, § 1; C.B. 71, 2004; C.B. 71, 2004; C.B. 14, 2014, § 1)

Sec. 17.601. - Maximum rates.

- (a) When towing a vehicle from private property without the consent of the vehicle owner, a towing service shall not charge more than maximum rates which are set annually by resolution of the County Council.
- (b) Fair and reasonable maximum rates shall be set for each of the following acts:

- (1) Attaching the vehicle to be towed to the tow truck.
 - (2) Towing the vehicle to a storage site. This rate shall be based on the distance the vehicle is towed.
 - (3) Storing the vehicle. This rate shall be based on 12-hour time periods during which the vehicle remains in the custody of the towing service. No set charge shall accrue for a time period until at least six hours of the time period has elapsed. The full charge accrues for any portion of the remaining six hours in which the vehicle remains in the custody of the towing service. The charge shall not begin to accrue until after the towing service provides the notice required by section 17.604 of this subtitle.
 - (4) Any other service needed to safely remove a vehicle.
- (c) A vehicle owner may be charged a fee for releasing a vehicle under section 17.607 that shall not exceed one-half the attachment fee set under subsection (b)(1) of this section.
 - (d) A vehicle owner may be charged a fee for providing notice under section 17.604(d) that shall not exceed the actual cost of providing that notice.
 - (e) A towing service shall not charge for any act not listed in this section unless that act was expressly requested by the vehicle owner.

(C.B. 90, 1991; C.B. 43, 2001, § 1; C.B. 71, 2004; C.B. 2, 2013, § 1.1)

Sec. 17.602. - Administration; rates; registration; hearing.

- (a) Each tow truck operated by a trespass towing service shall be identified, registered, and insured as required under State law, except that any required lettering shall be placed on both sides of the truck. Each driver employed by a trespass towing service shall be at least 18 years of age and shall have a valid license to operate a tow truck.
- (b) Each trespass towing service shall be registered with the Office of Consumer Protection and shall pay annually in January a registration fee recommended by the Consumer Protection Administrator and which is set annually by resolution of the County Council.
- (c) Every trespass towing service shall file with the Office of Consumer Protection a schedule of its rates for each action connected with the towing or storage of unauthorized vehicles.
- (d) A trespass towing service shall not charge a rate that is higher than the rate on file with the Office of Consumer Protection for any action in connection with the towing or storage of any unauthorized vehicle.
- (e) Each trespass towing service shall inform the Office of Consumer Protection of the type of business organization or ownership in which the service operates and the address of a person authorized to accept service.
- (f) Each trespass towing service shall enter into a written contract with every owner of private property that authorizes the towing service to tow vehicles from its property. The towing service shall keep on file each contract that is in effect, or that was terminated within the previous 12 months. The Office of Consumer Protection, the Police Department or the owner of any vehicle towed by the service may inspect and copy any contract during normal business hours. The cost of photocopying the contract shall be no more than the County charges the public for photocopying County documents. The Office of Consumer Protection may issue model contracts that meet the requirements of this subsection.
- (g) The Office of Consumer Protection may revoke the registration of trespass towing services which violate the provisions of this subtitle. The Administrator shall send a written decision to the trespass towing service stating that the registration has been revoked and the reasons for the revocation. The decision shall indicate the right of the trespass towing service to a hearing before the Administrator of the Office of Consumer Protection or the Administrator's designee under the Administrative Procedures Act set forth at title 2, subtitle 1 of the Howard County Code.

- (h) A towing service may appeal a decision of the Office of Consumer Affairs to revoke its registration to the Administrator or the Administrator's designee within 30 days of the date of the decision. The hearing on a decision to revoke a towing service's registration shall be conducted in accordance with title 2, subtitle 1, article III of the Howard County Code, the Administrative Procedures Act, and shall be heard by the Administrator of the Office of Consumer Protection or the Administrator's designee.
- (i) Within 30 days of the date of a decision of the Administrator of the Office of Consumer Protection, or the Administrator's designee, to revoke a towing service's registration, the towing service may appeal that decision to the Board of Appeals pursuant to the procedures set forth in title 2, subtitle 2 of the Howard County Code. The appeal to the Board of Appeals shall be heard on the record of the hearing before the Office of Consumer Protection in accordance with the procedures set forth in subsection 2.210(b) of the Howard County Code.

(C.B. 90, 1991; C.B. 71, 2004; C.B. 12, 2016, § 1)

Sec. 17.603. - Public notice; tow procedures.

- (a) *Requirement.* A property owner and towing service shall comply with all applicable provisions of this section when exercising the property owner's right to remove an unauthorized vehicle from their property.
- (b) *Signs.* Except as provided in paragraph (3) of this subsection, a property owner shall post a sign notifying the public of parking restrictions at least 24 hours before towing or ordering the towing of an unauthorized vehicle in accordance with the following provisions:
 - (1) There shall be a sufficient number of signs permanently posted so that:
 - (i) At least one sign is clearly visible from each parking area and each vehicle entrance to the property at all times; or
 - (ii) In a parking lot with more than 45 parking spaces, at least one sign shall be posted in a conspicuous place for each 45 parking spaces and each sign shall be able to be read from all affected spaces; and
 - (2) Each sign shall:
 - (i) Be at least 24 inches high by 30 inches wide;
 - (ii) Summarize all parking restrictions enforced on the property, including time and area restrictions;
 - (iii) State that a vehicle that violates the restrictions may be towed at the vehicle owner's expense;
 - (iv) State that County and State law require that towed vehicles be available for redemption 24 hours per day, seven days per week;
 - (v) State the maximum amount that the owner of the vehicle may be charged for the towing or removal of an unauthorized vehicle;
 - (vi) List the name and telephone number of each towing service hired to tow unauthorized vehicles from the property and the location to which the vehicle will be towed;
 - (vii) State that a vehicle owner may contact the Office of Consumer Protection and state the phone number of the Office;
 - (viii) Be sized, printed, and located so that it is able to be read by motorists in daylight and at night; and
 - (ix) Be maintained in a legible and unobstructed condition.
 - (3) A property owner of residential property, including, without limitation, a condominium, cooperative, or homeowners' association, may have an unauthorized vehicle towed from that

property without posting signs required by this subsection if the owner provides notice to the vehicle which:

- (i) Is securely attached to the vehicle in a conspicuous place;
- (ii) Specifies the violation of an applicable rule or covenant;
- (iii) Includes the date and time it was attached to the vehicle; and
- (iv) Informs the vehicle owner that the violation shall be corrected or the vehicle removed within the time period set forth in an applicable rule or covenant unless there is no rule or covenant, in which case the violation shall be corrected or the vehicle removed within 48 hours after the notice is attached.

(c) *Tow Procedures.* Each tow conducted pursuant to this subtitle shall be conducted in the following manner:

(1) Except as provided in paragraph (2) of this subsection, a towing service shall not tow a vehicle from private property unless the property owner has directly or through an agent expressly authorized the towing of the particular vehicle. Authorization shall be in the form of a tow slip. The Office of Consumer Protection may issue a model tow slip. The tow slip shall:

- (i) Contain the following information:
 - a. The address from which the vehicle was towed;
 - b. The date and time the vehicle was towed;
 - c. The make, model, year, and color of the vehicle;
 - d. If available, the vehicle identification number;
 - e. The reason the vehicle was towed;
 - f. The name and signature of the tow operator and the person who authorized the vehicle to be towed; and
 - g. The name and phone number of the Office of Consumer Protection; and
- (ii) Be signed by the property owner, or the owner's agent, and the driver of the tow truck immediately before the vehicle is towed; and
- (iii) Be legibly copied and a copy of which shall be securely attached to the vehicle.

(2) An unauthorized vehicle may be towed from private property without the express authorization of the property owner or the property owner's agent only if the vehicle is directly blocking access to the property or to a building on the property.

(d) *Prohibited Activities:*

(1) A property owner, agent of a property owner, or any officer or employee of a towing service shall not:

- (i) Falsely state that a property owner authorized the towing of a particular vehicle;
- (ii) Record any false information about the towing of a particular vehicle; or
- (iii) Sign a tow slip before all of the information relating to the towing of a particular vehicle is recorded on the slip.

(2) A towing service shall not charge a vehicle owner any fee for the services of a property owner's agent.

(3) A person shall not act as a property owner's agent for the purpose of ordering the towing of an unauthorized vehicle unless the property owner or property manager has given express written permission to act.

- (4) An agent of a property owner, for the purpose of ordering the towing of an unauthorized vehicle, shall not:
 - (i) Be employed by, or have any member of their immediate family employed by, any towing service; or
 - (ii) Have any financial interest in any towing service or the towing of any vehicle.
 - (5) A towing service shall not employ or otherwise compensate individuals, commonly referred to as "spotters," whose primary task is to report the presence of unauthorized parked vehicles for the purposes of towing or removal.
 - (6) A vehicle may not be towed from private property solely for a violation of failure to display a valid current registration under Section 13-411 of the Transportation Article of the Annotated Code of Maryland until 72 hours after a notice of violation is placed on the vehicle.
- (e) *Towing a Vehicle within a Parking Lot:*
- (1) A property owner may tow a vehicle within a parking lot without prior notice to the vehicle owner if towing the vehicle is necessary to:
 - (i) Remove large quantities of snow or debris;
 - (ii) Repair the parking lot; or
 - (iii) Respond to a threat to a person's safety or health.
 - (2) When towing a vehicle within a parking lot pursuant to this subsection, a property owner shall:
 - (i) Take reasonable care not to damage the vehicle;
 - (ii) Pay any cost of towing the vehicle; and
 - (iii) Either inform the vehicle owner where the vehicle was relocated or return the vehicle to its original location as soon as possible.

(C.B. 90, 1991; C.B. 12, 1994; C.B. 43, 2001, § 1; C.B. 71, 2004; C.B. 2, 2013, § 1.2; C.B. 12, 2016, § 1)

Editor's note— Section 2 of C.B. 90, 1991 declared this section effective Jan. 1, 1992.

Sec. 17.604. - Notice.

- (a) A towing service that tows an unauthorized vehicle from private property shall notify the Police Department and the Office of Consumer Protection of the following information within one hour after leaving the property:
 - (1) The name of the towing service;
 - (2) The make, model, color, year, vehicle identification number and registration plate number of the towed vehicle;
 - (3) The address the vehicle was towed from;
 - (4) The time the vehicle was towed; and
 - (5) The storage site where the vehicle will be stored.
- (b) The towing service shall notify the Police Department within 24 hours if it moves the vehicle to another storage site.
- (c) If a vehicle has not been redeemed within three days after towing or removing the vehicle, the towing service shall notify the owner, any secured party, and the insurer of record by certified mail,

return receipt requested, and first class mail, of the same information required to be given to the Police Department and Office of Consumer Protection in subsection (a) of this section.

- (d) The towing service shall provide to the owner, any secured party, and the insurer of record the itemized actual costs of providing notice under this section.
- (e) The towing service shall retain each tow slip and, and for those vehicles towed without tow slips as provided in section 17.603(c)(2), a record of the information furnished to the police, for 12 months after the tow. For each vehicle towed without a tow slip, the towing service shall record and retain the name of the owner of the property and, if the tow was authorized by an agent, the name of the agent. The Police Department, the Office of Consumer Protection and the owner of any vehicle towed by the service may inspect and copy this information at any time during normal business hours.
- (f) If a towing service tows an unauthorized vehicle from private property when the Office of Consumer Protection is closed, the towing service shall notify the Office of the tow before 10:00 a.m. on the next business day following the tow, either by telephone or by facsimile machine.

(C.B. 90, 1991; C.B. 43, 2001, § 1; C.B. 71, 2004; C.B. 2, 2013, § 1.3; C.B. 12, 2016, § 1)

Editor's note— C.B. 2, 2013, § 1.3, amended § 17.604 title to read as herein set out. Former § 17.604 title pertained to notice to police and Office of Consumer Affairs. Section 2 of C.B. 90, 1991 declared this section effective Jan. 1, 1992.

Sec. 17.605. - Reserved.

Editor's note— Section 2 of C.B. 71, 2004, repealed former section 17.605 in its entirety which pertained to notification of vehicle owner and the right of hearing concerning the validity of the towing. Former section 17.605 derived from C.B. 90, 1991.

Sec. 17.606. - License plates and placards for persons with disabilities.

A vehicle with a valid license plate or placard for persons with disabilities conspicuously displayed shall not be towed from private property without the consent of the vehicle owner unless:

- (a) The tow is expressly authorized by a Police Officer or member of the Department of Fire and Rescue Services; or
- (b) The vehicle is blocking a clearly marked fire lane or access to another vehicle, the property, or a building.

(C.B. 90, 1991; C.B. 71, 2004; C.B. 14, 2014, § 1)

Sec. 17.607. - Incomplete tow.

- (a) If a vehicle owner returns to an unauthorized vehicle at any time after the vehicle is attached to the tow truck but before it is towed from private property, the towing service shall release the vehicle to the vehicle owner when the vehicle owner pays a release fee. The release fee shall be as set forth in the resolution adopted pursuant to subsection 17.601(c) of this subtitle. The towing service shall not charge any other fee for attaching or releasing the vehicle.
- (b) A towing service shall not block an unauthorized vehicle with a tow truck to obtain payment from the vehicle owner before attaching the vehicle to the tow truck.
- (c) The towing service shall provide a receipt that meets the requirements of subsection 17.608(f) of this subtitle, indicating the release fee paid and the date of the incomplete tow.

- (d) A Police Officer may order a towing service to release a vehicle, or to stop attaching a vehicle, at any time.
- (e) This section does not:
 - (1) Create or imply a lien in favor of a towing service when a lien would not otherwise exist; or
 - (2) Create a right of any towing service to retain possession of any vehicle that it would otherwise have to return to the vehicle owner.

(C.B. 90, 1991; C.B. 71, 2004; C.B. 2, 2013, § 1.4)

Sec. 17.608. - Redemption and storage procedures.

- (a) *Storage of Towed Vehicles.* Every storage site shall comply with the following conditions:
 - (1) A storage site shall not be located more than 12 miles from the origin of the tow and the towing service may not move the towed vehicle from that storage facility to another storage facility for at least 72 hours after the vehicle has been towed;
 - (2) A storage site shall be brightly lit at all times;
 - (3) A towed vehicle shall not be stored more than a reasonable walking distance from a redemption area;
 - (4) The towing service shall keep the towed vehicle and its contents secure at all times; and
 - (5) The storage lot shall be identified by a sign at the entrance indicating the name and telephone number of the tow service.
- (b) *Redemption of Towed Vehicles.* The trespass towing service shall be open for redemption of vehicles 24 hours per day, seven days a week.
- (c) *Inspection and Retrieval of Personal Property.* A storage site that is in the possession of a towed vehicle shall make the vehicle available to the owner, the owner's agent, a secured party, or the insurer of record, under the supervision of the storage site, for:
 - (1) Inspection; or
 - (2) Retrieval from the vehicle of personal property that is not attached to the vehicle.
- (d) *Payment and Promise to Pay:*
 - (1) *Applicability.* This subsection applies to payment of any charge arising from the towing or storage of a vehicle without the vehicle owner's consent and to payment for an incomplete tow under section 17.607.
 - (2) *Purpose.* This section does not:
 - (i) Create or imply a lien in favor of a towing service when a lien would not otherwise exist; or
 - (ii) Create a right of any towing service to retain possession of any vehicle that it would otherwise have to return to the vehicle owner.
 - (3) *Cash payment.* A trespass towing service shall accept payment in cash, or by a traveler's check accompanied by reasonable identification.
 - (4) *Options:*
 - (i) Each trespass towing service shall accept as full payment either a credit card or a personal check, at the option of the towing service, validly signed by the vehicle owner or the vehicle owner's agent for the amount of all valid charges.
 - (ii) Each trespass towing service shall notify the Office of Consumer Protection on the rate schedule filed under section 17.602 of this subtitle whether it opts to accept credit cards or

personal checks or both. The towing service shall notify the Office of Consumer Protection if it changes that option.

- (iii) The option chosen by a trespass towing service shall be available to the owners of all vehicles towed by that service without the consent of their owners.
- (5) *Credit card options:*
 - (i) If a credit card is accepted, each trespass towing service shall accept two major credit cards.
 - (ii) In addition, if a trespass towing service accepts any other credit card for any other purpose, it shall accept that credit card under this section.
- (6) *Personal check option.* If a trespass towing service does not accept credit cards, it shall accept a personal check, with reasonable identification, if the vehicle is registered in Maryland.
- (e) *Rates Displayed .* Every trespass towing service shall display prominently, at each redemption area, a copy of its current rates and a statement that these rates do not exceed the rates filed with the Office of Consumer Protection. Every trespass towing service shall also display prominently a sign, furnished at a reasonable fee by the Office of Consumer Protection, listing the office's telephone number and summarizing the vehicle owner's rights under this subtitle.
- (f) *Storage Fee.* A trespass towing service shall not charge a storage fee for any time before the vehicle actually reaches the storage site or the service notifies the Police Department under section 17.604, whichever is later.
- (g) *Receipt .* Upon receiving payment, a towing service shall furnish the vehicle owner a receipt on a form approved by the Office of Consumer Protection. The receipt shall:
 - (1) Record the amount paid to redeem the vehicle, the actions for which the vehicle owner paid, and the date and time of the redemption;
 - (2) Be signed legibly by an agent of the towing service, and list the name, address and telephone number of the towing service;
 - (3) Briefly inform the vehicle owner that the Office of Consumer Protection can explain the vehicle owner's rights. If the vehicle owner believes that any provision of County law has been violated the vehicle owner may obtain a copy of the law from the Office of Consumer Protection.
- (h) *Damage Waiver.* A trespass towing service shall not require a vehicle owner to sign any waiver of the vehicle owner's right to receive compensation for damages to the vehicle.

(C.B. 90, 1991; C.B. 43, 2001, § 1; C.B. 71, 2004; C.B. 2, 2013, § 1.5; C.B. 12, 2016, § 1)

Sec. 17.609. - Reserved.

Editor's note— Section 2 of C.B. 71, 2004, repealed former section 17.609 in its entirety which pertained to liability for damages and derived from § 2 of C.B. 90, 1991.

Sec. 17.610. - Rebates prohibited.

A towing service shall not pay or offer to pay a property owner and a property owner shall not accept payment for authorizing the towing of a vehicle from any private property.

(C.B. 90, 1991)

Editor's note— Section 2 of C.B. 90, 1991 declared this section effective Jan. 1, 1992.

Sec. 17.611. - Penalties.

- (a) The Office of Consumer Protection may take any action at law or in equity, including injunction and mandamus, to enforce the provisions of this subtitle.
- (b) Alternatively or in addition to and concurrent with other remedies, the Office of Consumer Protection may:
 - (1) Seek a civil fine not to exceed \$1,000.00 for any violation of this subtitle; or
 - (2) Enforce the provisions of this subtitle with penalties as provided in title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle shall be a Class A offense. Each day that a violation continues is a separate violation.

(C.B. 90, 1991; C.B. 43, 2001, § 1; C.B. 71, 2004; C.B. 12, 2016, § 1)

Editor's note— Section 2 of C.B. 90, 1991 declared this section effective Jan. 1, 1992.

Sec. 17.612. - Severability.

If any part of this subtitle is held to be invalid, the invalidity shall not affect the other parts.

(C.B. 90, 1991)

SUBTITLE 7. - ALARMS^[5]

Footnotes:

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Editor's note— Subtitle 7, §§ 17.701—17.720, was added by C.B. 12, 2000, effective July 24, 2000.

State Law reference— False emergency alarms, Ann. Code of Md., Criminal Law article, § 9-607 et seq.

Sec. 17.701. - Definitions.

- (a) *Alarm business* means:
 - (1) A person engaged in the business of installing, maintaining, inspecting, selling, servicing, or repairing alarm systems, or
 - (2) A person engaged in the business of an alarm monitor.
- (b) *Alarm monitor* means an alarm business that receives alarm signals from alarm sites for the purpose of making dispatch requests.
- (c) *Alarm signal* means the activation of an alarm system.
- (d) *Alarm site* means:
 - (1) A single premises or location served by an alarm system or systems.
 - (2) An alarm site may be composed of multiple zones.
 - (3) Each tenancy, if served by a separate alarm system in a multitenant building or complex, is a separate alarm site.

- (e) *Alarm system* means:
- (1) A device or series of devices at an alarm site, including systems interconnected with radio frequency signals, which are designed to discourage crime by emitting or transmitting a remote or local audible, visual, or electronic signal indicating an alarm condition.
 - (2) *Alarm system* does not include:
 - (i) An alarm installed on a vehicle, unless the vehicle is permanently located at a site; or
 - (ii) An alarm designed to alert only the inhabitants of a premises, which does not have a sounding device that can be heard on the exterior of the alarm site.
- (f) *Alarm user* means:
- (1) An individual, firm, partnership, corporation or other entity that uses or is in control of an alarm system.
 - (2) *Alarm user* includes a tenant of rented or leased property who uses an alarm system on the property.
- (g) *Dispatch request* means a notification to a law enforcement agency that an alarm system, either manual or automatic, has been activated at an alarm site, and summoning a law enforcement response to the site.
- (h) *False alarm* means:
- (1) An alarm system activation:
 - (i) That results in a dispatch request;
 - (ii) That is not canceled prior to the arrival of police personnel at the site; and
 - (iii) For which there is no evidence of criminal activity to justify a police response.
 - (2) *False alarm* includes an alarm system activation that:
 - (i) Is activated negligently or accidentally, or that is the result of faulty, malfunctioning, or improperly installed or maintained equipment;
 - (ii) That was intentionally activated to summon the police for a nonemergency situation; or
 - (iii) That was activated as the result of weather conditions, without visible evidence of severe conditions directly effecting the alarm site (e.g., tree striking building, object blown through window, etc.).

(C.B. 12, 2000)

Sec. 17.702. - Alarm Administrator.

There is an Alarm Administrator for Howard County within the Howard County Police Department, who is the individual designated by the Chief of Police of Howard County to administer, control, and review alarm applications, false alarm responses, and appeals.

(C.B. 12, 2000)

Sec. 17.703. - Alarm business registration.

- (a) *Registration Required.* An alarm business may not install, maintain, inspect, sell, service, or repair an alarm system, or act as an alarm monitor in Howard County unless the business obtains an alarm business registration certificate under this subtitle.
- (b) *Application; Fee; Duration; Renewal:*

- (1) An alarm business shall apply to the Alarm Administrator for a registration certificate as provided in this subsection.
 - (2) An application under this subsection shall be in the form prescribed by the Alarm Administrator and shall be accompanied by the application fee of \$25.00.
 - (3) An alarm business registration is effective for a period of two years. At least 30 days prior to the expiration date, Alarm Administrator shall notify the business of the expiration date and the procedures for renewal of the registration.
 - (4) Prior to the registration expiration date, the alarm business shall submit an application to renew the registration. There is no fee for the renewal of a registration.
 - (5) The Alarm Administrator shall waive the application fee under this subsection if the alarm business provides written documentation that the business holds a license under title 3, subtitle 2 of the County Code to do electrical work in Howard County.
- (c) *False Statements.* A false statement of a material matter made by an applicant for the purpose of obtaining an alarm business registration shall be sufficient cause for refusal of registration.
- (d) *Registration Not Transferable.* An alarm business registration is not transferable.
- (e) *Changes in Registration Information.* An alarm business shall inform the Alarm Administrator in writing within ten business days of a change that alters any information contained on the registration application.
- (f) *Information Confidential.* Information contained in the alarm business registration shall be held in confidence by all employees or representatives of Howard County.
- (g) *Violations:*
- (1) A person acting as an alarm business without a registration certificate under this section is guilty of a civil violation, which is enforceable under title 24 of the County Code. A violation is a Class A offense.
 - (2) Each event that violates the provisions of this section shall be a separate offense.

(C.B. 12, 2000)

Sec. 17.704. - Alarm system registration.

- (a) *Registration Required.* An alarm user may not operate or cause to be operated an alarm system that results in a dispatch request unless the alarm system is registered with the Alarm Administrator.
- (b) *Application—Duration; Renewal:*
 - (1) The alarm business that installs or monitors an alarm system shall provide the user with information and forms necessary to register each alarm system the business installs or monitors.
 - (2) An application under this subsection shall be in the form prescribed by the Alarm Administrator and shall be accompanied by the application fee of \$25.00.
 - (3) An application shall be submitted within five days after an alarm installation or taking control by a user of an existing alarm system that was previously controlled by another alarm user.
 - (4) An application for an alarm system registration shall include:
 - (i) The name, address, and telephone number of the alarm user;
 - (ii) Specific details regarding the use and purpose of the alarm system, e.g. burglary, holdup, duress, or other;
 - (iii) Signed certification from the alarm user stating:

- a. The date of installation of the alarm system;
 - b. The name and phone number of the alarm business performing the alarm system installation and responsible for providing repair service to the system;
 - c. That the alarm user has received a set of written operating instructions for the alarm system, including guidelines on how to avoid false alarms; and
 - d. The name, address, and phone number of at least one person who is able to respond within 30 minutes to an alarm site to deactivate the alarm.
- (5) An alarm system registration is effective for a period of two years. At least 30 days prior to the registration expiration date, the Alarm Administrator shall notify the alarm user of the expiration date and of the procedure for renewal of the registration.
- (6) Prior to the registration expiration date, the alarm user shall submit an application to renew the registration. There is no fee for the renewal of a registration.
- (c) *False Statements.* A false statement of a material matter made by an applicant for the purpose of obtaining an alarm system registration shall be sufficient cause for refusal of registration.
- (d) *Registration Not Transferable.* An alarm system registration is not transferable.
- (e) *Changes in Registration Information.* An alarm user shall inform the Alarm Administrator in writing within ten business days of a change that alters any information listed on the registration application.
- (f) *Information Confidential.* Information contained in the alarm registration shall be held in confidence by all employees or representatives of Howard County.

(C.B. 12, 2000)

Sec. 17.705. - Alarm systems in apartments.

- (a) *Alarm System Located in Residential Unit.* If a residential unit in an apartment complex is equipped with an alarm system, the tenant of the unit shall register the system under section 17.704 of this subtitle.
- (b) *Alarm System Not Located in Rental Unit.* The owner or manager of an apartment complex shall register an alarm system operated in a nonresidential area of the apartment complex.
- (c) *Enforcement.* For purposes of enforcement under this subtitle, a tenant in a residential apartment unit is responsible for a false alarm emitted from the alarm system in the tenant's unit.

(C.B. 12, 2000)

Sec. 17.706. - Alarm system standards.

- (a) *Installation.* An alarm business that installs an alarm system shall have at the alarm installation-site at least one employee, to supervise the installation, who has passed and maintained a minimum level 1 certification by NBFAA, or equivalent training, as determined by the Alarm Administrator.
- (b) *System Standards and Testing.* The components of an alarm system shall be included in a list published by Underwriters Laboratories, Factory Mutual, or other list approved by the Alarm Administrator, which states either that the components meet appropriate designated standards or have been tested and found suitable for use in a specified manner.
- (c) *Certain Dialers Prohibited.* An alarm system may not utilize a digital dialer or automatic telephone dialing system, which transmits signals through the telephone network to the Howard County Bureau of Communications.

(C.B. 12, 2000)

Sec. 17.707. - Alarm system operation and maintenance.

- (a) *Duties of Alarm User.* An alarm user:
- (1) Shall maintain the alarm site and the alarm system in a manner that minimizes or eliminates false alarm signals;
 - (2) Shall take reasonable measures to ensure a response to the alarm site within thirty minutes after notification by the County to deactivate a malfunctioning alarm system, to provide access to the premises, or to provide security for the alarm site; and
 - (3) Shall not manually activate an alarm for any reason other than the occurrence of an event that the alarm system was intended to report.
- (b) *Audible Signal.* An alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an alarm site will not sound for longer than 15 minutes after being activated.
- (c) *System Inspection for Recurring False Alarms:*
- (1) If an alarm system emits five false alarms at an alarm site within any 12-month period, the Alarm Administrator shall require the alarm user to have the alarm system inspected by an alarm business and to submit an alarm system certification to the Alarm Administrator. If, within any 12-month period, the alarm system emits five false alarms subsequent to a certification under this paragraph, the Alarm Administrator shall require the alarm user to have the alarm system reinspected by an alarm business and to submit another alarm system certification.
 - (2) Within 30 days of the request for inspection under paragraph (1) of this subsection, the alarm user shall submit to the Alarm Administrator an alarm system certification prepared by an alarm business.
 - (3) An alarm system certification under this subsection shall certify that the alarm system meets the requirements of this subtitle and any other applicable local building and fire codes, and State or national codes.

(C.B. 12, 2000)

Sec. 17.708. - Monitoring procedures.

- (a) *Procedures for Alarm Monitor.* An alarm monitor shall:
- (1) Report alarm signals by using telephone numbers designated by the Alarm Administrator;
 - (2) Except for a duress or robbery alarm activation, and before making a dispatch request, attempt to verify an alarm signal by contacting the alarm site by telephone or other electronic means to confirm a valid alarm;
 - (3) Communicate alarm signals to the County in a manner and form determined by the Alarm Administrator; and
 - (4) Communicate verified cancellations of alarm dispatch requests to the County in a manner and form determined by the Alarm Administrator.
- (b) *Duties of Alarm Administrator.* The Alarm Administrator shall:
- (1) Designate the manner, form, and telephone numbers for the communication of alarm dispatch requests; and
 - (2) Develop a procedure to accept verified cancellations of alarm dispatch requests.

(C.B. 12, 2000)

Sec. 17.709. - Alarm operating instructions.

- (a) *Instructions at Sites.* An alarm user shall maintain at each alarm site, a set of written operating instructions for each alarm system. The written instructions shall include guidelines regarding how to avoid false alarms.
- (b) *Business to Provide.* An alarm business that installs an alarm system shall provide to the alarm user instructions on the proper use of the system.

(C.B. 12, 2000)

Sec. 17.710. - "One plus" duress and hold-up alarms.

- (a) *Definitions.* In this section, the following terms have the meanings indicated.
 - (1) *Single-action hold-up alarm* means a silent alarm signal generated by the manual activation of a single-action, nonrecessed button.
 - (2) *"One-plus" duress alarm* means an alarm that is triggered when the alarm user enters the standard user code plus any other one digit.
- (b) *Prohibited after January 1, 2001.*
 - (1) After January 1, 2001 an alarm business may not program an alarm system so that it is capable of sending a "one-plus" duress alarm.
 - (2) After January 1, 2001 an alarm business may not install a single-action hold-up alarm.
- (c) *Removal of Capability:*
 - (1) After January 1, 2001, when an alarm user takes control over an alarm system from another user, the user shall remove any "one-plus" duress alarm capability or single-action hold-up alarm from the alarm system.
 - (2) After January 1, 2001, when an alarm monitor begins attending an alarm system that was previously monitored by another alarm monitor, the alarm monitor shall remove any "one-plus" duress alarm capability or single-action hold-up alarm from the alarm system.
 - (3) If an alarm system inspection under subsection 17.707(c) of this subtitle is ordered, the alarm business conducting the inspection shall remove any "one-plus" duress alarm capability or single-action hold-up alarm from the alarm system.

(C.B. 12, 2000)

Sec. 17.711. - Alarm signals.

- (a) *Dispatch Records.* The Department of Police and the Bureau of Communications shall record, for each alarm signal:
 - (1) The date and time of receipt of the dispatch request;
 - (2) Area or subarea of premises, if any;
 - (3) The location of the alarm site;
 - (4) The alarm registration number for the alarm site;
 - (5) Police personnel dispatch time and police arrival time at the alarm site;

- (6) Identification of the responsible alarm monitor; and
- (7) Disposition of the response.
- (b) *False Alarm Reports.* The responding Police Officer shall indicate whether the dispatch was a false alarm.
- (c) *Verified False Alarm:*
 - (1) In the case of a verified false alarm signal, the responding Police Officer shall notify the Alarm Administrator, who shall send a notice, by first-class mail, postage paid, to the alarm user, notifying the user that the police responded to a false alarm.
 - (2) The notice under this subsection shall contain:
 - (i) The date and time of the police response to the false alarm signal;
 - (ii) The identification number of the responding Police Officer; and
 - (iii) A request to the alarm user to ensure that the alarm system is properly operated, inspected, and serviced in order to avoid fines.
- (d) *Records of Alarm Monitor:*
 - (1) An alarm monitor shall maintain for a period of at least one year, a record relating to a dispatch request.
 - (2) A record under this subsection shall contain:
 - (i) The name, address and phone number of the alarm user;
 - (ii) The alarm system zone or point activated;
 - (iii) Evidence that an attempt to verify as required under subsection 17.708(a)(2) was made to the alarm site prior to the request for police dispatch; and
 - (iv) The time of the request for a police dispatch.
 - (3) The Alarm Administrator may request copies of a record maintained by an alarm monitor for individual alarm users. The alarm monitor shall provide copies at no cost to the County.

(C.B. 12, 2000)

Sec. 17.712. - Systems performance reviews.

If the Alarm Administrator has reason to believe that an alarm system is not being used or maintained in a manner that ensures proper operation and suppresses false alarms, the Alarm Administrator may request a conference with an alarm user and the alarm business responsible for the repair of the alarm system to review the circumstances of each false alarm.

(C.B. 12, 2000)

Sec. 17.713. - Penalties.

- (a) *Fines for False Alarms; Multiple False Alarms:*
 - (1) If an alarm system emits a false alarm signal within any 12-month period, the alarm user is subject to a civil penalty based upon the schedules contained in this subsection.
 - (2) The Alarm Administrator shall establish procedures under which multiple false alarms are considered to be one false alarm for the purpose of establishing an action/fine in subsection (b) of this section.

(3) The procedures under paragraph (2) of this subsection shall take into account whether the alarm user knew or should have known of the multiple false alarms and whether the alarm user made reasonable efforts to curtail or terminate the false alarms.

(b) *Schedule of Fines:*

Number of False Alarms	Action/Fine
1	Warning letter mailed to user.
2	Warning letter mailed to user.
3	\$50.00 fine imposed on user.
4	\$100.00 fine imposed on user.
5	\$150.00 fine imposed on user + alarm inspection required by a registered alarm business.
6	\$200.00 fine imposed on user.
7	\$250.00 fine imposed on user.
8	\$300.00 fine imposed on user.
9	\$350.00 fine imposed on user.
10	\$400.00 fine imposed on user + alarm inspection required by a registered alarm business.
11	\$500.00 fine imposed on user.
12	\$600.00 fine imposed on user.
13	\$700.00 fine imposed on user.
14	\$800.00 fine imposed on user.
15+	\$1,000.00 fine imposed on user + alarm inspection required by a registered alarm business.

The Alarm Administrator shall waive one fine under this subsection if the alarm user completes an alarm reduction education program approved by the Administrator.

(c) *Fines for Unregistered Alarms:*

- (1) A person who maintains or operates an unregistered alarm system is subject to a civil penalty of \$200.00 for each police response to the alarm site in addition to the penalties imposed under subsection (a) of this section. The Alarm Administrator may waive the penalty under this subsection for an unregistered system if the alarm user registers the system within ten days after the violation.
 - (2) If an alarm monitor makes a dispatch request to an unregistered alarm site, the alarm monitor is subject to a civil penalty of \$200.00 for each dispatch request.
- (d) If an alarm user assessed a penalty under this section fails to pay the penalty by the payment date specified in the notice of penalty and fails to file a notice of appeal within the time specified in section 17.714 of this subtitle, the Police Department shall send a written notice of the violation to the alarm user's last known address. If the alarm user fails to pay the penalty within 15 days from the date of the notice, the alarm user shall pay an additional penalty as established by resolution of the County Council.

(C.B. 12, 2000; C.B. 39, 2000, § 1, C.B. 23, 2004, § 1)

Sec. 17.714. - Appeals.

- (a) *User or Monitor May Appeal.* An alarm user or alarm monitor may appeal the assessment of a penalty to the Alarm Administrator within 30 days of the date the notice was processed for mailing. The appeal must be in writing and contain sufficient information to allow the Alarm Administrator to make a determination. Each appeal shall be accompanied by a filing fee of \$20.00, which shall be returned if the appeal is successful. The assessment of a penalty shall be stayed until a final decision is reached.
- (b) *Evidence of False Alarm.* The computer aided dispatch (CAD) record shall be prima facie evidence that a false alarm occurred.
- (c) *Decision Issued within 60 Days.* The Alarm Administrator shall issue a written decision within 60 days of receipt of the appeal. The decision shall affirm or reverse the assessment of the penalty.
- (d) *Final Administrative Remedy.* The decision of the Alarm Administrator is final as to administrative remedies with the County Government.
- (e) *Appeal to Circuit Court.* The decision of the Alarm Administrator may be appealed to the Circuit Court for Howard County as provided in the Maryland Rules.

(C.B. 12, 2000)

Sec. 17.715. - Suspension of alarm registration.

The Alarm Administrator may refuse to grant an alarm registration to an alarm user or alarm business, and may suspend or refuse to renew an alarm registration, if the Alarm Administrator finds that:

- (1) Installation, repairs, maintenance, or other work on the alarm system does not meet the requirements of this subtitle;
- (2) Fees required or fines imposed under this subtitle have not been paid;
- (3) False information of a material matter has been submitted in the application; or

- (4) An alarm business has committed a violation of this subtitle, title 17, subtitle 4 of the County Code, or any other law or regulation relating to the sale, installation, monitoring, or maintenance of alarm systems.

(C.B. 12, 2000)

Sec. 17.716. - Appeal from denial or suspension of alarm registration.

(a) *Notice of Action; Request for Appeal:*

- (1) If the Alarm Administrator denies the issuance or renewal of an alarm registration or suspends an alarm registration, the Alarm Administrator shall send written notice of the action to the applicant or alarm user along with a statement of the right to an appeal.
- (2) The applicant or alarm user may appeal the decision to the Alarm Administrator by filing a written request for a review setting forth the reasons for the appeal within 30 days of the notice date. An alarm business may submit the request for review on behalf of an alarm user.
- (3) An action against a registration shall be stayed pending the outcome of the appeal.
- (4) The Alarm Administrator shall issue a written decision within 60 days of receipt of the appeal.

(b) *Final Administrative Remedy.* The decision of the Alarm Administrator shall be final as to administrative remedies with the County Government.

(C.B. 12, 2000)

Sec. 17.717. - Exemptions.

(a) *Governmental Alarm Systems.* A Federal, State, County, or municipal government entity or Board of Education that owns or operates an alarm site is exempt from any fines and penalties under this subtitle, but shall be subject to all other provisions of this subtitle.

(b) *Howard County Alarm Systems.* Howard County may manage its own alarm systems without utilizing a certified alarm business.

Sec. 17.718. - Reinstatement of alarm registration.

A person whose alarm registration has been suspended may be issued a new registration if the person:

- (1) Submits an application and pays the registration fee;
- (2) Satisfies all outstanding citations and fines; and
- (3) Submits a certification as required by the Alarm Administrator from a registered alarm business stating that the alarm system complies with the requirements of this subtitle.

(C.B. 12, 2000)

Sec. 17.719. - Violations.

Any alarm user or alarm business who violates a provision of this subtitle for which a penalty is not specified is subject to a civil penalty of not more than \$50.00.

(C.B. 12, 2000)

Sec. 17.720. - Reports.

The Alarm Administrator shall regularly report to the Chief of Police on the implementation and status of the programs under this subtitle. The Chief of Police shall annually report to the County Executive and the County Council on the programs.

(C.B. 12, 2000)

SUBTITLE 8. - MASSAGE ESTABLISHMENTS

Sec. 17.800. - Purpose and scope.

- (a) *Purpose* . The purpose of this subtitle is to protect the health, safety, and welfare of the citizens of Howard County by allowing the County to investigate possible criminal activity of individuals and businesses holding themselves out as providing massage while ensuring minimal disruption to massage practitioners who are authorized under State law.
- (b) *Scope* . This subtitle shall apply to:
 - (1) Any individual who provides massage, solicits customers to provide massage, or holds themselves out as providing massage; or
 - (2) Any business that solicits customers to provide massage or holds itself out as providing massage.

(C.B. 21, 2017, § 2)

Sec. 17.801. - Definitions.

Words and phrases used in this subtitle have their usual meanings except as specifically defined in this section:

- (a) *Chief* means the Chief of the Department of Police or the Chief's designee.
- (b) *Department* means the Howard County Department of Police.
- (c) *Massage* means the manipulation of tissues including, but not limited to, by rubbing, kneading, or tapping with the hand or an instrument. For purposes of this subtitle, massage shall include massage therapy as defined in Health Occupations Article, section 6-101 of the Annotated Code of Maryland.
- (d) *Massage establishment* means a business entity:
 - (1) Where one or more individuals hold themselves out as providing massage;
 - (2) That advertises, offers, or administers massage provided by one or more individuals; or
 - (3) Where it is reasonably believed that one or more individuals are providing massage.
- (e) *State law* means the Health Occupations Article of the Annotated Code of Maryland.
- (f) *State authorization* means proof of legal authority to practice massage under Health Occupations Article, section 6-301 of the Annotated Code of Maryland.

(C.B. 21, 2017, § 2)

Sec. 17.802. - Right of entry; proof of State authorization.

- (a) *Authority to Enter—Public Areas.* For the purpose of ensuring compliance with Health Occupations Article, section 6-301 of the Annotated Code of Maryland, the Chief may enter the public areas of a massage establishment:
 - (1) Upon exhibiting proper credentials; and
 - (2) At any time during business or operating hours.
- (b) *Entry Required.* A person may not deny entry to the Chief in the performance of the Chief's duties under this subtitle.
- (c) *Requirement to Provide License.* Upon request, a person subject to this subtitle shall produce their State authorization.
- (d) *Rights Not Limited .* This section does not restrict or limit the right of entry or inspection authorized by any other State or County law including, without limitation, the Howard County Fire Prevention Code, or the Howard County Health Code.

(C.B. 21, 2017, § 2)

Sec. 17.803. - Display of authority.

An individual holding State authorization shall display the State authorization conspicuously in a public area of the massage establishment.

(C.B. 21, 2017, § 2)

Sec. 17.804. - Enforcement.

- (a) *Generally .* The Department may institute any action at law or equity, including injunction or mandamus, to enforce the provisions of this subtitle.
- (b) *Civil Penalties .* Alternatively, and in addition to and concurrent with all other remedies, the Department may enforce the provisions of this subtitle with civil penalties in accordance with title 24 of this Code as follows:
 - (1) A violation of any provision of this subtitle is a Class A offense; and
 - (2) Each instance that a violation continues is a separate offense.
- (c) *Civil Citation .* A notice of violation is not required prior to the issuance of a civil citation under title 24 of this Code.
- (d) *Criminal Penalties .* A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding six months or both.
- (e) *Report to State Board .* The Department may report any violations of this subtitle or any provision of the Annotated Code of Maryland to the State Board of Massage Therapy Examiners.

(C.B. 21, 2017, § 2)

Sec. 17.805. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 21, 2017, § 2)

SUBTITLE 9. - SPECIAL EVENT AND CONCERT PERMIT

Sec. 17.900. - Definitions.

The following terms have the meanings indicated:

- (a) *Athletic event* means any event involving the conduct of exercises, sports, games, marathons, or similar types of activities including, without limitation, a bicycle race, bicycle or motorcycle ride, foot race, triathlon, or walk.
- (b) *Block party* means a party that is held outdoors for people who live in a neighborhood.
- (c) *Concert* means a gathering of people to view a live performance.
- (d) *Department* means the Department of Police.
- (e) *Multiple-day event* means an event that occurs on multiple, consecutive days.
- (f) *Nonprofit organization* means a corporation, foundation, or other legal entity, no part of the net earnings of which inures to the benefit of any private shareholder or individual holding any interest in the entity.
- (g) *Owner* means any person in whom is vested the ownership, dominion or control, or title of real property; whether by fee simple deed, lease, sublease or by any form of deed, right, or agreement.
- (h) *Parade* means any march, procession, or other similar activity consisting of persons, animals, vehicles, or things, or any combination thereof, upon any public street.
- (i) *Person* means any real property owner, individual, business entity, association, group, promoter, government, or organization.
- (j) *Permit* means the special event and concert permit issued under this subtitle.
- (k) *Promoter* means the manager, organizer, operator, producer, sponsor, or the individual or entity staging the special event or concert.
- (l) *Public assembly* means a group of persons collected together in one place for the same purpose including, without limitation a street festival or similar activity or expressive activity.
- (m) *Special event* means an athletic event, block party, parade, or public assembly.

(C.B. 12, 2018, § 3)

Sec. 17.901. - Requirement to obtain permit.

- (a) *Special Events* . A person shall obtain a permit under this subtitle for a special event if the special event:
 - (1) Requires the closure of a street, highway, or road; or
 - (2) Requires authorized County employees to stop or reroute vehicular or pedestrian traffic because the special event will not or cannot comply with normal and usual traffic regulations or controls.
- (b) *Concerts* . A person shall obtain a permit under this subtitle for a concert to be performed on public or private property before a gathering in excess or anticipated to be in excess of 2,000 persons.
- (c) *Park Property* . Special events and concerts that occur on park property shall be subject to title 19 of this Code.

(C.B. 12, 2018, § 3)

Sec. 17.902. - Application requirements.

- (a) *Multiple-Day Event* . An applicant shall file a separate application for each day of a multiple-day event.
- (b) *Applications—Generally* . An application shall:
 - (1) Be on forms provided by the Department;
 - (2) Include the name, address, and telephone number of the applicant;
 - (3) Be accompanied by the application fee;
 - (4) Except as provided in subsection (g) of this section, be filed at least 60 calendar days, but not more than one year, before the special event or concert;
 - (5) Subject to subsections (c) and (d) of this section for concerts, be filed for each special event or concert;
 - (6) Be signed through an electronic process for which the oath or affirmation shall be made by an electronic signature that:
 - (i) Is attached to and made part of the application;
 - (ii) Is made expressly under the penalties of making a false statement to a law enforcement officer; and
 - (iii) Subjects the individual making the signature to the penalties of making a false statement to a law enforcement officer to the same extent as an oath or affirmation before an individual authorized to administer oaths;
 - (7) If applicable, be filed by the promoter;
 - (8) Shall include the number of security personnel to be supplied by the applicant to control the anticipated number of event attendees; and
 - (9) Any other information as the County may require in its review of the application.
- (c) *Concert Events—Information to be Provided Annually* . With the first application for a concert in a calendar year, an applicant shall provide the following information:
 - (1) The name and address of the owner of the concert facility;
 - (2) The address of the concert facility;
 - (3) The number of persons who can be accommodated at the concert facility in accordance with the Howard County Building Code and the Howard County Fire Prevention Code;
 - (4) Regarding parking:
 - (i) The number of parking spaces available at the premises;
 - (ii) If off-premises parking will be relied upon at any point during the calendar year:
 - a. The total number of parking spaces located off-premises;
 - b. A map showing all available off-premises parking;
 - c. A statement that off-premises parking will be available for use by concert spectators;
 - d. Documented approval or other similar proof with each owner or owner's agent of off-premises property that off-premises parking is available to serve the concert facility; and
 - e. The number of spaces and location of accessible parking; and
 - (5) Any other information as the County may require in its review of the application.

- (d) *Concert Events—Information to be Provided for Each Concert* . With an application for each concert, an applicant shall provide the following information:
- (1) The name and address of the promoter;
 - (2) The number of parking spaces available at the premises;
 - (3) If off-premises parking is relied upon:
 - (i) The number of parking spaces to be provided off-premises;
 - (ii) Of the off-premises parking listed in subsection (c)(4)(ii)d. of this subsection, a list of which off-premises parking will be used for the concert;
 - (iii) Whether there are any available off-premises lots that are not listed in subsection (c)(4)(ii)d. and for such lots, documented approval or other similar proof with the owner or owner's agent that the off-premises parking is available to serve the concert; and
 - (iv) Whether shuttle service would need to be provided in order to comply with accessibility requirements; and
 - (4) Any other information that the County may require in its review of the application.
- (e) *Agreements Required by State Law* . If a special event is subject to Section 21-1211 of the Transportation Article of the Annotated Code of Maryland and written authorization is required, the applicant may enter into an agreement with the County that:
- (1) Complies with State law; and
 - (2) May be signed through an electronic process for which the oath or affirmation shall be made by an electronic signature that:
 - (i) Is attached to and made part of the agreement;
 - (ii) Is made expressly under the penalties of making a false statement to a law enforcement officer; and
 - (iii) Subjects the individual making the signature to the penalties of making a false statement to a law enforcement officer to the same extent as an oath or affirmation before an individual authorized to administer oaths; and
 - (3) Is executed prior to the grant of a permit.
- (f) *Priority of Applications for Special Events* . Applications for special events shall be considered on a first-in-time basis depending on when the application and application fee is received by the County. However, if multiple applications for the same date are received, the County may consider available resources when determining whether to hold multiple events on a given day.
- (g) *Waiver of Time Requirements* . The County may consider an application for a special event or concert permit filed after the deadline established by this subtitle only if the County anticipates that adequate County resources will exist to support the special event or concert and:
- (1) The special event or concert is in the best interest of the County; or
 - (2) The special event or concert is a spontaneous response to a current event.

(C.B. 12, 2018, § 3)

Sec. 17.904. - Consideration of an application.

- (a) *Timing* . The County shall grant or deny the application at least 14 days before the date on which the event is proposed to be scheduled.
- (b) *Criteria*. The County shall issue the permit unless:

- (1) The applicant has damaged County property and has not paid in full for such damage, or has other outstanding and unpaid debts to the County;
 - (2) The applicant has made material misrepresentations regarding the nature or scope of a special event or concert for which the applicant had previously received a permit or has violated the terms of prior permits issued to the applicant;
 - (3) The applicant will be unable to safely control the anticipated number of spectators or participants expected to attend the special event or concert;
 - (4) County traffic facilities are inadequate to accommodate the anticipated number of spectators or participants entering or leaving the special event or concert;
 - (5) The applicant fails to demonstrate adequate security or emergency response services;
 - (6) The premises are inadequate based on the Howard County Building Code to support the anticipated number of spectators or participants;
 - (7) There are inadequate toilet facilities located at the premises, based on the Howard County Plumbing Code;
 - (8) There are refreshment facilities that do not meet standards established by the Howard County Health Department;
 - (9) There is insufficient ingress or egress for emergency situations based on the Howard County Building Code and the Howard County Fire Prevention Code;
 - (10) The procedure for litter control is inadequate when considering:
 - (i) The number and size of containers proposed for the special event or concert;
 - (ii) Whether the containers are proposed to be conveniently placed, emptied periodically when full, and removed from the site at the end of the special event or concert;
 - (iii) The process for litter pickup for trash not placed in containers within the perimeter of the special event or concert; and
 - (iv) Whether the collection of recyclables is inadequate based on section 18.612 of the Howard County Code;
 - (11) The special event or concert will require County services that are not available;
 - (12) The applicant has failed to provide evidence of other required permits including, without limitation, State, Federal, or Liquor Board permits;
 - (13) The permit application, including any required attachments and submissions, is not fully completed and executed;
 - (14) The applicant has not paid applicable application fees;
 - (15) A fully executed prior application and application fee for the same date has been received by the County and the County has determined that resources are not available to staff all events on that day;
 - (16) The use or activity intended by the applicant is prohibited by law, including the Howard County Fire Prevention Code;
 - (17) Any applicable State law provisions have not been complied with, including, without limitation, Section 21-1211 of the Transportation Article of the Annotated Code of Maryland;
 - (18) The applicant has failed to comply with prior approved applications; or
 - (19) The applicant provided a falsehood or misrepresentation in the application.
- (c) *Authority to Deny, Modify or Cancel* . The County may deny, cancel or modify a permit at any time when the cancellation, denial, or modification is required:

- (1) To protect the health, safety, and general welfare of the public, spectators, or participants of a special event or concert;
 - (2) Because the applicant fails to comply with any County, State, or Federal laws applicable to the special event or concert for which the permit is sought; or
 - (3) Notwithstanding any agreement relating to the use of property between an applicant and another party, a permit shall be cancelled if the applicant does not have the authority to use the property upon which the special event or concert is located.
- (d) *Department Staffing* . The Department shall determine the adequate level of staffing for the special event or concert based on best practices and standards generally accepted in the public safety area.
- (e) *Multiple-Day Events* . If the applications for a multiple day event meets the criteria set forth in this section, a separate permit shall be issued for each day of a multiple-day event.
- (f) *Cancelled Event*. An issued permit becomes void if an event is cancelled.

(C.B. 12, 2018, § 3)

Sec. 17.905. - Fees.

- (a) *Application Fee* . Except as provided in subsection (c) of this section, the County shall charge an application fee for a permit issued under this subtitle that is:
- (1) Nonrefundable;
 - (2) Due upon application for a permit;
 - (3) Adopted by Resolution of the County Council; and
 - (4) Paid one time for a multiple-day event.
- (b) *Permit Fee* . Except as provided in subsection (c) of this section, the County may charge a fee for a permit issued under this subtitle that is adopted by Resolution of the County Council.
- (c) *Fee Exemptions* . The County:
- (1) Shall exempt an applicant for a parade or block party from paying a permit fee;
 - (2) May exempt an applicant from paying a permit or application fee, or both the permit and application fee, if the County determines that a waiver is in the best interest of the County;
 - (3) May provide other exemptions as adopted by Resolution; and
 - (4) Shall not pay permit or application fees for County-sponsored special events or concerts.
- (d) *Nonprofit Organizations* . A Resolution establishing permit fees may provide a reduced permit fee for nonprofit organizations.
- (e) *Permit Fees for Multiple-Day Events* . Multiple-day events shall be assessed a permit fee for each day of the event.

(C.B. 12, 2018, § 3)

Sec. 17.906. - Duties of a permit holder.

- (a) *Free from debris* . The permit holder shall:
- (1) During the special event or concert, keep the public street or highway clean and free from paper, debris, or refuse;

- (2) Upon termination of the permit by lapse of time or otherwise, remove all materials and equipment and clean the public street or highway; and
- (3) If public property has been damaged, reimburse the County for costs to restore the property to the condition it was in prior to the special event or concert.
- (b) *Passage of emergency vehicles* . Whenever a permit requires the closure of a public street or highway, the permit holder may be required to maintain a clear path of not less than ten feet wide at all times during the event to provide for the passage of emergency vehicles.
- (d) *Update information* . The permit holder shall immediately notify the County if any information provided in the permit application is revised or changed in any manner.
- (e) *Staffing* . With the exception of County services including, without limitation, traffic control, security and emergency services, the permit holder shall staff the special event or concert with the permit holder's employees, agents, and volunteers. The permit holder is responsible for salaries, expenses, workers' compensation insurance, liability insurance, and taxes due to any employees or owed to any governmental agency on the permit holder's behalf.
- (f) *Compliance with event plan* . A permit holder shall comply with plans for the special event or concert that have been mutually agreed to between the permit holder and the County.

(C.B. 12, 2018, § 3)

Sec. 17.907. - Inspections.

The County may inspect the special event or concert and may issue citations for any violation of this subtitle, the permit, or any other provision of the Howard County Code.

(C.B. 12, 2018, § 3)

Sec. 17.908. - Penalties.

- (a) The County may institute any action at law or equity, including injunction or mandamus, to enforce the provisions of this subtitle.
- (b) Alternatively, and in addition to and concurrent with all other remedies, the County may enforce the provisions of this subtitle with civil penalties in accordance with title 24 of this Code. A violation of this subtitle is a Class C offense. Each day that a violation continues is a separate offense.
- (c) A person who violates any provision of this subtitle is guilty of a misdemeanor and, upon conviction, is subject to a fine which shall not exceed \$1,000.00.

(C.B. 12, 2018, § 3)

Sec. 17.909. - Severability.

If any section, sentence, clause or phrase of this subtitle is held invalid or unconstitutional by any court or competent jurisdiction, the ruling shall not affect the validity of the remaining portions of this subtitle.

(C.B. 12, 2018, § 3)

SUBTITLE 10. - LANDLORD-TENANT RELATIONS⁶

Footnotes:

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Editor's note— C.B. 20, 2018, § 1, adopted June 12, 2018, set out provisions intended for use as subtitle 9, §§ 17.900—17.917. Inasmuch as there are provisions to designated, and at the editor's discretion, these provisions have been included as subtitle 10, §§ 17.1000—17.1017.

Sec. 17.1000. - Definitions.

- (a) *In general.* In this subtitle, the following words have the meanings indicated.
- (b) *Apartment complex* means a set of related buildings that have the same landlord and that all contain rental dwelling units.
- (c) *Common area* means any area in an apartment complex or common ownership community that may be used by all residents of the apartment complex or common ownership community.
- (d) *Common ownership community* means:
 - (1) A development subject to a declaration enforced by a homeowners' association, as those terms are used in State law;
 - (2) A condominium, as that term is used in State law; and
 - (3) A cooperative housing project, as that term is used in State law.
- (e) *Credit Reporting Agency* means a person or entity that is subject to title 14, subtitle 12 of the Commercial Law Article of the Maryland Code.
- (f) *Dwelling* has the meaning set forth in section 14.900 of the Howard County Code.
- (g) *Dwelling unit* has the meaning set forth in section 14.900 of the Howard County Code.
- (h) (1) *Landlord* means:
 - (i) The owner, the owner's agent, a lessor, or a sublessor of a dwelling unit who is authorized to exercise any aspect of the management of the premises;
 - (ii) In a condominium housing structure, the owner of a dwelling unit that is designated, intended, or arranged for use or occupancy as a residence and for which the owner receives consideration; and
 - (iii) In a cooperative housing structure, a person having an ownership interest in the legal entity that holds title to the cooperative housing structure and enjoys exclusive use of a dwelling unit and for which the person who has an ownership interest in the legal entity receives consideration for leasing the dwelling unit.
- (2) *Landlord* does not include a person who is engaged solely in a custodial or maintenance function.
- (i) *Lease* means a written rental agreement that establishes or modifies the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.
- (j) *Office* means Office of Consumer Protection.
- (k) *Rental housing or rental housing unit* means one or more dwelling units that are provided to tenants by a landlord for consideration.
- (l) *Security deposit* means a payment of money, including the payment of the last month's rent before it is due, given by a tenant to protect the landlord against nonpayment of rent or damage due to breach of lease or damage to the leased premises, common areas, major appliances, and furnishings.

(m) *Tenant* means a person who occupies a dwelling unit for living or dwelling purposes with the landlord's consent subject to a lease.

(C.B. 20, 2018, § 1)

Sec. 17.1001. - Construction.

This subtitle shall be liberally construed and applied to promote its underlying purposes.

(C.B. 20, 2018, § 1)

Sec. 17.1002. - Purposes.

The purposes of this subtitle are to:

- (1) Supplement the rights afforded landlords and tenants under State law;
- (2) Encourage landlords and tenants to maintain and improve the quality of housing in the County;
- (3) Assure fair and equitable relations between landlords and tenants; and
- (4) Revise and modernize the law of landlord and tenant to serve more realistically the needs of residents of the County.

(C.B. 20, 2018, § 1)

Sec. 17.1003. - Applicability of subtitle.

- (a) *In General.* Subject to State and federal law, this subtitle regulates and determines the legal rights, remedies, and obligations of landlords and tenants for dwelling units in the County.
- (b) *Unenforceable Provisions.*
 - (1) A provision in an agreement, whether written or oral, that conflicts with this subtitle is unenforceable.
 - (2) An unenforceable provision does not affect other provisions of the agreement that can be given effect without the unenforceable provision.
- (c) *Lease Addendum.* The requirements for provisions in a lease under this subtitle are deemed met if the provisions are included in a lease addendum that has been initialed by the tenant.

(C.B. 20, 2018, § 1)

Sec. 17.1004. - Office of consumer protection—Powers and duties.

- (a) *In General.* This subtitle shall be administered by the Office of Consumer Protection.
- (b) *Complaints.*
 - (1) The Office has jurisdiction over all complaints filed under this subtitle except for those complaints that are referred to another County unit under section 17.1005 of this subtitle.
 - (2) The Office may receive, investigate, and conciliate complaints, initiate its own investigations, and enforce this subtitle to the same extent provided to the office by subtitle 4 of this title.
 - (3) In connection with this authority:

- (i) Landlords shall make available to the Office for inspection at reasonable times all rental housing records necessary for the Office to enforce this subtitle or investigate a matter under this subtitle; and
 - (ii) The Office may issue a subpoena to compel a landlord or tenant to produce relevant documents, papers, books, records, or other evidence.
- (c) *Education.* The Office may assist, develop, and conduct programs of landlord and tenant education and information through public hearings or meetings, or by distributing publications or other materials.

(C.B. 20, 2018, § 1)

Sec. 17.1005. - Joint and concurrent jurisdiction, administrative cooperation.

- (a) *Referral.* The Office shall refer any complaints that are not within its jurisdiction that allege a violation of existing law to the County, State, or federal unit that has jurisdiction over the alleged violation.
- (b) *Joint Jurisdiction.* If a complaint contains allegations that fall jointly within the jurisdiction of the Office and another County unit, and the allegations are not severable, the Office and the other unit shall determine jointly how to investigate the complaint.
- (c) *Cooperation.* The Office shall seek the cooperation of other County units concerned with rental housing in educating the public on landlord and tenant rights and responsibilities.

(C.B. 20, 2018, § 1)

Sec. 17.1006. - Rental housing license required.

The owner of a dwelling unit must obtain a rental housing license as required by section 14.901 of the Howard County Code before a tenant's occupancy of the unit.

(C.B. 20, 2018, § 1)

Sec. 17.1007. - Lease application requirements.

- (a) *In General.* An application for a lease shall contain the provisions that this section requires.
- (b) *Tenant Liabilities.* An application shall explain the liabilities that the tenant incurs by signing the application.
- (c) *Credit Reports.*
 - (1) If a landlord intends to obtain a report or information from a credit reporting agency about the applicant, the application shall advise the applicant that information about the applicant's rental or credit history or worthiness will be obtained from a credit reporting agency.
 - (2) If an application is denied wholly or partly because of a report or information from a credit reporting agency:
 - (i) The landlord shall so advise the applicant, and supply the name and address of the consumer reporting agency; and
 - (ii) The landlord shall advise the applicant that the applicant may get a copy of the report or information from the credit reporting agency and may dispute the report or information in accordance with title 14, subtitle 12 of the Commercial Law Article of the Maryland Code.
- (d) *Fees.*

- (1) If a landlord requires from a prospective tenant fees, other than a security deposit as defined by section 8-203(a) of the Real Property Article of the Maryland Code, that exceed \$25.00, the application shall state that the landlord must return the fees, subject to paragraphs (2) and (3) of this subsection, or be liable for twice the amount of the fees in damages.
- (2) Fees returned under this subsection shall be returned within 15 days after the date of occupancy or the written communication, by either party to the other, of a decision that no tenancy shall occur.
- (3) A landlord may retain only that portion of the fees actually expended for a credit report or other expenses arising out of the application, and shall return that portion of the fees not actually expended on behalf of the tenant making application.

(C.B. 20, 2018, § 1)

Sec. 17.1008. - Required information.

(a) *In General.*

- (1) When a landlord receives a rental application, the landlord shall give the prospective tenant a copy of the proposed lease;
- (2) On approval of the tenant's application, the landlord shall:
 - (i) Give the prospective tenant a copy of any common ownership community rule, regulation, declaration, or covenant that binds the landlord and affects the use and occupancy of the unit or any common area associated with the unit;
 - (ii) Notify the prospective tenant in writing that the tenant may view the dwelling unit before executing the lease to identify existing damage to the unit or personal property in the unit;
 - (iii) Subject to subsection (c) of this section, notify the prospective tenant in writing that the owner of a dwelling unit must have a rental housing license under section 14.901 of the Howard County Code before the unit is;
 - (iv) Provide the tenant with a copy of the current license for the dwelling unit; and
 - (v) Provide the tenant with a copy of the Office's Landlord Tenant Assistance publication written in the language of the tenant's choice.
- (b) *Acknowledgement by Tenant.* The landlord shall obtain the tenant's written acknowledgement of receipt of the information required in subsection (a) of this section.
- (c) *Rental Housing License.* If the owner fails to provide the notice required by subsection (a)(4) of this section, the tenant may, at any time before the rental housing license is obtained, terminate the lease without penalty and the owner shall return the tenant's security deposit in compliance with section 8-203 of the Real Property Article of the Maryland Code.
- (d) *Translations of Landlord Tenant Assistance Publication.* The Office shall make the publication identified in subsection (a)(2)(iii) of this section available for downloading from the Office's web page in English, Spanish, Chinese, French, and Korean and, on request of the landlord, the Office shall provide a written copy of the publication in additional languages as soon as practical.

(C.B. 20, 2018, § 1)

Sec. 17.1009. - Required lease provisions.

- (a) *In General.* A lease shall contain the provisions that this section requires.
- (b) *Rental Housing License.* A lease shall state:

- (1) Where the tenant can inspect a copy of the rental housing license for the dwelling unit;
 - (2) That if the owner fails to apply for renewal of the rental housing license during the tenant's lease period, the tenant may terminate the lease without penalty and the owner shall return the tenant's security deposit in compliance with section 8-203 of the Real Property Article of the Maryland Code; and
 - (3) That if the owner receives a notice of violation from the Department of Inspections, Licenses and Permits and does not abate the violation by the date specified in the notice, under section 8-211 of the Real Property Article of the Maryland Code, the tenant may:
 - (i) Terminate the lease without penalty; or
 - (ii) Request that a rent escrow account be established for the payment of rent until the violation is abated.
- (c) *Condition of Unit.*
- (1)
 - (i) A lease shall state that the landlord will deliver the dwelling unit and any common areas in a clean, habitable, and sanitary condition, free of rodents and vermin, and in compliance with all applicable laws.
 - (ii) Alternatively, for a condominium or cooperative housing structure, the lease may state that the landlord is required to deliver only the dwelling unit in a clean, habitable, and sanitary condition, free of rodents and vermin, and in complete compliance with all applicable laws.
 - (2) A lease shall specify the landlord's responsibility to maintain the rental housing in accordance with Howard County law.
 - (3) A lease shall incorporate by reference the Howard County Building Code, the Howard County Fire Prevention Code, the Howard County Property Maintenance Code for Rental Housing, and the Howard County Zoning Regulations, as an express warranty of habitability and covenant to repair.
- (d) *Utilities and Similar Services.*
- (1) A lease shall include the landlord's and tenant's specific obligations to supply and pay for heat, gas, electricity, water and sewer service, trash collection, and similar services.
 - (2) If the lease requires the tenant to pay the landlord for services supplied by the landlord, the lease shall provide that the landlord may not collect more than the amount on an invoice itemized by the landlord or a service provider, and that the landlord will provide substantiation of the cost on the tenant's request.
- (e) *Security Deposits.*
- (1) A lease shall state that security deposits will be collected, deposited, and returned in accordance with section 8-203 of the Real Property Article of the Maryland Code.
 - (2) A lease shall state that the tenant may be present when the landlord inspects the premises for damage and describe the procedure for exercising that right.
 - (3) A lease shall state that, if any of the security deposit is withheld, the landlord shall provide the tenant, within 45 days after the termination of the tenancy, a written list of the damage claimed and the cost actually incurred to correct the damage.
 - (4) A lease shall state that, on request of the tenant, the landlord shall provide written substantiation of the damage and costs incurred to correct the damage.
- (f) *Receipts.* A lease shall state that written receipts will be given for cash or money orders that the tenant pays to the landlord for rent, security deposits, or otherwise.
- (g) *Landlord Access to Dwelling Unit.*

- (1) A lease shall state that the landlord may enter the dwelling unit at a mutually agreed on time after giving the tenant at least 24 hours' notice to:
 - (i) Make necessary repairs, decorations, alterations, or improvements to the dwelling unit or determine whether repairs, decorations, alterations, or improvements are necessary;
 - (ii) Allow for an inspection under this subtitle or the Howard County Property Maintenance Code for Rental Housing; or
 - (iii) Show the dwelling unit to prospective buyers, mortgagees, or tenants.
 - (2) This subsection does not prevent: (i) the landlord from entering a dwelling unit in an emergency or when the landlord has a reasonable basis to believe the tenant may have damaged the unit or may be in violation of the lease; or (ii) the landlord and tenant from mutually agreeing in writing to a notice that is less than the time required by paragraph (1) of this subsection.
 - (3) The lease may state that the tenant may not unreasonably refuse to allow the landlord to enter the dwelling unit for the purposes set forth in this subsection.
- (h) *Termination.*
- (1) A lease shall state that the tenant may terminate the lease on 60 days' written notice to the landlord because of:
 - (i) An involuntary change of employment to a location that is more than 100 miles from the current place of residence, which is confirmed in writing by the tenant's current employer and the relocation is not paid for by their employer;
 - (ii) Involuntary unemployment of a wage earner whose income was used to qualify for the lease, which is confirmed by certification of the former employer or documentation from a government agency providing unemployment benefits;
 - (iii) The death of a wage earner whose income was used to qualify for the lease, which is confirmed by a certificate of death; or
 - (iv) A medical certification in accordance with section 8-212.2 of the Real Property Article of the Maryland Code.
 - (2) A lease may provide that, in the event of termination under paragraph (1) of this subsection, the tenant is liable for a reasonable termination charge not to exceed two month's rent or actual damages sustained by the landlord, whichever is less.
 - (3) A lease shall state that upon receipt of certain orders received by military personnel in accordance with section 8.212.1 of the Real Property Article of the Maryland Code the tenant may on 30 days written notice, terminate the lease and be subject to a termination charge not to exceed one month's rent.
 - (4) Nothing in this subsection prohibits the landlord from retaining part or all of the tenant's security deposit for damage to the dwelling unit.
 - (5) The requirement of paragraph (1) of this subsection may be mutually waived by both parties if the tenant is in one of not more than three units on a single lot owned by the same landlord.
 - (i) *Common ownership communities.* If the dwelling unit is in a common ownership community, the lease shall state that any obligation imposed on the owner of the dwelling unit that affects the use and occupancy of the unit or any common area associated with the unit is enforceable against the tenant.

(C.B. 20, 2018, § 1)

Sec. 17.1010. - Prohibited lease provisions.

A lease may not:

- (1) Authorize a person to confess judgment on behalf of the tenant for rent due or any other claim arising out of the lease;
- (2) Authorize the landlord to take possession of the leased premises or the tenant's personal property unless the lease has been terminated by action of the parties or by operation of law, and the personal property has been abandoned by the tenant without the benefit of formal legal process;
- (3) Waive a tenant's right to a trial by jury;
- (4) State that the tenant agrees to pay court costs, legal fees, or attorney fees other than those that a court awards for a breach of lease by the tenant;
- (5) State that the tenant agrees to a period required for landlord's notice to quit that is less than that provided by law;
- (6) Waive the landlord's liability for damage caused by the landlord's negligence or violation of law;
- (7) Waive a right or protection afforded under this subtitle or other law;
- (8) Establish a lien on the tenant's property except as provided by State law;
- (9) Provide for a penalty or subject the tenant to legal action for non-payment of rent if the delinquent payment is made within five days after the date on which the rent is due;
- (10) Impose a penalty in excess of five percent of the amount of rent due for the rental period for which payment is delinquent;
- (11) Require that the tenant pay to replace or repair structural elements of the building, major appliances, or electrical, plumbing, heating, or air conditioning systems unless the replacement or repair is required because of actions of the tenant or a person for whom the tenant is legally responsible;
- (12) Require the tenant to pay any money other than:
 - (i) An application fee that section 8-213 of the Real Property Article of the Maryland Code allows;
 - (ii) A security deposit that section 8-203 of the Real Property Article of the Maryland Code allows;
 - (iii) Rent that the lease specifies;
 - (iv) Charges for services and utilities identified in the lease as required by section 17.1009(d) of this subtitle; or
 - (v) Fees for specified amenities or common areas that the tenant may elect to use, including but not limited to dedicated parking spaces, pools; or fitness facilities;
- (13) Require the tenant to pay transfer fees or other money for moving from one dwelling unit to another dwelling unit within an apartment complex during the lease period, but a landlord may withhold money from the security deposit on the original dwelling unit for damage to the unit and apply the remainder to the security deposit for the new unit; or
- (14) State that the lease is a contract under seal.

(C.B. 20, 2018, § 1)

Sec. 17.1011. - Landlord to provide copy of lease.

The landlord shall provide a fully executed copy of the lease to:

- (1) The tenant within seven days after the tenant signs the lease; and
- (2) The Office of Consumer Protection on request of the Office.

(C.B. 20, 2018, § 1)

Sec. 17.1012. - Emergency notice requirements.

(a) *In General.*

- (1) The landlord of an apartment complex shall:
 - (i) Post a durable notice listing emergency contact information in an accessible, conspicuous, and convenient place in each building to which the notice applies, and
 - (ii) Send the emergency notice to each tenant.
- (2) A landlord renting a dwelling unit that is not located in an apartment complex shall send the notice to the tenant.

(b) *Contents.* The notice shall contain the name, title, and telephone number of the landlord or at least one responsible representative of the landlord who may be reached at all times in an emergency.

(C.B. 20, 2018, § 1)

Sec. 17.1013. - Ratio utility billing.

(a) *Scope of Section.* This section applies to an apartment complex that bills tenants for water, sewer, electricity, or gas service on an allocated basis, referred to as a "Ratio Utility Billing System" ("RUBS").

(b) *Definitions .*

- (1) *In General.* In this section the following words and terms have the meanings indicated.
- (2) *Allocated Utility Service* means water, sewer, electricity, or gas service that is master metered to a landlord and that the landlord allocates to tenants using a Ratio Utility Billing System.
- (3) *Master Meter* means a meter used to measure, for billing purposes, all water, sewer, electricity, or gas usage of an apartment complex, including common areas, common facilities, and dwelling units.
- (4) *Ratio Utility Billing System* means the system under which the cost of water, sewer, electricity, or gas service, or a combination of those services, is master metered to a landlord and then allocated to tenants by the landlord by a formula that estimates the use of each rental unit in the apartment complex.

(c) *Lease Contents.* When a landlord uses a Ratio Utility Billing System, the lease shall include:

- (1) A statement that the tenant will be billed by the landlord for allocated utility services;
- (2) The precise formula the landlord uses to allocate the cost or utility services to the tenant;
- (3) A statement that any disputes relating to the computation of the tenant's bill are between the tenant and the landlord, not a third-party billing agent, however the landlord may involve the provider in the resolution of the disputes;
- (4) The average monthly bill for all dwelling units in the apartment complex in the previous calendar year and the highest and lowest month's bills for that period;
- (5) Information regarding billing such as meter reading dates, billing dates, and due dates;
- (6) The time allowed for the landlord to make repairs that affect the amount of allocated utility services used in the tenant's dwelling unit and in common areas, if common areas are not sub-metered;

- (7) A statement that the tenant may, on request, receive information from the landlord or a third-party provider to verify the amount billed to the landlord or a third-party provider for allocated utility services;
 - (8) The amount of any service charge or administrative fee that may be billed to tenants by the landlord or a third-party provider under this section; and
 - (9) A statement that a copy of this section is available on request.
- (d) *Records* . Within ten days after receiving a written request from a tenant or the Office, the landlord shall make the following records for the current year and previous calendar year available for inspection at the onsite manager's office at a mutually agreed on time:
- (1) A current and complete copy of this section;
 - (2) Each bill from the provider of allocated utility services to the landlord or a third-party provider for the preceding two years;
 - (3) An explanation of the formula that the landlord or a third-party provider uses to calculate the tenants' bills;
 - (4) The total amount billed to all tenants in the tenant's building each month;
 - (5) Total revenues collected from the tenants in the tenant's building each month to pay for the allocated utility services; and
 - (6) Any other information necessary for a tenant to calculate and verify an allocated utility service bill.
- (e) *Prohibited Charges*. Charges billed to tenants under a Ratio Utility Billing System may only include charges for allocated utility services and may not include any other charges billed to the landlord such as deposits, disconnect or reconnect fees, late payments, or other similar fees.
- (f) *Calculations for Allocated Utility Service*.
- (1) *Common Area Calculation*. Before a landlord or a third-party provider may allocate a master meter bill for allocated utility service to the tenants, the landlord shall first deduct common area usage such as installed landscape irrigation systems, pools, laundry rooms, hallways, lobby areas, and similar facilities.
 - (2) *Administrative Area Calculation*. Before a landlord or a third-party provider may allocate a master meter bill for allocated utility service to the tenants, the landlord or a third-party provider shall also deduct usage for any area used by the landlord to manage the apartment complex, such as the management office, utility closets, or other areas that are not available for use by the tenants.
 - (3) *Formula for Calculating Tenants' Bills*. To calculate a tenant's bill, the landlord or a third-party provider shall use the formula provided in the lease. At the request of the Office, the landlord shall prove that the proposed formula fairly and accurately allocates utility usage among tenants.
 - (4) *Partial Month's Bill for Move-In or Move-Out*. If a tenant moves in or out during a billing period, the landlord or a third-party provider shall calculate a pro-rated bill for the tenant by dividing the number of days the tenant lived in the rental unit by the number of days in the month multiplied by the bill for the month. If a tenant moves out during a billing period before the landlord receives the bill for that period from the utility service, the landlord may calculate a final bill by using tenant's average daily bill for the last three months and multiplying that daily amount by the number of days the tenant was in the rental unit.
 - (5) *Administrative Fee*. If a landlord uses a Ratio Utility Billing System, the bill format for each billing period shall show the amount of any customer service or administrative fee charged. A customer service or administrative fee may not exceed the actual cost of allocating utility charges to the tenants. The landlord may not impose any additional charges.

(g) *Monthly Billing for Allocated Utility Charges.*

- (1) Bills for allocated utility service charges shall be sent to tenants on a monthly basis.
- (2) The bill shall clearly state the:
 - (i) Duration of the billing period;
 - (ii) Amount due for usage of each utility service;
 - (iii) Amount due for customer service or administrative fee;
 - (iv) Total amount due for the billing period;
 - (v) Name and address of the tenant to whom the bill is applicable;
 - (vi) Name, address, and telephone number of the person sending the bill; and
 - (vii) Name, address, and telephone number of the person to whom payment is to be made.
- (3) The due date on the bill may not be less than 15 days after it is mailed or hand delivered to the tenant. A payment is delinquent if not received by the due date.
- (4) An estimated bill may be sent if a master meter has been tampered with, cannot be read, or is out of order, but the bill shall be distinctly marked as an estimate and the subsequent bill shall reflect an adjustment for actual charges.
- (5) If a tenant is over-billed for a utility service, the landlord shall calculate an adjustment to the tenant's bill and give the tenant a refund.
- (6) If a tenant is under-billed for a utility service during the previous 6 months, the landlord may calculate an adjustment for bills issued. However, the landlord may not calculate an adjustment if the tenant was under-billed because of a meter malfunction, except as provided in item (4) of this subsection. If the total amount that a tenant was undercharged is \$25.00 or more, the landlord shall offer the tenant a deferred payment plan option that gives the tenant the same amount of time to pay as the period of under-billing. Adjustments for usage by a previous tenant may not be billed to a current tenant.
- (7) Failure by a tenant to pay an allocated utility service bill is not non-payment of rent.

(h) *Disputed Bills .*

- (1) If a tenant disputes a bill, the tenant shall notify the landlord of the dispute in writing.
- (2) The landlord shall investigate the matter and report the results of the investigation to the tenant in writing within 30 days after the tenant gives written notification of the dispute to the landlord.

(C.B. 20, 2018, § 1)

Sec. 17.1014. - Prohibited retaliatory practices.

- (a) (1) For any reason listed in paragraph (2) of this subsection, a landlord of any residential property may not:
 - (i) Bring or threaten to bring an action for possession against a tenant;
 - (ii) Arbitrarily increase the rent or decrease the services to which a tenant has been entitled;
or
 - (iii) Terminate a periodic tenancy.
- (2) A landlord may not take an action that is listed under paragraph (1) of this subsection for any of the following reasons:

- (i) Because the tenant or the tenant's agent has provided written or actual notice of a good faith complaint about an alleged violation of the lease, violation of law, or condition on the leased premises that is a substantial threat to the health or safety of occupants to:
 - 1. The landlord; or
 - 2. Any public agency against the landlord;
 - (ii) Because the tenant or the tenant's agent has:
 - 1. Filed a lawsuit against the landlord; or
 - 2. Testified or participated in a lawsuit involving the landlord; or
 - (iii) Because the tenant has participated in any tenants' organization.
- (b) (1) A landlord's violation of subsection (a) of this section is a "retaliatory action".
- (2) A tenant may raise a retaliatory action of a landlord:
- (i) In defense to an action for possession; or
 - (ii) As an affirmative claim for damages resulting from a retaliatory action of a landlord occurring during a tenancy.
- (c) (1) If in any proceeding the court finds in favor of the tenant because the landlord engaged in a retaliatory action, the court may enter judgment against the landlord for damages not to exceed the equivalent of three months' rent, reasonable attorney fees, and court costs.
- (2) If in any proceeding the court finds that a tenant's assertion of a retaliatory action was in bad faith or without substantial justification, the court may enter judgment against the tenant for damages not to exceed the equivalent of three months' rent, reasonable attorney fees, and court costs.
- (d) The relief provided under this section is conditioned on the tenant being current on the rent due and owing to the landlord at the time of the alleged retaliatory action, unless the tenant withholds rent in accordance with the lease or section 8-211 of the Real Property Article of the Maryland Code.
- (e) An action by a landlord may not be deemed to be retaliatory for purposes of this section if the alleged retaliatory action occurs more than six months after a tenant's action that is protected under subsection (a)(2) of this section.
- (f) As long as a landlord's termination of a tenancy is not the result of a retaliatory action, nothing in this section may be interpreted to alter the landlord's or the tenant's rights to terminate or not renew a tenancy.

(C.B. 20, 2018, § 1)

Sec. 17.1015. - Tenant organizations.

- (a) *Tenant Organization* . For purposes of this section, a tenant organization is one that is formed by tenants of the development, meets regularly, operates democratically, is representative of all residents in the development, and is completely independent of owners, management, and their representatives.
- (b) *In General*. Tenants may:
 - (1) Form, join, meet, or assist one another as part of a tenant organization or otherwise;
 - (2) Meet and confer with landlords through representatives of their own choosing;
 - (3) Engage in other cooperative activities for mutual aid and protection; and
 - (4) Refrain from an activity listed in this subsection.

- (c) *Meetings of Landlords and Tenants.* A landlord shall meet with a tenant association or organization on a good faith request by the association or organization.
- (d) *Use of Meeting Spaces.*
 - (1) To conduct tenant organization meetings, tenants and tenant organizations have the right of free assembly in the meeting rooms and other areas suitable for meetings within rental housing during reasonable hours and on reasonable notice to the landlord.
 - (2) The landlord may not charge a tenant organization or a group of tenants seeking to form a tenant organization a fee for the first meeting of each month held to discuss landlord-tenant issues.
 - (3) The landlord may charge a reasonable fee for other uses of the meeting rooms or common areas but the charge may not exceed the regular schedule of fees for the rooms or areas charged to other groups.
 - (4) The landlord may impose reasonable terms and conditions on the use of the meeting rooms or common areas if those terms and conditions do not undermine the purposes of this section.
- (e) *Literature.* Tenants and tenant organizations may distribute freely and post in centrally located areas of rental housing literature concerning landlord-tenant issues if the origin of the literature is properly identified.
- (f) *Complaints.* Tenant organizations may file complaints under this subtitle on behalf of tenants, but a tenant organization may not represent exclusively a tenant or class of tenants unless the tenant or the class specifically authorize the organization to do so.

(C.B. 20, 2018, § 1)

Sec. 17.1016 - Penalties and other relief.

- (a) *Not Exclusive.* The penalties and relief specified in this section are in addition to the other penalties specifically provided in this subtitle.
- (b) *Civil Penalties.*
 - (1) The Office may enforce this subtitle with civil penalties under Title 24, "Civil Penalties" of the Howard County Code.
 - (2) The first violation of this subtitle is a Class B offense.
 - (3) Subsequent violations are Class A offenses.
- (c) *Penalty Recoverable in Civil Action.* Alternatively or in addition to and concurrent with other remedies, the Office may impose a fine not exceeding \$500 for each violation of this subtitle, recoverable in a civil action.
- (d) *Injunctive and Other Relief .* The Office may also seek, and a court may issue, an injunction, a restraining order, or other appropriate relief to correct a violation of this subtitle.

(C.B. 20, 2018, § 1)

Sec. 17.1017. - Private action.

Nothing in this subtitle prevents a person from exercising a right or seeking a remedy to which the person might otherwise be entitled, or from filing a complaint with any other governmental unit or court.

(C.B. 20, 2018, § 1)

TITLE 18 - PUBLIC WORKS

SUBTITLE 1. - PUBLIC UTILITIES

Sec. 18.100A. - Capital Improvement Master Plan (C.I.M.P.) for Water and Sewerage.

(a) *Definitions:*

- (1) *Capital Improvement Master Plan; C.I.M.P. for Water and Sewerage:* The Capital Improvement Master Plan (C.I.M.P.) for Water and Sewerage is a plan proposed by the County Executive upon the recommendations of the Director of Public Works and adopted by the County Council pursuant to the provisions of section 22.405 of the Howard County Code. The plan indicates the capital improvements to the County's water supply systems and sewerage systems to be constructed during the next ten years in order to implement the housing and employment growth projections of the County's general plan and the master plan for water and sewerage adopted pursuant to the requirements of the Natural Resources Article of the Annotated Code of Maryland. The C.I.M.P. for Water and Sewerage includes the water and sewer projects included in the Howard County Capital Budget and Capital Program and Extended Capital Program.
- (b) *Requirement to Prepare C.I.M.P. and Review It Annually:* The Department of Public Works shall prepare the C.I.M.P. for Water and Sewerage pursuant to the provisions of section 22.405 of this Code. The Department shall review the plan annually and shall submit updates as appropriate for adoption by the County Council.

(C.B. 10, 1992)

Sec. 18.100. - Metropolitan Commission personnel, functions and property transferred to County.

All employees of the former County Metropolitan Commission (except the Commissioners) shall be employees in the merit system and shall be assigned by the County Executive to the various offices and departments of the County Government according to the individual's skills and qualifications and the requirements of the County in such positions and at such rates of pay as may be provided by law or regulation.

All the former functions of the Howard County Metropolitan Commission shall be assumed by the following departments or offices of Howard County: Purchasing by the office of the County Administrator; billing, assessments, finance, payroll and accounting by the Office of Finance; design, operation, construction, maintenance and repair of utility facilities by the Department of Public Works.

On and after February 11, 1969, all property or interests therein of any kind or description, real mixed or personal of the Howard County Metropolitan Commission shall vest in and become the property of Howard County. All such personal property, equipment and vehicles shall be under the direction, control and supervision of the Department of Public Works, except that any personal property, equipment or vehicle associated with a function assigned to an office or department, other than the Department of Public Works, shall be under the direction, control and supervision of such other office or department.

(C.B. 17, 1969)

Sec. 18.101. - Metropolitan District; creation; incorporation of additional property.

(a) *Existence:*

- (1) *Property Included.* There is a Howard County Metropolitan District. Except for a parcel that the Health Department orders connected to the public water or sewerage system under section 12.105 of the County Code, only a parcel that is located in the metropolitan district may be served by public water or sewer.

- (2) *Other property.* A parcel that is not in the metropolitan district or the planned service area, as defined in the master plan for water and sewerage, may be served by public water or sewer only if the Health Officer has ordered that the parcel be connected to the public water or sewerage system pursuant to section 12.105 of the County Code. If the Health Officer orders that the parcel be connected, the parcel:
 - (i) Shall not be incorporated into the metropolitan district;
 - (ii) Shall not be placed in the planned service area;
 - (iii) Shall receive only public water or sewer, or both, as ordered by the Health Officer; and
 - (iv) Is subject to all applicable fees associated with receiving the public water or sewer, as provided in section 20.616 of the County Code.
- (b) *Property Included in District.* The Howard County Metropolitan District shall consist of:
 - (1) Property included in the former Ellicott City, Elkridge, Guilford, Dorsey, and Patuxent Subdistricts created by:
 - (i) Chapter 991 of the Acts of the General Assembly of 1943;
 - (ii) Chapter 609 of the Acts of the General Assembly of 1945;
 - (iii) Chapter 369 of the Acts of the General Assembly of 1963;
 - (iv) Chapter 356 of the Acts of the General Assembly of 1965; and
 - (2) Property incorporated into the district by council bill before the effective date of this act;
 - (3) Property incorporated into the district by authority of the Director of Public Works under subsection (f) of this section;
 - (4) Property incorporated into the district by County Council bill under subsection (g) of this section; and
 - (5) Property incorporated into the district by authority of the Director of Public Works under subsection (h) of this section.
- (c) *Fees, Assessments and Charges.* Property in the metropolitan district shall be subject to fees, assessments and charges as set forth in title 20, subtitle 3 of the Howard County Code.
- (d) *Plat of District.* The Director of Public Works shall prepare and maintain a plat of the metropolitan district showing all properties which are part of the district. A copy of the plat shall be filed:
 - (1) In the Office of the Director of Public Works;
 - (2) In the Department of Finance; and
 - (3) In the land records of Howard County.
- (e) *Property Eligible for Incorporation into the Metropolitan District.* Only a parcel located in the "planned service area" in the Howard County Master Plan for water and sewerage is eligible for incorporation into the metropolitan district.
- (f) *Procedure for Incorporation into the Metropolitan District; Administrative Incorporation:*
 - (1) The owner of a parcel in Howard County that is located in the "planned service area" in the Howard County master plan for water and sewerage may petition the Director of Public Works, in writing, to incorporate the parcel into the metropolitan district.
 - (2) The petition under this subsection shall be in a form prescribed by the Director of Public Works.
 - (3) When the Director of Public Works receives a petition to incorporate a qualifying parcel into the metropolitan district, the Director shall prepare a notice, to be published in at least one newspaper of general circulation in the County, proposing to incorporate the parcel into the district.

- (4) The notice under paragraph (3) of this subsection shall contain directions for objecting to the incorporation of the parcel into the metropolitan district, including:
 - (i) A requirement that an objection be made in writing; and
 - (ii) The date by which an objection must be received by the Director, which shall be at least 14 days after the notice is published.
- (5) If the Director of Public Works receives a written objection to the incorporation of a parcel into the metropolitan district, the Director shall follow the procedures under subsection (g) of this section.
- (6) If, within the time specified in the notice of intent to incorporate a parcel into the metropolitan district, the Director does not receive a written objection to the inclusion of the parcel into the district, the Director shall:
 - (i) Approve the petition;
 - (ii) Incorporate the parcel into the district; and
 - (iii) Revise the plat of the district to reflect the incorporation.
- (g) *Procedure for Incorporation into the Metropolitan District; legislative Incorporation:*
 - (1) If the Director of Public Works receives timely written objection to the incorporation of a parcel into the metropolitan district, the Director shall prepare a bill to be introduced by the County Council authorizing incorporation of the parcel into the district.
 - (2) The Director of Public Works shall give written notice to the person who objected to incorporation of the parcel, informing the person:
 - (i) That a bill is to be introduced;
 - (ii) Of the scheduled dates for public hearing and final consideration of the bill; and
 - (iii) Of the procedure for submitting testimony to the Council regarding the bill.
 - (3) If the bill is enacted, on the effective date of the bill authorizing the incorporation:
 - (i) The parcel shall be incorporated into the metropolitan district; and
 - (ii) The Director of Public Works shall revise the plat of the metropolitan district to reflect the incorporation of the petitioned parcel into the district.
- (h) *Procedure for Incorporation into the Metropolitan District; Emergency Incorporation:*
 - (1) The Director of Public Works may approve the emergency incorporation of an improved parcel into the metropolitan district if:
 - (i) The parcel is five acres or less;
 - (ii) The parcel is located within the planned service area;
 - (iii) The parcel fronts on a water and/or sewer main that is capable of providing service to the parcel; and
 - (iv) A bona fide need exists for the incorporation, as determined in writing by the County Health Department.
 - (2)
 - (i) The owner of a parcel that meets the conditions in paragraph (1) of this subsection may, by written request to the Director of Public Works, request that the Director incorporate the parcel into the metropolitan district.
 - (ii) The owner shall provide the names of all owners of the parcel, the location, deed reference, and acreage of the parcel.

- (iii) The Director of Public Works may approve the incorporation of a parcel upon the affirmative finding that the parcel meets the conditions of this subsection. The decision shall be in writing.

(C.B. 28, 1997; C.B. 32, 2002, § 1)

Editor's note— Section 1 of C.B. 28, 1997, enacted May 5, 1997, repealed § 18.101 in its entirety. Formerly, § 18.101 pertained to the metropolitan district and derived from C.B. 17, 1969; C.B. 62, 1987; and C.B. 72, 1988. Section 2 of C.B. 28, 1997, enacted new provisions for § 18.101 as herein set out.

Sec. 18.101.1. - Middle Patuxent drainage area subdistrict.

- (a) *Established, Purpose; Code Provisions Applicable.* For the purpose of creating a subdistrict within the metropolitan district to provide for construction of the Middle Patuxent interceptor project, there is established the Middle Patuxent drainage area subdistrict (hereinafter referred to in this section as the "subdistrict"). All parcels of land and properties within the subdistrict as defined in this section shall be subject to the provisions of this section, title 20 of the Howard County Code and other law, including, but not limited to, those provisions concerning taxes, fees, assessments and other charges.
- (b) *Definition and Geographical Area:*
 - (1) The subdistrict shall consist of those parcels of land and properties which have been incorporated, or shall be incorporated, in the metropolitan district pursuant to section 18.101 or 18.101A of the Howard County Code; provided that only the whole and/or parts of such parcels of land and properties which lie in the area which is bounded by the natural ridgelines of the sewer shed of the Middle Patuxent River, from its point of confluence with the Little Patuxent River on the east to Maryland Route 108 on the west, shall be in the subdistrict. Provided, further, that those subparcels served by contracts 2818 D = W + S, 2826 D = W + S and 2833 D = W + S shall not be part of the subdistrict. Provided, further, that those parcels of land and properties which have been or will be receiving sewer service from the Hobbitts Glen pump station which have been recorded as of August 1, 1979, shall not be part of the subdistrict.
 - (2) By way of partial description, but not by way of limitation, the subdistrict shall include the following described properties:

Tax Map No.	Parcel No.	Liber/Folio
29	116	400/709
	88	400/709
	88	400/709
	88	400/709
	88	400/709
	110	442/398

	126	417/543
	23	513/736
	60	417/517
	57	401/124
	58	201/218
	71	326/410
	109	761/356
35	70	401/124
	77	402/747
	241	402/516
	251	411/276
	112	406/568
	250	417/546
	337	785/211
	29	401/124
	28	463/196
	27	400/143
	240	400/727
	59	406/114
	22	410/348

	23	430/622
	3	403/752
	239	400/709
	281	463/196
41	45	413/1
	301	410/665
	5	406/506
	29	413/308
42	P/O 1	599/82 WT1
		WT2
	13	406/506
	54	400/709
	P/O 337	406/565
	P/O 390	569/335
	P/O 206	607/342
	P/O 162	406/319
47	5	627/184
	6	483/81

(C.B. 45, 1979; C.B. 112, 1981)

Sec. 18.101A. - Reserved.

Editor's note— Section 1 of C.B. 28, 1997, enacted May 5, 1997, repealed § 18.101A in its entirety. Formerly, § 18.101A pertained to the authority of the Director of Public Works to incorporate internal parcels of land into the metropolitan district and derived from C.B. 24, 1973 and C.B. 116, 1981.

Sec. 18.102. - Procedure for establishment or extension of existing utility service—Initiation by Department of Public Works.

- (a) The Director of the Department of Public Works shall prepare annually and shall present to the Public Works Board a five-year planning objective survey for the orderly extension of water, reclaimed water, and sewer service within the metropolitan district for each year's current program. The Director of the Department of Public Works shall make or have made preliminary surveys, preliminary plans, and estimates for the establishment or extension of water, reclaimed water, and sewer systems in those portions of the metropolitan district wherein such systems are necessary. Whenever such preliminary plans are completed and construction or extension of such system is contemplated the Director of Public Works shall give notice, by publication as provided in section 18.118, of a public hearing to be held by the Public Works Board.
- (b) The said notice by publication shall state the extent of the improvements, the proposed area to be served, the probable cost thereof and that the preliminary plans and cost estimates of the improvements are available for public inspection at the Office of the Department of Public Works during regular business hours, and also specifying a time and place for a public hearing before the Public Works Board when persons interested in the improvements may appear and be heard for or against the proposed extensions.
- (c) After the hearing before the Public Works Board, as specified in the notice by publication, the Public Works Board shall, within 30 days, make a recommendation to the Director of Public Works on whether or not to proceed with the improvements, which decision shall be published as provided in section 18.118.
- (d) After the decision to proceed with the improvements has been published, the Director of Public Works shall include such water, reclaimed water, or sewer extensions within the Department of Public Works capital improvement program, and the same shall be presented to the County Executive, who may include such capital improvement program in his annual capital improvement program which is submitted to the County Council pursuant to the Charter.

(C.B. 17, 1969; C. B. 27, 2007)

Sec. 18.103. - Authority to adopt standards and specifications for utilities.

- (a) The Director of Public Works may develop standards and specifications pertaining to the installation and types of water, reclaimed water, and sewage systems to be used in Howard County and publish them in a code to be made available by the Howard County Department of Public Works, at a minimum charge, to the general public upon request. The code and its amendments shall include size and type of pipe and include all fixtures, structures, apparatus, connections, accessories, pumps and all things associated with the installation, operation and maintenance of water, reclaimed water, and sewer systems.
- (b) Any proposed code or amendments shall be submitted to the Board of Public Works, which shall schedule a public hearing on the proposed code or amendments within 30 days of receipt of the proposed code or amendments. A brief explanation of the code or amendments and the time and place of the public hearing before the Board of Public Works shall be published in at least two

newspapers of general circulation published in the County. The Board of Public Works may make recommendations to the Director of the Department of Public Works.

- (c) The Director of Public Works shall thereafter present the standards and specifications, or amendments, to the County Council for adoption by appropriate resolution.

(C.B. 27, 1972; C.B. 27, 2007, § 2)

Sec. 18.104. - Utility connections.

- (a) *Requirement to Provide.* The Director of Public Works shall provide for each and every property abutting upon a street or right-of-way, in which a water main or sewer main is laid, a water connection pipe or meter or both, or sewer connection pipe which shall be extended as required from the water main or sewer main to the property line of the abutting lot. Said service pipe or connection with the sewer main is subject to a reasonable charge for said connection, as provided elsewhere in this Code, which charge will be paid by all property owners at the Department of Finance, before the actual connection with any pipe on private property is made.
- (b) *Connections after August 13, 2007.* For water and sewer connections applied for by the property owner after August 13, 2007 that are not installed under a developer agreement or capital project, the service pipe or connection from the water or sewer main shall be:
 - (1) Constructed by an on-site utility contractor licensed by the County;
 - (2) Subject to the construction standards established by the Director of Public Works; and
 - (3) Subject to inspection by the Director of Public Works before a connection is made with any pipe on private property.
- (c) *Connections on or before August 13, 2007.* For water and sewer connections applied for by a property owner on or before August 13, 2007 that are not installed under a developer agreement or capital project, the service pipe or connection from the water or sewer main shall be constructed by the Department of Public Works.
- (d) *Surety.* A property owner applying for a connection under subsection (b) of this section shall provide the County with surety that shall be:
 - (1) In the form of a cash deposit or other surety acceptable to the Director of Public Works to guarantee the cost of making the water and sewer connections including the cost of paving or other repairs; and
 - (2) In an amount set forth in a fee resolution adopted by the County Council.
- (e) *Reclaimed Water System.* Connections to the reclaimed water system shall be made in accordance with this section.

(C.B. 17, 1969; C.B. 38, 1974; C.B. 15, 1978; C.B. 46, 1983; C.B. 26, 2007, § 1; C.B. 27, 2007, § 2)

Sec. 18.104A. - Mandatory connections made by Department of Public Works.

- (a) *Health Department Issuance of Order to Connect.* The Health Department may issue an order to connect a property to the public water or sewerage system or both pursuant to the provisions of section 12.105, "Connection of Property With Public Water Supply or Sewerage System," of the Howard County Code.
- (b) *Duty of Department of Public Works to Require Mandatory Connections.* The Department of Public Works shall require, at the property owner's expense, that property be connected to the public water or sewerage system or both, including the connection of all spigots, hydrants, toilets and waste

drains with the water main or sewer main, within the time frame prescribed by the Health Department or by a court when:

- (1) The Department has been ordered by the court to make the connection pursuant to subsection (e), "Court Action to Enforce Order," of section 12.105, "Connection of Property With Public Water Supply or Sewerage System," of the Howard County Code; or
 - (2) A property owner has been ordered by the health department to connect to the public water or sewerage system or both and is eligible and approved for financing of such work pursuant to subtitle 7 "Water/Sewer Connection Financing Program," of title 20, "Taxes, Charges, and Fees" of the Howard County Code.
- (c) *Department of Public Works to Determine Method of Connection.* The Director of Public Works shall determine if a mandatory connection shall be made:
- (1) By the Department of Public Works if the Director determines that it is in the interest of public health, safety, and welfare to perform the connection; or
 - (2) By a licensed on-site utility contractor retained by the property owner in accordance with subsection 18.104(b) of this subtitle.
- (d) *Authority to Enter Property.* Whenever the Department of Public Works makes a mandatory connection pursuant to subsection (c) of this section, the Department or its agents may enter the property to do work associated with the connection.
- (e) *Agreements to Perform Work.* Whenever the Department of Public Works makes a mandatory connection pursuant to subsection (c) of this section, the Department may enter into agreements with licensed master plumbers and licensed on-site utility contractors to perform the work required in the Health Department's order to connect.
- (f) *Connection Costs.* Whenever the Department of Public Works makes a mandatory connection pursuant to subsection (c) of this section, it shall have the work performed "at cost" and shall keep an accurate account of the costs of such connection, including the subcontractor's cost of construction and inspection and administrative costs incurred by the County. The Department shall provide the Director of Finance with a copy of the accounts.
- (g) *Billing.* Upon completion of a mandatory connection made pursuant to subsection (c) of this section, the Director of Finance shall bill the property owner for the costs of the connection including all subcontractor and administrative costs and any connection or in-aid-of-construction charges imposed by subtitle 6, "Water and Sewer Charges and Assessments," of title 20, "Taxes, Charges, and Fees" of the Howard County Code.
- (h) *Payment of Costs by Property Owner.* The property owner shall pay the costs of connection within 30 days of billing or, if eligible and approved for financing of such work pursuant to subtitle 7, "Water/Sewer Connection Financing Program," of title 20, "Taxes, Charges, and Fees" of the Howard County Code, within ten years of the billing. All charges are a lien against the property and shall be enforced and in every respect be treated as County real estate taxes.

(C.B. 46, 1983; C.B. 6, 1998; C.B. 26, 2007, § 1)

Sec. 18.105. - Use of fire hydrants.

The Director of Public Works shall have full and complete jurisdiction over all fire hydrants connected with the County water system and no person, firm or corporation shall use or make connection with the same without the written authority of the Director of Public Works, excepting that no restrictions shall apply to any bona fide department in the discharge of its duties. No person, firm or corporation shall tamper with, deface, damage or obstruct any fire hydrant. Any violation of the provisions of this section shall be a misdemeanor punishment under section 18.121 of this subtitle.

(C.B. 17, 1969)

Sec. 18.106. - Public water supply; conservation and restrictions on use.

- (a) *Restriction on and Denial of Service.* The Director of Public Works may restrict the use of the public water supply and may deny water service to a user:
- (1) Who fails to comply with use restrictions imposed by the Director, to conserve water, in response to an anticipated shortage in the public water supply; or
 - (2) Who refuses to repair an outside water leak on the user's property or to allow the Department of Public Works to repair or replace a water metering device.
- (b) *Service Denials and Charges:*
- (1) The Director of Public Works shall notify the user in writing of a proposed denial of water service, and shall turn the service off no sooner than 30 days after the date of the notice, unless a shorter time is required because the Director finds an imminent threat to the public health and safety, in which case a shorter time period may apply. Water service denied under this section shall be restored after the Director of Public Works determines that the condition giving rise to the denial has been remedied.
 - (2) The Director may impose a charge upon a user for the denial and restoration of service under this section, which shall be established by resolution of the County Council as provided in section 20.605 of the County Code.

(C.B. 17, 1969; C.B. 60, 2000)

Sec. 18.107. - Jurisdiction over privately owned public water or sewer systems.

The Director of the Department of Public Works shall have jurisdiction over all privately owned public water or sewer systems constructed after February, 1965, anywhere within Howard County which are subject to the laws of the Public Service Commission of Maryland, and any person, firm or corporation doing the work shall obtain a permit from the Director of Public Works and pay a reasonable charge therefor and such system shall then be installed, maintained and operated under plans, specifications, rules and regulations as the Director of Public Works may require or establish, except those water and sewer systems that are presently operating as private systems and are subject to the laws of the Public Service Commission prior to February, 1965, and before such jurisdiction can be obtained by the Director of Public Works of any of those private systems there shall be a public hearing, notice of the time and date of beginning of which shall be published three weeks in advance in any of the local newspapers published in Howard County, giving the public full details, intentions and reasons of such intended jurisdiction desired by the Director of Public Works.

(C.B. 17, 1969)

Sec. 18.108. - Construction requirements for private water and sewer systems.

- (a) No person shall construct, alter or extend a water supply system or a sewer system and/or treatment system within the County without first having received a permit therefor from the Department of Public Works.
- (b) No such permit shall be issued until complete plans and specifications for the construction, alteration or extension, together with such information as the Department may require, have been submitted to and approved by the Department of Public Works and the County Health Department.
- (c) All construction, alteration and extension of such water supply or waste water collection systems shall comply strictly with plans and specifications as filed with the terms of such permit. No variances

from the plans submitted therewith shall be allowed until such variances are approved by the Department of Public Works. Upon completion of any such project, the permittee shall file with the Department of Public Works a full and complete plan of the system as built.

- (d) The within section 18.108 shall not be construed to be applicable to private wells or private septic systems constructed to serve a single-family residential structure.

(C.B. 17, 1969)

Sec. 18.109. - Contracts with other political subdivisions for utility systems.

The County Executive of Howard County may enter into any contract for the connection of its water, reclaimed water, or sewer systems with those of any municipality or adjoining counties for the purchase of water or reclaimed water and for the disposal of sewage and other drainage from the metropolitan district, and enter into any agreement concerning any other matters deemed by the County Executive to be necessary or advisable for the proper construction, maintenance and operation of the water, reclaimed water, and sewerage systems, whether within or outside Howard County.

(C.B. 17, 1969; C.B. 27, 2007, § 2)

Sec. 18.110. - Acquisition of existing systems.

The Director of Public Works is authorized and empowered to purchase or acquire by gift any existing water or sewer systems in Howard County which, in his discretion and his judgment, are desirable and necessary for the purpose of providing adequate water or sewerage or both for the residents of Howard County, provided that such purchases or acquisitions are approved by the County Executive and the County Council of Howard County.

(C.B. 17, 1969)

Sec. 18.111. - Taking over privately owned systems.

- (a) Whenever the Department of Public Works shall have extended its water supply or sewerage system up to and is ready to connect with any municipal or privately owned water system or sewerage system, whether operating as an independent water supply or sewerage system or as an extension of an adjacent or adjoining system or systems, and whether inside or outside of Howard County, and the Director of Public Works deems it advisable and proper for the adequate operation of the system under its jurisdiction to take over the said water or sewerage system, or extension of such system or systems, it may take over or purchase the same, subject to the approval of the County Executive and County Council, upon such terms and provisions as may be agreed upon and approved by the aforesaid, but before any part of the purchase price is paid, other than a nominal sum of money to bind the agreement, it shall be the duty of the vendor or agent to furnish a statement to the Department of Public Works and report all names and addresses of persons having interests or claims against such property whatsoever, which shall be verified by an oath in writing. Thereupon, it shall be the duty of the Director of Public Works to notify, personally or by registered mail, return receipt requested, all persons having any interest whatsoever in such property, and in addition, the Director of Public Works shall give three weeks' notice of the intention to purchase said property in a newspaper or newspapers published within said County where the properties are located and each person having any claim whatsoever against said properties shall file his or her claim with said Director of Public Works on or before the expiration date mentioned in said notice, at which time any and all persons will be heard and their rights determined by the Director of Public Works, which said hearing shall be final.

- (b) In the event of failure to agree to the purchase price or conditions of purchase of said water or sewerage system, whether privately or municipally owned, the said County Council may acquire the same by condemnation in the same manner as it is authorized to acquire land. In the condemnation of privately owned water or sewerage systems the jury shall take into consideration, as a part of their award, any payment, contribution or tax upon the respective lot owners or purchasers toward the construction of said system, and where said system or systems have been built in connection with or for the purpose of developing home sites, subdivisions or villages, or by any individuals, firm or corporation, and such system or systems have been offered as an inducement for the purchase of a lot or land, therein, the jury shall deduct from the determined value of the plant or system such sum as it may reasonably determine was added to the purchase price of said land or lots in the sale thereof for the purpose of constructing said systems.
- (c) Private owned systems shall be taken under said condemnation by the Director of Public Works free and clear of all debts and liens, but said Director of Public Works shall make a party defendant any person, firm or corporation having any recorded lien or encumbrance against the same, and the circuit court is hereby empowered and authorized to determine the respective amounts due the defendants, and from and after payment into court or to the proper parties, the Director of Public Works shall be authorized to take possession of, maintain and operate said system, whether private or municipal, as a part of its general system, and from the date of such payment all properties along the line of any water main or sewer of the system so acquired shall stand in the same relation, bear the same benefit assessment, and be subject to the same regulations and penalties as though the system so acquired had been constructed and put into operation by the Director of Public Works under the provisions of this subtitle.
- (d) Whenever there is in existence a privately owned water supply or sewerage system which, in the judgment of the Director of Public Works, is unfit, as a whole or in part, for incorporation with the Department of Public Works system, the Director of Public Works shall disregard the existence of said system or unfit part thereof and extend its system to serve the area tributary to the existing system or unfit part thereof and all the provisions of this subtitle relating to systems constructed by the Department of Public Works shall apply to said extension.
- (e) Any municipality whose system is acquired by the Director of Public Works, whether by purchase or condemnation, is hereby authorized to use the amount paid to it for said system for the purchase or redemption of any bonds or debt which may be outstanding against the same, or the County Executive and County Council may, as, a part of the purchase price of said system, assume the payment of any such outstanding bonds. The Director of Public Works shall not purchase any existing water or sewerage systems, in whole or in part, which are improperly constructed or were constructed without proper authority from the State Department of Health since the passage of the Act requiring the same and which do not meet the County standards in existence at the time of purchase.

(C.B. 17, 1969)

Sec. 18.112. - Agreements for owners or developers to construct or pay for the construction of utilities.

- (a) *Authority to Enter into Agreements.* The County may enter into an agreement with the owner or developer of property located in the metropolitan district for the construction of water, reclaimed water, or sewer systems to serve the property if the Director of Public Works determines that:
 - (1) It is inexpedient or impractical for the County to build the systems; and
 - (2) Prior to construction of the systems, adequate paved roadways and drainage systems will be in place in accordance with the provisions of title 16 of the County Code.
- (b) *Requirements.* The agreement shall provide that, at the County's sole option, the owner or developer shall either:
 - (1) Design, plan, install, and construct the water, reclaimed water, or sewer system; or

- (2) Contribute to the County the funds necessary to design, plan, install, and construct the water, reclaimed water, or sewer system.
- (c) *Partial Release.* The agreement may provide that a property owner or developer who has entered into an agreement to design, plan, install, and construct the water, reclaimed water, or sewer system may be partially released from the surety requirements of the agreement upon partial completion of the work, in accordance with criteria established by the Department of Public Works.
- (d) *Ownership of the System.* Upon completion of the water, reclaimed water, or sewer system and its acceptance by the County, it shall become the property of Howard County.
- (e) *Reimbursement:*
 - (1) Except as provided in paragraph (2) of this subsection, for a property for which a preliminary subdivision plan is approved before July 1, 2004 the agreement shall provide that the County shall rebate to the owner or developer 100 percent of the actual cost of the work performed, excluding the costs for rights-of-way, the costs of house connections and the engineering and inspections costs.
 - (2) If a property is subject to an agreement under this section and a preliminary subdivision plan for the property is approved before July 1, 2004:
 - (i) The property owner or developer may request that the County consent to amend the agreement to allow the owner or developer to enter into a private agreement with the purchasers of the subdivision lots to recover the cost of the water, reclaimed water, or sewer system; and
 - (ii) The County shall agree to the amendment if none of the subdivision's lots are owned by or under contract to an individual who plans to live in a home that will be built on the lot.
 - (3) If a preliminary subdivision plan for a property is approved on or after July 1, 2004, the property owner or developer may seek to recover the cost of the water, reclaimed water, or sewer system from the purchasers of the subdivision lots when the lots are sold, through a private agreement with the purchasers providing for payment over time, or through any other method mutually agreed upon.
- (f) *Notice to Adjacent Property Owners.* When a developer or property owner proposes to construct a water, reclaimed water, or sewer project on County open space or park property, the developer or property owner shall post the County property and place an advertisement in one local newspaper of general circulation prior to County approval of the plans. The posting and advertisement shall describe the project and state the telephone number of the developer or property owner where the citizen may call for further information and shall also provide a two-week period for such inquiries.

(C.B. 17, 1969; C.B. 70, 1988; C.B. 35, 1989; C.B. 90, 1996; C.B. 16-2004; C.B. 27, 2007, § 2)

Sec. 18.113. - Construction in public ways.

The Department of Public Works may enter upon and excavate any State, County or municipal street, road or alley, or any other public highway, for the purpose of installing or maintaining and operating the water, reclaimed water, and sewerage systems provided for under this subtitle, and it may construct, in any such street, road, alley, or public highway, a water main, sewer or drain or any appurtenance thereof, without the receipt of a permit or the payment of any charge; provided that, whenever any State, County or municipal highways are to be disturbed, the authority having control thereof shall be duly notified; and provided further, that said highway shall be repaired and left by the Department of Public Works in the same condition as, or in condition not inferior to, that existing before said highway was torn up, and that all cost incident thereto shall be borne by the Department of Public Works.

(C.B. 17, 1969; C.B. 27, 2007, § 2)

Sec. 18.114. - Reserved.

Editor's note— Section 1 of C.B. 66, 1997, repealed § 18.114 in its entirety. Formerly, § 18.114 pertained to permits required for excavation and/or construction on streets, etc. and derived from C.B. 17, 1969 and C.B. 45, 1972.

Sec. 18.115. - Reserved.

Editor's note— Section 1 of C.B. 66, 1997, repealed § 18.115 in its entirety. Formerly, § 18.115 pertained to removal of obstructions to Public Works and derived from C.B. 17, 1969.

Sec. 18.116. - Changes in grades affecting installed work.

Whenever a person (including a Department of the County, other than the Director of Public Works) changes a road, road grade or road surface, or makes any excavations or fills which require a change in the elevation of any manholes, valve boxes, meter vaults, sewer main or water mains or lines or appurtenances thereto, the Director of Public Works shall make the necessary change in the elevation of such manhole, valve box, meter vault, water main or sewer mains or lines or appurtenances thereto and charge the person (including a bureau or Department of the County) requiring the same for the actual time and materials involved and the proportionate share of the current overhead.

(C.B. 17, 1969)

Sec. 18.117. - Right of entry of County employees.

Any employee of the Department of Public Works, in the performance of official duties, upon presentation of proper credentials, may at any reasonable hour enter upon any private lands in the County for the purpose of making surveys, reading any meter, disconnecting, connecting, turning on or shutting off or repairing a water main, reclaimed water main, or sewer main and any person hindering or obstructing or refusing entry to such employee shall be punished as provided in section 18.121.

(C.B. 17, 1969; C.B. 27, 2007, § 2)

Sec. 18.118. - Publication and posting of required notice.

Any notice required by this subtitle shall be:

- (a) Published at least once each week for two consecutive weeks in one or more newspapers published in the County having a circulation in the area affected by such notice, or by giving written notice to all persons affected thereby; and
- (b) Posted in conspicuous public places in the area to be affected.
 - (1) The notice poster shall:
 - (i) Give the address of the subject property, if available.
 - (ii) Be double-sided and at least 30 inches by 36 inches in size.
 - (iii) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
 - (iv) State that construction is proposed for the subject property and include a description of the proposed project.

- (v) Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.

(C.B. 17, 1969; C.B. 62, 1987; C.B. 69, 2018, § 1)

Sec. 18.119. - Unauthorized connections.

- (a) *Connection.* A person shall not make any connection to any County water, reclaimed water, or sewer line without first having obtained permission from the Director of Public Works.
- (b) *Turning on Water.* A person shall not turn on any water or reclaimed water valve or restore any water or reclaimed water service which has been disconnected or turned off, without first having obtained permission from the Director of Public Works.

(C.B. 17, 1969; C.B. 27, 2007, § 2)

Sec. 18.120. - Reserved.

Editor's note— Section 1 of C.B. 66, 1997, repealed § 18.120 in its entirety. Formerly, § 18.120 pertained unlawfully discharging waste into streets and derived from C.B. 17, 1969.

Sec. 18.121. - Penalties.

- (a) *Criminal Penalties.* Any person violating any provision of this subtitle or any regulation adopted by the Department of Public Works is guilty of a misdemeanor, and on conviction is subject to a fine not exceeding \$500.00 or imprisonment not exceeding 90 days, or both. Each day that a violation continues is a separate offense.
- (b) *Civil Penalties.* Alternatively or in addition to and concurrent with all other remedies, at law or equity, Howard County may enforce the provisions of this subtitle or adopted regulations with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle or adopted regulations is a Class C offense. Each day that a violation continues is a separate offense.
- (c) *Injunctive and Other Relief.* In addition, Howard County may institute injunctive, mandamus, or other appropriate legal action or proceeding for the enforcement of this subtitle or regulation adopted by the Department of Public Works. Any court of competent jurisdiction may issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

(C.B. 17, 1969; C.B. 32, 1985; 66, 1997; C.B. 49, 2006, § 1)

Sec. 18.122. - Rules and regulations.

The Department of Public Works shall control all publicly owned water, reclaimed water, and sewer facilities in the County, and the County Executive, with the advice and recommendation of the Public Works Board, may make rules and regulations governing the use and conservation of water, reclaimed water, and sewer facilities.

(C.B. 17, 1969; C.B. 27, 2007, § 2)

Sec. 18.122A. - Regulation of discharges to the public sewerage system.

- (a) *Purpose.* The purpose of this section is to regulate the discharge of wastes into the public sewerage system pursuant, in part, to the requirements of the Federal Water Pollution Control Act, also known as the Clean Water Act and to achieve the following objectives:
- (1) To prevent the introduction of pollutants into the public sewerage system which will:
 - (i) Interfere with the operation of the treatment plant or the conveyance system;
 - (ii) Pass through the treatment plant to contaminate receiving waters; or
 - (iii) Otherwise be incompatible with any component of the public sewerage system;
 - (2) To protect both the general public and County personnel;
 - (3) To promote reuse and recycling of industrial wastewater;
 - (4) To protect the quality of treatment plant sludge, and thus, ensure efficient and safe sludge disposal alternatives;
 - (5) To enable the County to comply with its National Pollutant Discharge Elimination System (NPDES) Permit, sewage sludge requirements, and any other Federal or State laws to which the County's public sewerage system is subject.
- (b) *General Provisions:*
- (1) *Applicability.* The provisions of this section are applicable to users connected to and discharging industrial wastewater into the public sewerage system of Howard County.
 - (2) *Prohibitions.* Certain types of wastes may not be discharged into the public sewerage system. All discharges to the public sewerage system shall conform to the requirements of this section and particularly to subsection (f) "Discharge Prohibitions and Limitations" and rules and regulations made pursuant to subsection (e) "Establishment of Rules and Regulations."
 - (3) *Administration.* The Director of Public Works shall administer the provisions of this section.
 - (4) *Pretreatment and other control requirements.* The Director of Public Works shall require pretreatment or other controls for the regulation of nonconforming wastes pursuant to subsection (g), "permit system, pretreatment and other control requirements" of this section. This section incorporates National Pretreatment Regulations, set forth in 40 CFR, chapter 1, subchapter N, part 403 and parts 405 through 471.
 - (5) *Reporting and inspections.* Those users of the public sewerage system as determined by the Director shall provide the Director of Public Works with detailed information regarding the quantity and quality of their discharge, shall maintain records of this information and shall give the Director access to the premises or hauling vehicle for sampling of the discharge, and review of records pursuant to subsection (h), "monitoring and reporting" and subsection (i), "sampling and inspection" of this section.
 - (6) *Variances and appeals.* Industrial users may obtain variances from the strict application of the provisions of this section pursuant to subsection (k), "variances" of this section.

Users may appeal a decision of the Director of Public Works relating to this section to the Board of Appeals pursuant to subsection (m) of this subtitle.
 - (7) *Enforcement.* The Director of Public Works shall enforce the provisions of this section, including prohibiting discharge to the public sewerage system, publishing the names of significant violators, recovering the costs of damage to the public sewerage system and asking for civil and criminal sanctions against violators, pursuant to subsection (l), "enforcement" of this section.
- (c) *Definitions.* Unless a provision explicitly states otherwise, words and phrases used in this section have the meanings designated below:
- (1) *Act or the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

- (2) *Approval authority* means the State of Maryland Department of the Environment or other agency empowered to enforce and administer the State pretreatment program.
- (3) *Authorized representative* means:
- (i) A responsible corporate officer such as a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or
 - (ii) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; or
 - (iii) A general partner or proprietor if the industrial user is a partnership or sole proprietorship; or
 - (iv) A duly authorized representative of the individual described in subsection (i), (ii), or (iii) above, if:
 - a. The authorization is in writing and has been submitted to the Director, initially and whenever there is any change in the individual or position named in the authorization; and
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, e.g. the position of plant manager or a position of equivalent responsibility.
- (4) *Baltimore City* means the Government of Baltimore City, Maryland.
- (5) *Baltimore County* means the Government of Baltimore County, Maryland.
- (6) *Biochemical oxygen demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter during incubation at 20 degrees Celsius for five days expressed in milligrams of oxygen per liter of organic matter and measured in accordance with procedures set forth in 40 CFR 136.
- (7) *Building sewer* means a sewer conveying sewage from the premises of the user to the public sewerage system.
- (8) *Bypass* means the intentional diversion of wastewater from any portion of an industrial user's pretreatment facility.
- (9) *Characteristics of wastewater* means a distinguishing trait, quality, or property of wastewater such as, but not limited to, BOD, COD, SS, pH, temperature, color, odor, or toxicity.
- (10) *Chemical oxygen demand (COD)* means the quantity of oxygen utilized in the chemical oxidation of organic matter, expressed in milligrams of oxygen per liter of organic matter and measured in accordance with procedures set forth in 40 CFR 136.
- (11) *Chlorine demand* means the difference between the amount of chlorine added to sewage during the sewage treatment process and the amount of free, combined or total available chlorine remaining in that sewage after treatment.
- (12) *Cooling water* means water discharged from a use such as air conditioning, cooling or refrigeration, or water to which the only pollutant added is heat.
- (13) *County; Howard County* means the Government of Howard County, Maryland.
- (14) *Department of Public Works* means the Department of Public Works of the Howard County Government.
- (15) *Direct discharge* means the discharge of treated or untreated sewage directly to the waters of the State.

- (16) *Director or Director of Public Works* means the Director of Public Works of Howard County or an authorized official representing the Director.
- (17) *Effluent—Treatment plant effluent* means the discharge to receiving waters from a sewage treatment plant after sewage treatment.
- (18) *Environmental Protection Agency (EPA)* means the U.S. Environmental Protection Agency. Where appropriate, the Administrator or duly authorized official of the agency.
- (19) *Freon soluble waste* means fats, greases and oils, extractable from sewage in accordance with procedures set forth in 40 CFR 136.
- (20) *Garbage* means solid waste from the preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
- (21) *Groundwater* means water other than surface water entering the public sewerage system through defective pipes, pipe joints, building sewers or manhole walls.
- (22) *Industrial sewage or industrial wastewater* means wastes, sludges or pollutants resulting from a process or operation of industry, manufacture, trade or business (other than a trade or business that generates only sanitary wastewater) and discharged to the public sewerage system through a service connection or by a waste hauler, including nondomestic waste or pollutants from any source regulated under section 307(b) or (c) of the Act, such waste being referred to in the Act as "indirect discharge."
- (23) *Industrial user* means a user who discharges, causes or permits the discharge of industrial sewage to the public sewerage system, including wastewater which is hauled or conveyed to the sewage treatment plant.
- (24) *Interference* means a discharge which alone, or in conjunction with discharge(s) from other sources:
- (i) Inhibits or disrupts the public sewerage system, its treatment processes or operations, or its sludge processes (sludge use or disposal); and
 - (ii) Is a cause of:
 - a. A violation of any requirement of the treatment plant's NPDES permit (including an increase in the magnitude or duration of a violation); or
 - b. The prevention of sewage sludge use or disposal in accordance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations):
 - 1. Section 405 of the Act;
 - 2. The Solid Waste Disposal Act (SWDA) including:
 - i. Title II, more commonly referred to as the resource conservation and Recovery Act (RCRA); and
 - ii. The Maryland Sludge Management Plan prepared pursuant to subtitle D of the SWDA;
 - 3. The Clean Air Act;
 - 4. The Toxic Substances Control Act; and
 - 5. The Marine Protection, Research and Sanctuaries Act.
- (25) *Metering facilities or metering device* means all structures, equipment and devices necessary to monitor the volume, flow variations and pollutant concentrations of sewage discharged to the public sewerage system, including access points for sewage sampling.
- (26) *National Categorical Pretreatment Standard or categorical pretreatment standard* means a regulation containing pollutant discharge limits promulgated by the EPA in accordance with

section 307(b) and (c) of the Act which applies to a specific category of industrial users and which appears in 40 CFR, chapter 1, subchapter N, parts 405 through 471.

- (27) *National Prohibitive Discharge Standard* or *prohibitive discharge standard* means prohibitions against the discharge of certain substances into the public sewerage system. These prohibitions appear in subsection (f) of this section.
- (28) *New source* has the meaning stated in 40 CFR 403.3.
- (29) *Nonconforming waste* means any solid, liquid or gaseous material, substance or waste which, if discharged to the public sewerage system in sufficient quantity or concentration, would violate or contribute to a violation of:
 - (i) Any standards or requirements established pursuant to subsection (e) "establishment of rules and regulations" of this section;
 - (ii) Any prohibitions specified in subsection (f) "discharge prohibitions and limitations" of this section.
- (30) *NPDES permit* means the National Pollutant Discharge Elimination System permit issued to a sewage treatment plant or other source of direct discharge by the State.
- (31) *Owner* means an individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity or their legal representatives, agents or assigns registered as owning a property or improvement in Howard County, or registered as owning a vehicle used to haul sewage for disposal in Howard County.
- (32) *Pass-through* means a discharge which exits the public sewerage system into waters of the United States in quantities or concentrations which, alone or in conjunction with discharge(s) from other sources, causes a violation of any requirement of the public sewerage system's NPDES permit (including an increase in the magnitude or duration of a violation).
- (33) *Patapsco Sewage Treatment Plant* means the sewage treatment plant owned by Baltimore City and located on the Patapsco River.
- (34) *pH* means the logarithm of the reciprocal of the hydrogen ion concentration of a solution which indicates intensity of acidity and alkalinity of sewage on a scale running from zero to 14. A pH of 7.0 represents neutrality, a pH above 7.0 represents alkalinity, and a pH below 7.0 represents acidity.
- (35) *Pollutant* means a contaminant or a regulated characteristic of wastewater, toxic or otherwise, which is added to sewage as a result of commercial, institutional, or industrial processes, or as a result of other human activity.
- (36) *Pretreatment* means reduction of the amount of pollutants, elimination of pollutants, or alteration of the nature of pollutant properties in sewage to a less harmful state prior to or in lieu of discharging or otherwise introducing pollutants into the public sewerage system. Pretreatment can be obtained by physical, chemical or biological methods, or changes in operating processes, except as prohibited by 40 CFR, section 403.6(d).
- (37) *Pretreatment requirements* means a substantive or procedural requirement related to pretreatment, other than a National Categorical Pretreatment Standard, which Howard County or the State imposes on an industrial users.
- (38) *Public sewerage system* or *sewerage system* means the system of sewers, pumping stations, treatment plants and other appurtenant structures used for the purpose of collecting and treating sewage and which is:
 - (i) Owned and controlled by Howard County, or
 - (ii) Owned by Baltimore County, Baltimore City, or other jurisdiction and through agreement, is used for the purpose of collecting and treating sewage from Howard County.

This definition includes "publicly owned treatment works" as defined by section 212 of this Act (33 U.S.C. § 1292).

- (39) *Sanitary sewage* or *sanitary wastewater* means wastes, including sludges, from the sanitary conveniences (toilets, rest rooms, sinks, showers, septic tanks, etc.) of dwellings, apartment buildings, commercial establishments, institutions and industrial establishments that are free of stormwater, groundwater and industrial sewage and which are discharged to the public sewerage system through a service connection or by a waste hauler.
- (40) *Severe property damage* means:
- (i) Substantial physical damage to property; or
 - (ii) Damage to the treatment facilities which causes them to become inoperable; or
 - (iii) Substantial and permanent loss of natural resources, which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (41) *Sewage* or *wastewater* means any combination of sanitary and industrial sewage discharged to the public sewerage system through a service connection or by a waste hauler and any groundwater and stormwater present.
- (42) *Sewage treatment plant* or *treatment plant* means a combination of structures and devices for the purpose of treating sewage, which structures and devices are:
- (i) Owned and operated by Howard County, or
 - (ii) Owned by Baltimore County, Baltimore City or other jurisdiction and, through agreement, treat sewage from Howard County.
- (43) *Significant industrial user* means an industrial user of the public sewerage system who:
- (i) Is subject to national categorical standards; or
 - (ii) Discharges an average of 25,000 gallons or more per day of process wastewater (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); or
 - (iii) Contributes a process wastestream that makes up five percent or more of the total hydraulic or organic capacity of the public sewerage system; or
 - (iv) Is found by the County, the State or EPA to have significant impact or the potential to have a significant impact, either singly or in combination with other contributing industrial users on the operation of the public sewerage system or its effluent quality, sludge quality, or air emissions.
- (44) *Sludge* means the slurry containing insoluble material which is removed from wastewater during treatment and disposed of separately from the remaining effluent.
- (45) *Slug* means any significant discharge to the public sewerage system of water, sewage, or industrial sewage which, in concentrations of any given constituent or quantity of flow, could cause interference with the operation of the public sewerage system, pass-through the sewage treatment plant, endanger sewer worker safety, contaminate the sludge, or cause a violation of any permit issued to the public sewerage system.
- (46) *Standard* or *pretreatment standard* means a numerical or other limitation established to limit the quantity or concentration of a specified pollutant contained in sewage discharged to the public sewerage system. Standard includes prohibitive discharge standards, categorical pretreatment standards, and local limits.
- (47) *Standard Industrial Classification (SIC)* means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

- (48) *State* means the State of Maryland Department of the Environment or other Maryland agency empowered to enforce the State pretreatment program.
- (49) *Storm drain* means a pipe or system of pipes and appurtenances, the purpose of which is to carry stormwater, surface water, groundwater, or other natural runoff of unpolluted waters from any source.
- (50) *Suspended solids (SS)*: means the determination of the dry weight expressed in milligrams per liter of solids that either float on the surface or are in suspension and which can be removed from sewage in accordance with procedures given in 40 CFR 136.
- (51) *Toxic pollutant* means a pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of EPA under provisions of the Clean Water Act, section 307(a) or other acts.
- (52) *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user.
- (53) *User or public sewerage system user* means the owner of a residential property or improvement in Howard County which discharges, causes or permits the discharge of sewage to the public sewerage system, or the owner, tenant, licensee or any other person in possession of a property or improvement in Howard County, other than a residential property or improvement, which discharges, causes or permits the discharge of sewage to the public sewerage system, or a waste hauler.
- (54) *Waste hauler* means the owner, renter, licensee or any other person in lawful possession of a vehicle used to haul sewage for disposal to the public sewerage system in Howard County.
- (55) *Wastewater* includes "sewage," "industrial sewage," and "sanitary sewage".

(d) *Abbreviations.* The following abbreviations are used in this section:

°C	Temperature in degrees Celsius
°F	Temperature in degrees Fahrenheit
CFR	Code of Federal Regulations
mg/l	Milligrams per liter
USC	United States Code
COMAR	Code of Maryland Regulations

(e) *Establishment of Rules and Regulations:*

- (1) *Administration and enforcement.* The Director of Public Works may prepare and promulgate rules, regulations and procedures to carry out and enforce the provisions of this section.
- (2) *Standards and requirements for quality and quantity of sewage discharge.* The Director of Public Works may establish standards and requirements in addition to the requirements of this section to regulate the quantity and quality of sewage discharged to the public sewerage system

by industrial users. The standards may vary from one portion of the public sewerage system to another, dependent upon the sewage treatment plant to which the portion is tributary. Standards for portions of the public sewerage system which are tributary to a treatment plant or sewerage system outside of Howard County shall be at least as stringent as those established by the jurisdiction operating the treatment plant or sewerage system. Standards and requirements established by the Director of Public Works may be more stringent than those established by other regulatory agencies or jurisdictions.

- (3) *Factors to be considered in establishing standards and requirements.* In establishing the standards and requirements, the Director shall take into consideration:
- (i) Measured pollutant concentrations in untreated sewage received at the sewage treatment plant.
 - (ii) Pollutant concentrations in sewage which would interfere with biological and physical treatment processes, which would be toxic to biological treatment processes, or which would cause a decrease in treatment process efficiency.
 - (iii) Pollutant concentrations in sewage received at the treatment plant which would constitute a hazard to persons exposed to the pollutant concentrations.
 - (iv) Pollutants in sewage received at the treatment plant which would not be susceptible to removal or reduction in concentration during sewage treatment.
 - (v) Pollutant concentrations in treatment plant effluent which would cause a violation of the treatment plant's NPDES permit requirements.
 - (vi) Pollutant concentrations in the treatment plant effluent which would constitute a hazard to the biota of receiving waters.
 - (vii) Pollutant concentrations in sludge produced at the treatment plant which would reduce its utility and disposal alternatives.
 - (viii) The flow rate in the sewers tributary to the treatment plant.
 - (ix) The flow rate and volume of the industrial user's discharge.
 - (x) Guidelines and standards established by the State and EPA.
 - (xi) Standards and requirements established by Baltimore City, Baltimore County or other appropriate jurisdiction for sewage discharged into public sewers tributary to sewage treatment plants owned and controlled by those jurisdictions.
 - (xii) Discharge prohibitions and limitations specified in subsection (f).
- (4) *Standards and requirements which supersede Director's standards and requirements:*
- (i) *National Categorical Pretreatment Standards.* The National Categorical Pretreatment Standards promulgated by EPA for a particular category of industrial users shall be imposed where applicable. These standards are published by EPA in 40 CFR chapter 1, subchapter N, parts 405 through 471. Applicable reporting requirements are published by EPA in 40 CFR 403.12.
 - (ii) *National Prohibitive Discharge Standards.* The National Prohibitive Discharge Standards promulgated by EPA shall, if more stringent, supersede standards and requirements established by the Director.
 - (iii) *State pretreatment standards and requirements.* Pretreatment standards and requirements established by the State shall, if more stringent, supersede standards and requirements established by the Director. These standards and requirements are published by the State in COMAR title 26, subtitle 08, chapter 08 "Pretreatment Requirements to Control Industrial Users of Publicly Owned Treatment Works".

- (iv) *Baltimore City and Baltimore County standards and requirements.* Pretreatment standards and requirements established by Baltimore City and Baltimore County for industrial users serviced by the Patapsco Sewage Treatment Plant, if more stringent, supersede standards and requirements established by the Director. These standards and requirements are published in:
 - a. Baltimore City Code, article 25, amended by ordinance 775, section 7 "control and pretreatment of industrial wastewater"; and
 - b. Baltimore County Code, division 5, "wastewater regulations," sections 35.286 through 35.317.

(f) *Discharge Prohibitions and Limitations:*

- (1) *Prohibited discharges—General.* No user shall discharge or cause to be discharged to the public sewerage system any solid, liquid or gaseous waste, including constant or slug discharges, containing toxic or nontoxic pollutants of a concentration, character or quantity that would:
 - (i) Interfere with or be toxic to the biological and physical treatment processes in use at the sewage treatment plant.
 - (ii) Reduce the efficiency of the sewage treatment plant operation.
 - (iii) Constitute a hazard to the biota of waters receiving sewage treatment plant effluent.
 - (iv) Not be susceptible to treatment and which would pass through the sewage treatment plant to the receiving waters inadequately treated.
 - (v) Cause the sewage treatment plant to violate its NPDES permit.
 - (vi) Reduce the utility or disposal alternatives of the sewage sludge produced at the sewage treatment plant.
 - (vii) Exceed applicable standards promulgated by the Administrator of the EPA pursuant to section 307 of the Act.
 - (viii) Exceed applicable pretreatment standards promulgated by the State, including standards pursuant to section 9-314 of the environment article of the Annotated Code of Maryland.
 - (ix) Interfere with, hinder operation of, or cause damage to any portion of the public sewerage system.
 - (x) Exceed standards and requirements established by the Director.
 - (xi) Contain petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through.
 - (xii) Result in the presence of toxic gases, vapors, or fumes within the public sewerage system in a quantity that may endanger worker health and safety.
- (2) *Discharge from downspouts, drains, etc.* No user shall discharge or cause to be discharged to the public sewerage system stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or uncontaminated industrial process water.
- (3) *Flammable or explosive waste.* No user shall discharge or cause to be discharged to the public sewerage system a flammable or explosive solid, liquid or gaseous waste which by itself or by interaction with other wastes found in sewage could create or cause fire or explosive hazard. In addition, no user shall discharge wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.
- (4) *High-temperature waste.* No user shall discharge or cause to be discharged to the public sewerage system a solid, liquid or gaseous waste of sufficiently high temperature as to cause damage to the public sewerage system, to interfere with the operation of any component of the sewerage system, to inhibit biological processes at the sewage treatment plant, or to produce

vapors hazardous to personnel working in and around the sewerage system. Temperatures shall not be higher than 150 degrees Fahrenheit (65 degrees Celsius) at the point of discharge to the public sewerage system, and shall not cause the temperature of the influent to the sewerage treatment plant to exceed 140 degrees Fahrenheit (60 degrees Celsius).

- (5) *Obstructive waste.* No user shall discharge or cause to be discharged to the public sewerage system a solid or viscous waste or sludge in quantities or size capable of causing obstruction to the flow in the public sewerage system or interference with the operation of any component of the sewerage system.
- (6) *Noxious or malodorous waste.* No user shall discharge or cause to be discharged to the public sewerage system a noxious or malodorous solid, liquid or gaseous waste which, by itself or by interaction with other wastes found in sewage, is capable of creating a public nuisance or hazard to life or of preventing entrance into the public sewerage system for maintenance and repair.
- (7) *Radioactive waste.* No user shall discharge or cause to be discharged to the public sewerage system a radioactive solid, liquid or gaseous waste in quantities or concentrations exceeding limits given in title 8, "radiation" of the environment article of the Annotated Code of Maryland.
- (8) *Freon soluble waste.* No user shall discharge or cause to be discharged to the public sewerage system free or emulsified Freon soluble wastes such as oils, fats and greases in concentrations of greater than 100 mg/l. The Director may impose additional restrictions where these wastes will solidify or become viscous at normal temperatures of sewage (32 degrees Fahrenheit to 150 degrees Fahrenheit) and it is probable that they will collect in sewer lines or interfere in any way with public sewerage system operation. The Director may permit a higher concentration of Freon soluble waste if he determines that the waste will not have a deleterious effect on the public sewerage system and the user has previously provided measures or controls acceptable to the Director to limit the discharge of the Freon soluble waste.
- (9) *Garbage.* No user shall discharge or cause to be discharged to the public sewerage system any garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions prevailing in the public sewerage system. Each industrial user must obtain the approval of the Director before installing or operating any garbage grinder equipped with a motor of three-fourths horsepower or greater.
- (10) *Corrosive waste.* No user shall discharge or cause to be discharged to the public sewerage system a solid, liquid or gaseous waste which would in any way attack or corrode any component of the public sewerage system. All wastes shall have pH values in the range of six to ten standard units. Wastes found in sewage to form products not in conformance with these limitations are prohibited.
- (11) *Colored waste.* No user shall discharge or cause to be discharged to the public sewerage system concentrated dye waste or other wastes high in color which are sufficiently strong to affect the color of the treatment plant influent or effluent.
- (12) *Unacceptable load on treatment plant.* No user shall discharge or cause to be discharged to the public sewerage system a solid, liquid or gaseous waste which would exert a biochemical oxygen demand, chemical oxygen demand or chlorine demand which would constitute, in the opinion of the Director, an unacceptable load on the sewage treatment plant. No user shall discharge or cause to be discharged waste containing concentrations of inert, suspended or dissolved solids which would, in the opinion of the Director, constitute an unacceptable load on the treatment plant.
- (13) *Antibiotic waste.* No user shall discharge or cause to be discharged to the public sewerage system any antibiotic waste.
- (14) *Dilution of discharge.* No industrial user shall increase the use of process water or attempt to dilute a discharge of industrial sewage as a partial or complete substitute for pretreatment to achieve compliance with National Categorical Pretreatment Standards, or any other standard or requirement established by the State or established by the Director pursuant to this section.

- (15) *Discharge deleteriously affecting waters of the State.* No person shall discharge wastes into any storm drain which would constitute a "direct discharge" or which would deleteriously affect the quality of the receiving waters as defined by the water quality standards established by the State. No wastes shall be discharged prior to notification of the State and the issuance of a NPDES permit to the discharger if required.
- (16) *Trucked or hauled pollutants.* No person shall discharge trucked or hauled sewage or pollutants to the public sewerage system except at discharge points designated by the Director.
- (g) *Permit System; Pretreatment and Other Control Requirements:*
- (1) *Discharge of nonconforming wastes.* The Director of Public Works may prohibit the discharge or proposed discharge to the public sewerage system of nonconforming wastes.
- (2) *Permit system.* The Director of Public Works shall implement a sewage discharge permit system to control the discharge or proposed discharge of sewage to the public sewerage system from industrial users or from waste haulers.
- (i) *Fees.* The Director may establish fees to cover, in whole or in part, the cost of operating a permit system. Any schedule of fees shall be adopted annually by resolution of the County Council.
- (ii) *Permit application:*
- a. *Potential industrial users.* Potential industrial users, not including waste haulers, proposing to discharge sewage to the public sewerage system shall conform to the requirements of this section and shall acquire a permit. In accordance with procedures established by the Director for review of site development and construction plans, any potential industrial user desiring to connect a proposed building to the public sewerage system shall submit an application for discharge permit and provide other information requested pursuant to subsection (h)(1). In accordance with procedures established by the Director for the review of building permit and plumbing permit applications, any potential industrial user desiring to locate in an existing building connected to the public sewerage system or any potential industrial user desiring to connect an existing building to the sewerage system shall submit an application for discharge permit and other information requested pursuant to subsection (h)(1).
- b. *Existing industrial users.* Existing industrial users currently discharging or proposing to discharge a new, modified, or significantly changed waste stream to the public sewerage system shall conform to the requirements of this section and shall acquire a permit. In accordance with procedures established by the Director, the existing user shall submit an application for discharge permit, or an application for discharge permit modification, and other information requested pursuant to subsection (h)(1).
- c. *Waste haulers.* Waste haulers shall conform to the requirements of this section and shall acquire a permit. In accordance with procedures established by the Director, waste haulers shall submit an application for a discharge permit and other information requested pursuant to subsection (h)(1).
- (iii) *Draft permit:*
- a. *Existing and potential industrial users.* After review of information from an existing or potential industrial user obtained pursuant to subsection (h)(1), the Director shall issue a draft permit.
- b. *Waste haulers.* After review of information from a waste hauler obtained pursuant to subsection (h)(1), the Director shall issue a draft permit for each vehicle operated by a waste hauler discharging or proposing to discharge sewage to the public sewerage system.
- c. *Draft permit review.* The Director shall specify a reasonable period of time to allow the industrial user or waste hauler to review the draft permit and to request clarification or

revision of any of the terms or requirements. The Director may at his discretion revise the draft permit.

(iv) *Final permit:*

- a. *Final permit issuance.* Once the specified review period has passed and the Director has considered any comments received on the draft permit, the Director shall issue a final permit, the terms of which shall be adhered to by the industrial user or waste hauler.
- b. *Industrial users.* No industrial user shall connect to or discharge sewage to the public sewerage system until applicable provisions of this section are adhered to by the user and a permit has been issued.
- c. *Waste haulers.* Prior to issuance of a permit to a waste hauler, the waste hauler shall provide proof acceptable to the Director that all other permits required by law or regulation have been issued, including the permit issued by the Howard County Health Department. The Director may refuse issuance of a permit to a waste hauler if the hauler has had a permit revoked in Howard County or in another jurisdiction or has repeatedly violated the laws or regulations governing the hauler's operation in Howard County or in another jurisdiction. No waste hauler shall discharge sewage to the public sewerage system without a permit issued pursuant to this section.

(v) *Provisions of permit—Industrial user.* A permit issued to an industrial user shall contain the following provisions as appropriate:

- a. Name, address and telephone number of industrial user;
- b. Effective date and expiration date of permit;
- c. Effluent limitations;
- d. Effluent monitoring activity;
- e. Reporting requirements;
- f. Compliance requirements;
- g. Notification and record keeping requirements;
- h. A statement of applicable civil and criminal penalties for violations of pretreatment standards, and requirements, or compliance schedules;
- i. Requirements for the control, reduction, elimination or prohibition of nonconforming wastes;
- j. Requirements and standards for the pretreatment, flow reduction, flow equalization or storage of nonconforming wastes;
- k. Any liability for payment of charges and surcharges as provided in title 20, subtitle 3 "Water and Sewer Charges and Assessments" of the Howard County Code;
- l. Requirements for the submission of an operating plan;
- m. A compliance schedule identifying time frames for the construction of required facilities, for the implementation of other specified requirements, and for submission of progress reports. If an industrial user is affected by a national categorical pretreatment standard, the compliance schedule shall conform with the time limitations set forth in section 307 of the Federal Water Pollution Control Act as amended;
- n. Any other requirement of the Director.

(vi) *Provisions of permit—Waste hauler.* A permit issued to a waste hauler shall specify:

- a. Prohibitions on the discharge or transport of nonconforming waste;

- b. Access points and time periods for sewage discharge;
 - c. Procedures for sewage discharge;
 - d. Liability for payment of charges and surcharges as provided in title 20, subtitle 3 "Water and Sewer Charges and Assessments" of the Howard County Code;
 - e. Requirements and conditions for the disposal of industrial sewage;
 - f. Any other requirement of the Director.
- (vii) *Duration of permits.* A permit shall be issued for a specified time period, not to exceed five years.
- (viii) *Modification of permits.* A permittee shall operate pursuant to the provisions of the permit. The Director may modify the provisions:
- a. To reflect modifications, amendments, or revisions of Federal, State, or local pretreatment regulations or standards;
 - b. At the request of the permittee, to reflect changes in the permittee's operations;
 - c. To reflect changes in the permittee's ownership, address, or water/sewer account number.
- (ix) *Transferability of permits.* Except with the prior written approval of the Director, a permit to discharge to the public sewerage system shall not be reassigned, transferred, sold, or assigned to different premises.
- (x) *Appeal.* An industrial user or waste hauler may appeal the final permit in accordance with subsection (m) "appeals" of this section.
- (3) *Modification of process; requirement for pretreatment; provision for waste disposal.* As required by the Director, an industrial user who discharges or proposes to discharge nonconforming wastes to the public sewerage system shall:
- (i) Modify an industrial process in order to reduce or eliminate the discharge of nonconforming wastes; and/or
 - (ii) Provide for the control, pretreatment, flow reduction, flow equalization or storage of nonconforming wastes; and/or
 - (iii) Submit for approval a schedule specifying the shortest time frame for the industrial user to achieve compliance with this section, or State or Federal pretreatment standards or requirements. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of the pretreatment measures and facilities required to bring the industrial user into compliance; and/or
 - (iv) Prevent the discharge and provide for the transport of the nonconforming wastes to a location or facility where disposal of the wastes is legally permitted. The Director may require the submission of proof, acceptable to the Director, that the nonconforming wastes were disposed of at a legally permitted location or facility.
- (4) *Progress reports from industrial users.* When required by the Director, an industrial user shall submit periodic progress reports at time intervals specified in the compliance schedule detailing progress toward compliance with the permit. Each progress report shall specify, as a minimum, whether or not the user complied with the increment of progress to be met on a specified date and, if not, the date on which the user expects to comply with this increment of progress; the reason for any delay and the steps being taken by the user to adhere to the established schedule.
- (5) *Facilities approved by the Director of Public Works.* If facilities for pretreatment, flow reduction, flow equalization, control or storage of nonconforming wastes are required for an existing or

potential industrial user, detailed engineering plans and specifications for the facilities shall be submitted to the Director. No work shall commence on construction or alteration of the facilities without the Director's approval of the plans and specifications.

- (6) *Meet other requirements of law:*
 - (i) Facilities for pretreatment, flow reduction, flow equalization, control or storage of nonconforming wastes shall conform with the requirements of all applicable codes, ordinances, laws and regulations and all required permits shall be obtained.
 - (ii) An industrial user shall comply with the most stringent standard, regulation and requirement established in the following:
 - a. The Federal Pretreatment Regulations in 40 CFR 403;
 - b. Any applicable current or future Federal Categorical Pretreatment Standards set out in 40 CFR parts 401 through 471;
 - c. This section; and
 - d. All applicable Federal, State, or local requirements or standards.
- (7) *Operating plans.* Where the discharge to the public sewerage system of nonconforming wastes is prohibited or eliminated, operating procedures for the user shall be prepared in a manner acceptable to the Director and shall be submitted to the Director for review and approval. The procedures shall address the management, control, handling and storage of the nonconforming wastes to ensure that these wastes are not discharged to the public sewerage system, including in the event of accidental spillage. Where facilities for pretreatment, flow reduction, flow equalization, control or storage of nonconforming wastes are required, operating procedures for the facilities shall be submitted to the Director for review and approval. Approved operating procedures shall be adhered to and shall not be altered without prior approval of the Director.
- (8) *Responsibility for operation and maintenance.* Where facilities for pretreatment, flow reduction, flow equalization, control or storage of nonconforming waste are constructed as required, the industrial user shall, at the user's expense, provide for the continuous and satisfactory operation and maintenance of the facilities.
- (9) *Industrial pretreatment equipment bypass:*
 - (i) *Bypass prohibited.* An industrial user shall not allow wastewater to bypass any on-site wastewater pretreatment equipment. Adequate backup equipment shall be installed for the purpose of preventing a bypass from occurring. Maintenance activity required for the efficient, reliable operation of the facility's pretreatment system shall be performed during normal periods of equipment downtime, through the use of auxiliary pretreatment equipment, retention of untreated waste, or through other means so that the discharge of untreated wastewater is prevented.
 - (ii) *Exceptions to enforcement.* The Director may take enforcement action against an industrial user for a bypass unless:
 - a. It was unavoidable to prevent loss to life, personal injury, or severe property damage;
 - b. The industrial user submitted notices as required under "bypass notice"; and
 - c. There were no feasible alternatives to the bypass.
 - (iii) *Bypass notice.* An industrial user shall provide an oral report of an unanticipated bypass to the Director within 24 hours from the time the industrial user becomes aware of the bypass. A written report shall also be submitted within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain:
 - a. A description of the bypass and its cause;
 - b. The duration of the bypass, including exact dates and times;

- c. Whether or not the bypass has been corrected and, if not, the anticipated time it is expected to continue; and
 - d. Steps taken or planned to reduce, eliminate and prevent recurrence of the bypass.
- (10) *Waste haulers.* Waste haulers shall discharge wastes to the public sewerage system only at access points and during time periods specified by the Director and according to procedures specified by the Director. Only wastes originating in Howard County shall be discharged into the public sewerage system in Howard County by waste haulers. Any vehicle used to haul sewage for disposal to the public sewerage system in Howard County shall be subject to inspection at any reasonable time by the Director. The vehicle operator shall, upon request, allow the Director to review documents which are to be carried on the vehicle, including the customer log and required permits. The Director may obtain flow measurements and samples of sewage intended for discharge to the public sewerage system prior to or during the discharge.

(h) *Monitoring and Reporting:*

- (1) *Information required.* Existing and potential industrial users and waste haulers may be required to furnish information relating to their processes and operations, and covering the quantity, quality and flow properties of sewage discharged or proposed for discharge to the public sewerage system. Existing and potential industrial users, and waste haulers, may be required to submit plans, reports, questionnaires, notices, applications, or analytical data to evaluate waste discharge characteristics and to ensure compliance with this section. The information shall be submitted in format and content acceptable to the Director and within a reasonable period of time as specified by the Director. Reports providing information required by this section shall include a signed certification statement acceptable to the Director. Reports submitted by significant industrial users shall include the certification statement as specified in 40 CFR 403.6(a)(2)(ii). Reports and certification statements shall be signed by an authorized representative of the industrial user. The required information, reports, and other documents may include:
- (i) Name, address and location (if different from address) of user;
 - (ii) SIC code of user;
 - (iii) Sewage constituents and characteristics as determined by a reliable analytical laboratory using sampling and analysis methods acceptable to the Director;
 - (iv) Time and duration of discharge;
 - (v) Average daily and peak sewage flow rates, including daily, monthly and seasonal variations, if any;
 - (vi) Site plans, floor plans, mechanical and plumbing plans and details showing sewers, sewer connections and appurtenances by size, location and elevation;
 - (vii) Description of activities, facilities and processes on the premises, including all pollutants which are or could be discharged;
 - (viii) Each product by type, amount, process or processes and rate of production;
 - (ix) Type and amount of raw materials processed or to be processed (average and maximum per day);
 - (x) Number and type of employees, hours of plant operation, and hours of operation of any existing or proposed pretreatment facility;
 - (xi) Baseline monitoring report;
 - (xii) Compliance report;
 - (xiii) Periodic self-monitoring report;
 - (xiv) Compliance schedule progress report;

- (xv) Waste management and spill control plan;
 - (xvi) Chemical storage report;
 - (xvii) Violation report;
 - (xviii) Notification of slug loading;
 - (xix) Notification of upset or bypass of required pretreatment facility;
 - (xx) Any report required by 40 CFR 403.12;
 - (xxi) Any other information as required by the Director.
- (2) *Metering, when requested data is not available.* Where the requested data is not available, the Director may require the installation of metering facilities to obtain the data. The facilities shall be approved by the Director prior to installation and shall be installed within a time frame acceptable to the Director.
- (3) *Other methods of computing flow data.* Where the Director determines that the installation and use of metering facilities by an industrial user is not feasible or warranted, flow data shall be computed using a method approved by the Director. Where applicable, computed flow data shall be based on historical records for industrial users having similar sewage flow characteristics.
- (4) *Reporting requirements and records maintenance:*
- (i) *Industrial users—Records.* Industrial users shall, when requested by the Director, measure flows and shall perform regular analyses of sewage discharged as required by the Director. Industrial users shall maintain records of sewage flows, analyses, operations and production data to demonstrate compliance with this section and as a basis for computing applicable charges and surcharges. Minimum recordkeeping requirements for significant industrial users are specified in 40 CFR 403.12(o).
 - (ii) *Waste haulers—Records.* Waste haulers shall maintain operating records as required by the Director, including information regarding the source(s) of sewage discharged to the public sewerage system. The records shall be maintained to demonstrate compliance with this section and as a basis for computing applicable charges and surcharges. Waste haulers shall maintain a customer log which shall identify each customer serviced and shall provide information related to the quality and quantity of the waste collected. The log, a copy of the permit issued pursuant to this section, and a copy of the permit issued by the Howard County Health Department shall be carried on the hauling vehicle at all times.
 - (iii) *Format of records.* Industrial users and waste haulers shall maintain records and logs in format and content acceptable to the Director.
 - (iv) *Reports:*
 - a. *General reporting requirements.* Industrial users and waste haulers shall submit logs, periodic reports and other reports as required by the Director. The format and content of the reports and logs shall be acceptable to the Director. Records maintenance and periodic reporting requirements shall be specified in the permit. Requirements for other reports shall be specified when requested by the Director.
 - b. *Minimum reporting requirements for significant industrial users.* In the case of industrial users affected by national pretreatment regulations, the content, format, and timing of the reports shall conform, as appropriate, to the requirements of the national regulations. Minimum reporting requirements for significant industrial users are specified in 40 CFR 403 and 40 CFR parts 405 through 471. All reports shall include a signed certification statement as specified in subsection (h)(1) of this section.
 - (v) *Availability for review.* All records maintained by the industrial user or waste hauler relating to compliance with this section shall be available for review and copying by the Director or authorized official representing the State or EPA. Records of an industrial user or waste

hauler shall be retained for a minimum of three years. This period shall be extended during any litigation concerning compliance with this section or permit conditions.

- (vi) *Wastewater analyses and sampling.* All analyses and sampling techniques performed in support of any application, report, proof of compliance, or as required by permit or by order of the Director, shall be performed in accordance with 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question or where the EPA Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods of any other applicable sampling and analytical procedures, acceptable to the Director or other persons approved by the EPA Administrator.
- (vii) *Resampling requirements.* If sampling performed by a significant industrial user indicates a violation, the user shall notify the County within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within 30 days after becoming aware of the violation. However, the industrial user is not required to resample if:
 - a. The County performs sampling at the industrial user at a frequency of at least once per month; or
 - b. The County performs sampling at the industrial user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.
- (5) *Responsibility for installing and maintaining permanent measurement facilities.* The industrial user shall provide and maintain at the user's expense, permanent measurement and metering facilities in order to obtain required data. The industrial user shall install measurement facilities in a time frame acceptable to the Director as specified in the permit.
- (6) *Notification of hazardous waste discharges.* An industrial user shall notify the Director of any discharge or potential discharge to the public sewerage system of a waste which could be considered hazardous waste under 40 CFR 261. The industrial user shall also notify the State and Federal Hazardous Waste Authorities of these wastes in accordance with 40 CFR 403.12(P).
- (7) *Change in character or volume of sewage.* An industrial user shall notify the Director in writing of any anticipated substantial change, either temporary or permanent, in the volume or character of pollutants in the user's discharge (including the hazardous waste for which the industrial user has submitted initial notification under subsection (h)(6)) at least four weeks prior to the anticipated change. An industrial user shall also notify the Director of any anticipated substantial change in operations, either temporary or permanent, which would differ from the approved operating plan previously prepared by the industrial user. The proposed change shall not violate the requirements established pursuant to subsection (e) "establishment of rules and regulations," or requirements established pursuant to subsection (g) "permit system; pretreatment and other control requirements" or the provisions of subsection (f) "discharge prohibitions and limitations" of this section. If the proposed change necessitates issuance or revision of a permit or plan, the change shall not take place until the permit or plan is issued or revised.
- (8) *Access to data submitted by industrial users.* Information and data on an industrial user obtained from reports, questionnaires, monitoring reports, inspections and from other sources shall be available to the public and to government agencies without restriction unless the user, at the time of submission of the data, specifically requests and is able to demonstrate under the terms of the Maryland Public Information Act that the release of the information would divulge information on processes or methods of production entitled to protection as trade secrets of the user. When requested by the industrial user, the portions of the information or data which are demonstrated to be trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request by government agencies for

uses related to this section. The information shall also be available for use by the State or any State agency in judicial review or enforcement proceedings involving the industrial user. Sewage constituents and characteristics shall not be recognized as confidential information. Information, data and records pertaining to the implementation and enforcement of the provisions of this section shall be made available to the jurisdictions operating sewage treatment plants or sewerage systems to which sewage from Howard County is discharged.

(i) *Sampling and Inspection:*

- (1) *Facilities and flow records available for inspection.* All facilities, flow measurement records, sewage analyses records and operating and production records of an industrial user shall be subject to inspection at any reasonable time by the Director. Flow measurement and metering equipment shall be unobstructed and easily accessible for inspection.
- (2) *Access to facilities for sampling purposes.* The Director has the right of access to facilities of an industrial user at any reasonable time for the purpose of obtaining flow measurements and samples of sewage intended for discharge to the public sewerage system. The user shall provide convenient points of access from which flow measurements and sewage samples may be taken. The access points shall be approved by the Director. If requested by the Director, the user shall provide a manhole located outside of the building or facility at a location specified by the Director for the measurement and sampling of sewage being discharged to the public sewerage system.
- (3) *Safety rules.* During inspections and sampling operations, employees of the Department of Public Works shall observe all safety rules applicable to the premises which have been established by the industrial user.
- (4) *Right of entry.* The Director of Public Works shall have the right to enter any industrial user's or waste hauler's premises where sewage intended for discharge to the public sewerage system is produced or where records required by the provisions of this section are maintained.

(j) *Accidental or Slug Discharge:*

- (1) *Provide protection from accidental or slug discharge.* Each industrial user shall provide protection from accidental or slug discharge of nonconforming wastes. Facilities storing or using nonconforming wastes shall be subject to review and approval by the Director. The Director may require reasonable safeguards to prevent discharge or leakage of nonconforming wastes into the sewerage system.
- (2) *Notification provisions:*
 - (i) *Industrial user's responsibility.* In the event of an accidental or slug discharge as specified in subsection (j)(1) such that any provisions of this section are violated, including specific prohibitions specified in subsection (f), the industrial user shall immediately telephone the Howard County Department of Public Works and notify the Department of the incident. The notification shall include location of the discharge, type of waste, concentration, volume and corrective action taken.

Within five days of the accidental discharge, the user shall submit to the Director a detailed written report describing the time, the date, the cause of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences.

- (ii) *Director's responsibility.* If the accidental discharge is to a portion of the public sewerage system tributary to a sewerage system or sewage treatment plant outside Howard County, the Director shall immediately telephone the jurisdiction operating the sewerage system or treatment plant to give notice of the accidental discharge. The Director shall provide the operating jurisdiction with the information supplied by the industrial user concerning the accidental discharge.
- (3) *Liability.* Notification pursuant to subsection (j)(2) above shall not relieve the user of liability for any loss, damage or expense which may be incurred as a result of damage to the public sewerage system, fish kills, or any other damage to person or property. Such notification shall

not relieve the user of any fines, civil penalties or other liability which may be imposed under this section or other applicable law.

- (k) *Variances.* The Director may approve a variance to specific provisions of this section provided that the variance shall not have the effect of nullifying the intent and purposes of this section. No variance shall be given to National Categorical Pretreatment Standards, National Prohibitive Discharge Standards, National Pretreatment Requirements and State Pretreatment Standards and Requirements. When the approval of a variance would provide for less stringent standards or requirements than those established by the jurisdiction operating the treatment plant or sewerage system to which the sewage is discharged, the Director shall obtain prior permission for granting approval of the waiver from the operating authority.

(l) *Enforcement:*

- (1) *Notice of violation—Citation.* The Director shall issue a notice of violation and/or citation to any user found to be violating any provisions of this section or any rules and regulations made pursuant to it. A citation may be issued for a first violation of any provisions of this section and regulations made pursuant to it. The citation and notice of violation shall state the nature of the violation and, at the discretion of the Director, shall require the user to submit a plan and schedule for correction of the violation within an appropriate time frame as specified by the Director. The notice of violation and/or citation shall be delivered in person or by certified mail. If delivered by mail, the notice of violation and/or citation shall be sent to the user's last-known address. Notification shall be deemed to have been given at the time of deposit of the notice of violation and/or citation, postage prepaid, at a mailing location regularly serviced by the U.S. Postal Service. The Director shall review and approve the plan and schedule submitted by the user with any changes the Director considers necessary to correct the violation in a timely manner.
- (2) *Injunctive relief.* The Director may commence an action for appropriate injunctive relief in a court of law against any public sewerage system user found to be violating any provisions of this section or any rules or regulations made pursuant to it.
- (3) *Responsibility for damages.* In addition to and not in substitution for any other penalties provided in this subsection, a public sewerage system user violating the provisions of this section or any rules and regulations made pursuant to it shall be liable for monetary damage to the public sewerage system and for the expense of removing any obstruction in or repairing any damage to the public sewerage system caused by the violation.

The user shall be notified in writing by certified mail of the user's liability for monetary damage, and will be allowed 30 days for payment of the expenses. If payment is not received within 30 days, the expense shall be recovered by civil suit in the name of Howard County and/or in the name of the jurisdiction where the monetary damage occurred. If payment is not made by a waste hauler within 30 days, the waste hauler shall, after written notice mailed to the waste hauler's last-known address, be prohibited from discharging sewage to the public sewerage system until payment is received.

- (4) *Prohibiting discharge; danger to environment or sewerage system.* The Director may immediately prohibit use of the public sewerage system and, if necessary, order immediate severance of the building sewer or discontinuance of water service for a user when the Director considers the prohibition necessary in order to stop an existing or expected sewage discharge which:
- (i) Presents or is likely to present an imminent or substantial endangerment to the health or welfare of persons.
 - (ii) Presents or will likely present an imminent or substantial endangerment to the environment.
 - (iii) Causes or is likely to cause interference with the operation of the public sewerage system.
 - (iv) Causes or is likely to cause damage to the public sewerage system.

- (v) Causes or is likely to cause a violation of any provision of the sewage treatment plant's NPDES permit.
 - (vi) Is from an unknown source serviced by a waste hauler.
 - (vii) Cannot be adequately sampled or monitored to determine its properties and characteristics and is suspected of being a nonconforming waste.
 - (viii) Is being or will be discharged by a user who does not have a valid permit required under the provisions of this section.
 - (ix) Is being or will be discharged by a waste hauler who does not have a valid permit issued by the Howard County Health Department.
 - (x) Is industrial sewage and is being or will be discharged by a waste hauler who has not obtained prior permission for the discharge from the Director.
- (5) *Prohibiting discharge; information not provided by waste hauler.* A waste hauler shall provide information related to a prohibited discharge as requested by the Director. The information shall be provided within a time period established by the Director. The information provided shall be as specified by the Director and may include the source of the prohibited waste hauled, the chemical and physical properties of the prohibited waste hauled, and the discharge location used for the disposal of the prohibited waste. If the hauler does not provide the information as requested, the hauler may be prohibited from discharging sewage to the public sewerage system until the information is provided.

If a waste hauler does not maintain a valid permit issued by the Howard County Health Department, the permit issued pursuant to this section may be revoked by the Director after written notice is mailed to the waste hauler's last-known address.

- (6) *Prohibiting discharge—Repeated violations.* The Director may prohibit use of the public sewerage system by a user who has repeatedly violated the provisions of this section or any rules and regulations made pursuant to it. If necessary, the Director shall order severance of the building sewer or discontinuance of water service to prevent sewage discharge to the sewerage system.
- (7) *Removal of prohibition.* The Director shall remove a prohibition of discharge to the public sewerage system upon proof of the elimination of any sewage discharge prohibited under subsection (l)(4) and assurances, acceptable to the Director, of no further violation of the provisions of this section. The user shall submit a written report, if requested, describing the causes of any sewage discharge prohibited under subsection (l)(4) and the measures taken to prevent any future occurrence within five days of the date of the occurrence.

In the case of a discharge prohibition for a repeat offender, the Director may prohibit discharge to the public sewerage system for a specified period of time. Prior to resuming discharge, a written report providing assurances acceptable to the Director of no further violations of the provisions of this section shall be submitted by the repeat offender if requested.

After written notice mailed to a repeat offender's last-known address, the Director may permanently prohibit discharge to the public sewerage system and may revoke the permit issued pursuant to this section if a repeat offender violates any provisions of this section after the repeat offender is allowed to resume discharge to the sewerage system.

- (8) *Publicizing offenders.* The Director shall publish, annually, in the largest daily newspaper, a list of significant industrial users which, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment requirements. For the purpose of this provision, an industrial user is in significant noncompliance if the violation meets one or more of the following criteria:
- (i) Chronic violations of wastewater discharge standards, defined here as those in which 66 percent or more of all the measurements taken during a six-month period exceed (by any

magnitude) the daily maximum limit or the average maximum limit for the same pollutant parameter;

- (ii) Technical review criteria (TRC) violations of national standards, defined herein as those in which 33 percent or more of all the measurements for each pollutant parameter taken during a six-month period equaled or exceeded the product of the daily maximum limit or the average maximum limit multiplied by the appropriate TRC.

TRC = 1.4 for BOD; TSS; fats, oil, and grease

TRC = 1.2 for all other pollutants except pH

- (iii) Any other violation of a pretreatment effluent limit (daily maximum or long-term average) that the Director determines has caused, alone, or in combination with other discharges, interference or pass through, including endangering the health of County personnel or the general public;
 - (iv) Any discharge of a pollutant that has caused imminent endangerment to human health or welfare, endangerment to the environment, or has resulted in the Director's exercise of emergency authority under subsection (l)(4) or (l)(5) to halt or prevent such a discharge;
 - (v) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction, or attaining final compliance;
 - (vi) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
 - (vii) Failure to accurately report non-compliance;
 - (viii) Any other violation or group of violations which the Director determines will adversely affect the operation or implementation of the local pretreatment program.
- (9) *Civil penalties.* A user who is found to be violating any provision of this section or any rule or regulation made pursuant to it or the terms of an approved compliance schedule developed pursuant to it may be assessed a civil penalty pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. Each day's continuance of the violation shall be considered a separate offense. A first violation of this section shall be a Class A or Class B offense. A second violation and subsequent violations shall be Class A offenses.
- (10) *Criminal penalties—Intentional violations.* A user who is found to be intentionally violating any provision of this section or any rule or regulation made pursuant to it or the terms of an approved compliance schedule developed pursuant to it shall, upon conviction thereof by a court of competent jurisdiction, be subject to a fine of not less than \$1,000.00 and not more than the maximum allowed under State law or by imprisonment for not more than six months, or both, for each offense. Each day's continuance of the violation shall be considered a separate offense.
- (11) *Criminal penalties—False statements, tampering, etc.* A person who knowingly makes false statements, representations, or certifications in an application, record, report, plan or other document filed or maintained pursuant to this section or who falsifies, tampers with or knowingly renders inaccurate a metering device or method required under this section shall, upon conviction by a court of competent jurisdiction, be subject to a fine of not less than \$1,000.00 and not more than that allowed by State law or imprisonment for not more than six months, or both, for each offense.
- (12) *Criminal and civil fines—Used for correcting violations.* The Director or a court of competent jurisdiction may specify that all or a portion of an assessed criminal or civil fine be used to correct the violation for which the fine was assessed. Before the correction is made, the Director shall approve the method of correcting the violation.

- (13) *Upset*. An upset shall not constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards.
- (m) *Appeals*. If a public sewerage system user is aggrieved by specific terms of a final permit or a notice of violation issued pursuant to the provisions of the section, then the Director shall afford the user an opportunity to present his grievance at an informal conference to be held by the Director if so requested within 15 days of the action. The Director may modify, reverse or affirm, wholly or partly, the action previously taken. If the user remains aggrieved after being notified of the decision of the Director, then the user may file an appeal with the Board of Appeals as provided by law, within 30 days of notification of the Director's decision. The Board shall have the power to modify, reverse or affirm, wholly or partly, the action of the Director. However, the Board of Appeals may not waive, set aside or change any specific provision of this section or any rule or regulation promulgated pursuant to this section. Actions of the Director pursuant to item (4) "prohibiting discharge; danger to environment or sewerage system," item (5) "prohibiting discharge: information not provided by waste hauler" and item (6) "prohibiting discharge; repeated violations" of subsection (l) "enforcement" of this section are appealable to the Board of Appeals. Use of the public sewerage system shall be prohibited pending resolution of an appeal of actions of the Director taken pursuant to subsections (l)(4), (l)(5) and (l)(6) of this section. The terms of a final permit issued pursuant to the provisions of this section shall remain in force pending resolution of an appeal. An industrial user or waste hauler shall only discharge to the public sewerage system in conformance with the final permit until resolution of the appeal.
- (n) *Severability*. If any provision, paragraph or word of this section or any regulation or procedure promulgated pursuant to this section is invalidated by a court of competent jurisdiction, the remaining provisions, paragraphs and words of this section and the remaining regulations and procedures shall not be affected and shall continue in full force and effect.

(C.B. 37, 1978; C.B. 51, 1984; C.B. 32, 1985; C.B. 53, 1985; C.B. 13, 1987; C.B. 80, 1994)

Sec. 18.122B. - Allocation of water and wastewater capacity.

- (A) *Findings of Fact and legislative Intent*. The County Council finds that, although the County undertakes master planning for the initial construction and subsequent extension of County-owned water and wastewater facilities in accordance with the provisions of section 9-501 et seq. of the health-environmental article of the Annotated Code of Maryland and regulations promulgated pursuant thereto, temporary shortages of available capacity in water and wastewater facilities may occur as a result of health, environmental or financial considerations. The County Council further finds that, in order to strictly adhere to the requirements of the health-environmental article and to provide public knowledge regarding available capacity in the water and wastewater facilities, it is necessary to establish a method by which available capacity is calculated, priority of water and wastewater service is determined, and available capacity is allocated. The intent of the County Council is to promulgate provisions of this section to accomplish those objectives.
- (B) *Definitions*. As used in this section, the following terms have the meanings indicated:
- (1) *Active subdivision* means a subdivision for which an unexpired developer's agreement exists.
 - (2) *Available capacity of wastewater* means the positive difference between the rated capacity of a wastewater system and the annual average daily flow through the system for the preceding calendar year, less any allocations granted since the preceding calendar year.
 - (3) *Annual average daily flow of wastewater* means the total flow of wastewater through a treatment plant for the preceding calendar year, adjusted for malfunctions and divided by the number of days counted.
 - (4) *Available capacity of water* means the positive difference between the maximum daily flow available from the County's water supply agreements and the maximum daily consumption

during the preceding calendar year, less any allocations granted since the preceding calendar year.

- (5) *Degree of inactivity* means a factor, applied to the inventory of vacant lots in recorded subdivisions for which developer's agreements are not in effect, which indicates the number of lots within the subdivision reasonably expected to be constructed.
- (6) *Industrial/commercial annual average daily flow of wastewater* means the total gallons of wastewater billed to industrial/commercial uses during the preceding calendar year, adjusted for malfunctions [and] divided by the number of days counted.
- (7) *Industrial/commercial maximum average daily flow of water* means:

$$I/C \text{ MADF} = \frac{T}{D} \times \frac{MADC}{AADC}$$

Where:

I/C MADF	=	Industrial commercial maximum average daily flow of water
T	=	Total gallons of water billed to industrial commercial uses during the preceding calendar year, adjusted for malfunctions
D	=	The number of days counted
MADC	=	Maximum average daily consumption of water during the preceding calendar year
AADC	=	Annual average daily consumption of water during the preceding calendar year

- (8) *Legal lot* means:
 - (a) Any legally existing lot, tract or parcel of record, created as a separate lot, tract or parcel prior to July 27, 1948;
 - (b) Any lot, tract or parcel of record created on or after July 27, 1948, in compliance with the zoning regulations in effect at the time of its creation; or
 - (c) Any lot, tract or parcel of record created on or after July 1, 1951, in compliance with the zoning and subdivision regulations in effect at the time of its creation; provided, however, that any lot, tract or parcel created prior to February 7, 1976, and which is not exempt from the current subdivision and land development regulations pursuant to the provisions of subsection 16.108(66), title 16, subtitle 1, article II of the Howard County Code, shall not be considered a legal lot unless it is subdivided in compliance with the provisions of the above-mentioned subtitle.
- (9) *Maximum average daily consumption of water* means the quantity of water delivered to Howard County on the single day of the highest use from all supply sources during the preceding calendar year, adjusted for malfunctions or, if sufficient data is not available for determining the single day of highest use:

$$MADC = AADC \times RMAD$$

Where:

MADC	=	Maximum average daily consumption of water during the preceding year
AADC	=	Annual average daily consumption of water
RMAD	=	Ration of maximum daily water consumption to average daily consumption (derived from the design manual).

- (10) *Residential annual average daily flow of wastewater* means the difference between the annual average daily flow of wastewater for the preceding year and the industrial/commercial annual average daily flow of wastewater for the same period.
- (11) *Residential maximum average daily consumption of water* means the difference between the maximum average daily consumption of water and the industrial/commercial maximum average daily flow of water for the same period.
- (12) *Annual average daily consumption of water* means the total quantity of water delivered to Howard County from its supply sources for the preceding calendar year, adjusted for malfunctions, divided by the number of days counted.

(c) *Allocation of Capacity:*

- (1) The available capacity of wastewater and the available capacity of water shall be apportioned into two major categories. The categories are:
 - (a) Residential development of all types; and
 - (b) Commercial and/or industrial development of all types, including public facilities.

The amount of capacity available for allocation for each category shall be determined by the Director of Public Works to ensure adequate industrial and commercial growth.

- (2)
 - (a) Concurrent with the approval of a final subdivision plat for a subdivision to be served by a public water or wastewater system by the Office of Planning and Zoning, the Department of Public Works shall tentatively allocate water or wastewater capacity when available to the subdivision, subject to compliance with the provisions of paragraph (3) of this subsection, and shall notify the subdivider of the allocation.
 - (b) Upon approval of a sketch plan, written inquiry may be made as to the remaining available capacity and the units allocated against that capacity, and the Director of the Department of Public Works shall provide the requested information within a reasonable period of time.
- (3) Within 180 days from the date of approval of the final subdivision plan, the developer shall post with the County all necessary monies or file a developer's agreement covering the developer's financial obligations with appropriate security guaranteeing installation of all required public improvements. If the posting of all necessary monies or the filing of a developer's agreement with the Department of Public Works is not accomplished within the 180-day period or if the Department of Public Works rejects the agreement as submitted, the allocation is forfeited, prior approvals are void, and the final subdivision plat may not be recorded.
- (4) Upon execution of the developer's agreement by the County, the allocation is valid for the duration of the developer's agreement, which may not exceed a period of three years from the date of execution by the County; provided, however, that in the case of a subdivision for multifamily development, the term of the developer's agreement may be up to four years from

the date of execution by the County. A request for an extension or renewal of a developer's agreement for one year may be granted by the County. If the allocated capacity has not been used by the end of the fourth year or fifth year, if applicable, the allocation is forfeited. "Multifamily development," as used herein, shall mean all residential development except single-family detached.

- (5) An allocation of capacity is not assignable or transferable among subdivisions or sections of subdivisions, except that the unused balance of any allocation granted to commercial and/or industrial subdivision may be transferred among sections or lots of that subdivision.
- (6) The developer's agreement shall provide that the owner fully understands all contingencies which may affect water and wastewater capacity allocations, including, but not limited to, the following:
 - (a) Water and wastewater capacity is contingent upon the availability of Federal and State funds to finance water and wastewater capital projects where applicable;
 - (b) The County disclaims any responsibility to provide water or wastewater allocations, or to be liable for monetary damages for the failure to provide such allocation, if the County is unable to acquire, within a reasonable time, rights-of-way necessary for the construction of water or wastewater capital projects; and
 - (c) Federal or State action, including operational moratoria, may suspend, delay or affect an allocation which is otherwise granted.
- (7)
 - (a) [Notice to applicants of contingencies affecting allocation—] The appropriate County offices and departments shall inform potential applicants for developer's agreements of the contingencies set forth in paragraphs 5 and 6 of this subsection and such other contingencies as may arise from time to time which may affect the right to an allocation or the timing of an allocation.
 - (b) [Allocation to property not requiring subdivision approval—] If a property sought to be connected to a water or wastewater system does not require subdivision approval, an allocation shall be granted upon the issuance of a building permit. If the completion and certification of the building's footings and/or foundations have not been completed within six months from the date of the issuance of the original building permit, or if the building permit is revoked, the allocation is thereby forfeited. Extension of the six-month period may be for reasonable cause, authorized by the Director of the Department of Public Works.
 - (c) Grant of conditional use or zoning reclassification not authorization of allocation—The grant of a conditional use or zoning reclassification of property does not entitle any person to an allocation of water or wastewater capacity for that property. The change in use of an existing commercial/industrial property does not entitle any person to an allocation of water and wastewater capacity which would be greater than the previously recorded water or wastewater flows or existing allocation for that property. Any additional usage must be authorized under this subtitle.
 - (d) Amount of allocation—
 - (i) The allocation of available capacity of wastewater to each residential unit shall be an amount equal to the residential annual average daily flow of wastewater for the preceding calendar year divided by the total number of residential connections as of the end of the preceding calendar year.
 - (ii) The allocation of available capacity of water to each residential unit shall be an amount equal to the residential maximum average annual daily flow of water for the preceding calendar year divided by the total number of residential connections as of the end of the highest quarterly use period of the preceding year.
 - (iii) The allocation of available capacity of water and wastewater for each industrial and commercial use shall be determined by the Director of the Department of Public

Works according to the projected needs of the particular use based upon comparisons of water and wastewater usage in similar industrial or commercial developments.

- (e) Priority of allocation—Applications for allocation of available capacity of water and wastewater shall be considered according to the following priority in each major category:
 - (i) Buildings under construction that will be connected to the utility.
 - (ii) Buildings required to connect, but not as yet connected to the utility.
 - (iii) Legal buildable lots in active subdivisions for which building permits have not been issued.
 - (iv) Properties using individual water supply or wastewater systems which may connect to the system upon completion of a capital project then under construction or for which construction grants have been approved or other approved projects certified by the Director of Public Works as meeting applicable County legislation.
 - (v) Other buildable legal lots adjusted for degree of inactivity, including lots in industrial subdivisions from which prior water or wastewater allocations have been transferred to other sections or lots of that subdivision.
 - (vi) Proposed subdivisions at final plat approval stage.
- (f) Allocation commitment—The sum of the capacity requirements in categories (i) through (v) [of subparagraph 18.122B(c)(7)(e) above] equals the allocation commitment against total capacity at any point in time.
- (g) Reporting—The Department of Public Works shall publish annual reports of the allocation process status or more frequently as required by the Director of Public Works. The reports shall as a minimum, cover:
 - (i) Derivation of all the calculations of defined terms.
 - (ii) Wastewater flows and treatment capacity availability at:
 - a. Little Patuxent Wastewater Treatment Plant.
 - b. Patapsco Wastewater Treatment Plant.
 - c. Billed annual average wastewater generation in the Patapsco and Patuxent drainage areas.
 - (iii) Water purchase, consumption, and distribution:
 - a. Total purchased volume by source and 12-month period.
 - b. The volume of highest use for preceding year.
 - (iv) Derivation of capacity reservation for residential, commercial and industrial use.

(C.B. 46, 1979; C.B. 50, 1991; C.B. 71, 1992)

Sec. 18.123. - Severability.

If any clause, sentence, part or parts of this subtitle, or of any section thereof shall be held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining parts of this subtitle or of any section thereof. The County Council hereby declares that it would have passed the remaining parts of this subtitle or any section thereof if it had known such clause, sentence, part or parts of any section thereof should be declared invalid or unconstitutional.

(C.B. 17, 1969)

Sec. 18.124. - Additions to metropolitan district.

The following described and referred to parcels of land shall be incorporated into the metropolitan district of Howard County, as of July 1, 1970.

Editor's note— Pursuant to instructions of the County, the list of properties formerly contained in this section has been deleted.

Sec. 18.125. - Removal of parcel(s) from metropolitan district.

- (1) *Criteria for Removal of Parcel(s)*. Parcel(s) of land which meet all of the following criteria may be removed from the metropolitan district:
 - (a) The parcel is contiguous to non-metropolitan district property; and
 - (b) The parcel is contiguous to the perimeter of the metropolitan district; and
 - (c) There is no water or sewer connection to the parcel, or allocation of water or sewage treatment units; and
 - (d) In accordance with subtitle 5, "Maryland Agricultural Land Preservation Foundation" of title 2 of the Agricultural Article of the Annotated Code of Maryland or subtitle 5, "Agricultural Land Preservation," of title 15 of the Howard County Code:
 - (i) The parcel is all or part of an agricultural land preservation district; and
 - (ii) The owner has made written application to sell an agricultural land preservation easement to the Maryland Agricultural Land Preservation Foundation or to sell development rights to Howard County.
- (2) *Authority to Remove Property from Metropolitan District*. The County Council may enact an ordinance to remove from the metropolitan district parcel(s) of land meeting the criteria of subsection (1) above, if the Council believes that such a removal is in the public interest. In voting upon such an ordinance, the County Council shall consider the recommendation of:
 - (a) The Director of Finance, that removal of the parcel(s) will have minimal or no effect on the revenues of the metropolitan district; and
 - (b) The Director of Planning and Zoning, that removal of the parcel(s) will have minimal or no effect on the planning for, construction or operation of public water or sewer; and
 - (c) The Director of Public Works that removal of the parcel(s) will have minimal or no effect on the planning for, construction or operation of public water or sewer and will have a minimal effect on the revenues of the metropolitan district.
- (3) *Procedure for Preparation and Passage of an Ordinance to Remove Property from Metropolitan District*:
 - (a) An owner of parcel(s) which meet the criteria listed in subsection (1) above may petition the Director of Public Works for removal of parcel(s) from the metropolitan district.
 - (b) The Director of Public Works shall verify whether the parcel(s) meet all criteria listed in subsection (1) above.
 - (c) If all criteria are met, the Director of Public Works shall forward the petition, the verification and a plat of the locality to the County Council, requesting the introduction of legislation to remove parcel(s) from the metropolitan district.
 - (d) Upon introduction of an ordinance to remove the parcel(s) from the metropolitan district, the County Council shall post the property for two weeks prior to the public hearing. The notice poster shall:

- (i) Give the address of the subject property, if available.
 - (ii) Be double-sided and at least 30 inches by 36 inches in size.
 - (iii) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
 - (iv) State that the subject property is proposed to be removed from the Metropolitan District and include a description of the proposal.
 - (v) Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.
- (e) The Department of Public Works, the Office of Planning and Zoning and the Office of Finance shall make recommendations to the County Council stating whether the parcel meets the criteria of subsection (2) above.
- (f) The County Council may enact the ordinance, after public hearing, in accordance with its authority under subsection (2) above.
- (4) *Effective Date of Ordinance to Remove Property from Metropolitan District:*
- (a) The effective date of an ordinance to remove property from the metropolitan district shall be concurrent with the settlement date for:
 - (i) Acquisition of an agricultural land preservation easement on the parcel(s) pursuant to subtitle 5, "Maryland Agricultural Land Preservation Foundation," of title 2 of the Agricultural Article of the Annotated Code of Maryland or acquisition of development rights pursuant to subtitle 5, "Agricultural Land Preservation," of title 15 of the Howard County Code; or
 - (ii) Fee simple purchase of the parcel(s) by Howard County for agricultural preservation pursuant to subtitle 5, "Agricultural Land Preservation," of title 15 of the Howard County Code.
 - (b) In no event shall the effective date be earlier than 60 days after enactment of the ordinance.
 - (c) Any ordinance to remove parcel(s) from the metropolitan district shall provide that it shall automatically expire if settlement for acquisition of an agricultural land preservation easement, for the acquisition of development rights or for the fee simple acquisition has not taken place within one year of passage of the ordinance.
- (5) *Administrative Procedures upon Enactment of Ordinance.* Whenever settlement has occurred for the acquisition of an agricultural land preservation easement, for the acquisition of development rights or for the fee simple acquisition for agricultural preservation:
- (a) The owner shall notify the Director of Public Works of the date that settlement has occurred.
 - (b) The Director of Public Works shall notify the County Council and the Office of Planning and Zoning of the date that settlement has occurred.
 - (c) The Director of Public Works shall notify the Director of Finance that the parcel(s) have been removed from the metropolitan district and are no longer subject to provisions of Howard County law affecting the financing of improvements to the metropolitan district.
 - (d) The Director of Public Works shall revise all required copies of the metropolitan district plat to reflect removal of the parcel(s) from the metropolitan district.
- (6) *Reentry into Metropolitan District:*
- (a) *Petition.* If an agricultural land preservation easement is terminated pursuant to the provisions of subtitle 5, "Maryland Agricultural Land Preservation Foundation," of title 2 of the Agriculture

Article of the Annotated Code of Maryland or if the owner of property has repurchased development rights from Howard County, the owner may petition for reentry into the metropolitan district, pursuant to the provision of subtitle 1, "Public Utilities," of title 18, "Public Works," of the Howard County Code.

In making recommendations to the County Council on an ordinance for reentry into the metropolitan district, the Director of Public Works shall state whether:

- (i) Existing water systems, or planned expansions thereto are adequate to serve the property.
 - (ii) Existing downstream sewer systems, or planned expansions thereto, including interceptors, force mains, pumping stations and treatment plants, will be adequate to handle flows generated by the property.
- (b) *Reentry charge.* Owners of property who petition for reentry into the metropolitan district shall pay a reentry charge equal to the greater of the following:
- (i) All ad valorem charges that would have been paid had the property remained in the metropolitan district plus five percent interest; or
 - (ii) five percent of the current assessed valuation of the property times the number of years elapsed since withdrawal of the property from the metropolitan district, up to a maximum of five years.

The ordinance for reinclusion of property in the metropolitan district shall provide for its automatic repeal upon failure of the owner of the property to pay the reentry charge within 60 days of enactment of the ordinance.

- (7) *Severability.* The provisions of this section are severable. If any provision, clause, sentence, word or part is held illegal, invalid, unconstitutional or inapplicable, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, section, words or parts of this subtitle.

(C.B. 3, 1983; C.B. 72, 1988; C.B. 69, 2018, § 1)

SUBTITLE 2. - ROADS

Sec. 18.200. - General.

This section provides that the Board of Public Works of Howard County shall have the authority to recommend to the Director of Public Works the approval of the acceptance and acquisition of roads, rights-of-way and associated public improvements located within an approved subdivision for Howard County, Maryland.

(C.B. 5, 1969; C.B. 116, 1981)

Sec. 18.201. - Procedure.

The developer or subdivider of land in an approved subdivision may petition the Director of Public Works to accept title to roads, rights-of-way and associated public improvements for which an option to acquire for public purposes has already been granted to Howard County, Maryland, in consideration for approval of a subdivision plan. All petitions shall be addressed to the Director of Public Works who, upon receipt of same, shall set a hearing time and date before the Board of Public Works. The Board of Public Works shall hold a hearing, after the petitioner has given at least 30 days' notice of the subject, time and place of the hearing, by publication, two separate insertions at weekly intervals, in one or more of the newspapers published in the County. Counter petitions may be presented to the Board of Public Works,

and the Board shall take into consideration the reasons contained therein together with such other testimony as may come before the Board of the hearing.

(C.B. 5, 1969; C.B. 116, 1981)

Sec. 18.202. - Findings.

The subject property, right-of-way, road or other associated public improvement may be acquired for Howard County, if the Director of Public Works after considering the recommendations of the Public Works Boards shall affirmatively find after hearing:

- (a) That the subject right-of-way, road or other associated public improvement lies wholly within an approved subdivision.
- (b) That the subject road, right-of-way or associated public improvement is adequately described by metes and bounds and by recorded subdivision plat.
- (c) That the subject road, right-of-way or other public improvement is laid out and constructed in accordance with the approved subdivision plan, subdivision regulations of Howard County, and the design manual. However, the required sidewalks and stormwater management facilities need not be complete at the time of acceptance if they meet the criteria of the developer agreement for deferral of sidewalk and stormwater management improvements and surety has been posted with the Director of Public Works for completion of these items pursuant to the provisions of the developer agreement for deferred improvements. Further, the required stabilization, landscaping, and planting of street trees need not be complete at the time of acceptance, if surety has been posted with the Director of Public Works for completion of these items as provided in the developer agreement. The remaining sidewalks, stormwater management facilities, stabilization, landscaping, and planting of street trees shall be inspected and approved by the Department of Public Works prior to release of this surety.
- (d) That the acceptance of the property by Howard County at this time will be in the public interest.

(C.B. 5, 1969; C.B. 116, 1981; C.B. 70, 1988; C.B. 70, 1992)

Sec. 18.203. - Transfer of title.

The person petitioning the Director of Public Works shall cause to be prepared, at his expense, a deed granting and conveying good and sufficient fee simple title to the right-of-way or other public improvement to Howard County, Maryland, a municipal corporation, and it shall be the responsibility of the said petitioner, if the subject road, right-of-way or other public improvement shall be accepted by the Director of Public Works, to cause the said deed to be recorded at his expense.

(C.B. 5, 1969; C.B. 116, 1981)

Sec. 18.204. - Relocation or closing of public roads.

This section refers only to the closing or relocation of existing County public roads.

- (a) *Roads Closed or Relocated Only with Approval of County Council.* No County road may be closed or relocated unless the County Council has approved the closing or relocation either by resolution or by approval of a capital project in the budget ordinance or an amendment thereto.
- (b) *Definitions.* Words and phrases used in this section shall have their usual meanings except words and phrases defined below:
 - (1) *Closing or closure* means permanently prohibiting motorized vehicles from using or from having access to or from a County public road.

Closing does not include prohibiting use of a portion of a roadway if motorized vehicles can continue to use or have access to or from the remainder of the roadway.

- (2) *Relocation* is any permanent improvement or permanent alteration to a County public road where a part or all of the new County public road does not overlap or is not contiguous with the previously existing County public road.
- (c) *Initiating a Road Closing or Relocation:*
- (1) *By petition.* An individual, group of individuals, corporation, partnership, association, or governmental agency other than the County Executive or County Council may initiate the closing or relocation of a road by petitioning the County Council to introduce a resolution approving the closing or relocation. The petitioner shall supply the information required in subsection (d) below with the petition.
 - (2) *County Executive.* The County Executive may initiate the closing or relocation of a road by submitting for County Council approval an annual budget and appropriate ordinance or any amendment thereto which includes the road closing or relocation as a capital project or part of a capital project. The County Executive shall supply the information required in subsection (d) below at the time the annual budget and appropriation ordinance or an amendment to the capital budget is introduced.
 - (3) *County Council.* The County Council or any of its members may initiate the closing or relocation of a road by introduction of a resolution approving the closing or relocation. The sponsor(s) of the resolution shall supply the information required in subsection (d) below in order to prepare the resolution.
- (d) *Information to Be Provided.* The following information shall be supplied in order to prepare a resolution to close or relocate a road or to accompany a budget and appropriation ordinance or an amendment thereto involving a road closing or relocation:
- (1) A detailed description of the County public road to be closed or relocated.
 - (2) A certified plat signed and sealed by a professional land surveyor or property line surveyor particularly describing the County public road to be closed or relocated.
 - (3) Identification of ownership of the roadbed and rights-of-way including any easements which may exist.
 - (4) A plan for changes to traffic control which may result from the proposed closing or relocation.
- (e) *Fee.* An individual, group of individuals, corporation, partnership, association, or governmental agency other than the County initiating a road closing or relocation shall pay a fee; set annually by resolution of the County Council, to cover the costs of advertising the proposed closing, notifying persons whose property adjoins the road, and posting the road.
- (f) *Notification:*
- (1) Road closings and relocations included in a capital project shall be posted and advertised and mailings sent as for any other capital project.
 - (2) When a road is to be closed or relocated at the request of councilmember(s) or upon petition, notification is the responsibility of the County Council and shall include the following:
 - (i) The Department of Public Works, at the request of the County Council, shall post the road for 30 days prior to the public hearing on the County Council resolution. The posting shall indicate that the road is to be closed or relocated and shall indicate the date, the time and place of the public hearing on the proposed closing or relocation. The notice poster shall:
 - a. Give the location or street name of the road.

- b. Be double-sided and at least 30 inches by 36 inches in size.
 - c. Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
 - d. State that the road is proposed to be closed or relocated and include a description of the proposed road closing or relocation.
 - e. Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.
- (ii) The County Council shall provide at least 30 days' notice of the date, time and place of the public hearing on the proposed closing or relocation by advertising the proposed closing with at least two separate insertions at weekly intervals in one or more newspapers of general circulation in the County.
 - (iii) The County Council shall send letters by certified mail to all persons whose property abuts the limits of the proposed road closure or relocation. The letters shall be mailed no later than 30 days prior to the hearing and shall contain a full description of the road closing or relocation, and an announcement of the time, date and place of the County Council's public hearing on that closing or relocation.
- (g) *Reports and Recommendations from County Departments.* The Department of Public Works, Department of Planning and Zoning, Police Department, and Department of Fire and Rescue Services shall report to the County Council on the effect of the closing or relocation on public safety, the traffic network and public convenience and shall recommend denial or approval of the closing or relocation.
 - (h) *Council Approval.* The Council may approve the closure or relocation of a road if it finds that the closing or relocation will not adversely affect public safety, the traffic network, or public convenience.
 - (i) *Disposition of Closed or Relocated Road.* Approval of a road closing or relocation does not affect the legal ownership of the roadbed, rights-of-way, or any easements. Separate legislation pursuant to title 4 of the Howard County Code may be required to deal with disposition of this property.

(C.B. 40, 1969; C.B. 6, 1971; C.B. 30, 1990; C.B. 104, 1992; C.B. 69, 2018, § 1)

Editor's note— The provisions of C.B. 104, 1992, which changed "ordinance" to "resolution" in this section, were made effective retroactive to July 17, 1990, the effective date of C.B. 30, 1990.

Sec. 18.205. - Roads, bridges, and rights-of-way—Obstructions, damage, and drainage.

(a) *Definitions:*

- (1) In this section, section 18.206 and section 18.206A, the following terms have the meanings indicated:
- (2) *Department* means the Howard County Department of Public Works.
- (3) *Director* means the Director of the Department.
- (4) *Public property* means a County-owned or controlled road, road right-of-way, shoulder, sidewalk, ditch line, bridge, culvert, curbing, drainage facility, utility easement, or any appurtenances or signs associated with any of the above.

- (5) (i) *Structure* means anything constructed, the use of which requires permanent or temporary location on the ground or attached to something having a temporary or permanent location on the ground.
- (ii) *Structure* does not include:
- a. A newspaper box, or a mailbox meeting the standards of the United States Postal Service, provided that each is mounted on a post in conformance with "A Guide for Erecting Mailboxes on Highways" by the American Association of State Highway and Transportation Officials, Third Edition, dated 1994;
 - b. A utility pole or utility box which are not a part of a wireless facility as defined in section 18.206A of this Subtitle; or
 - c. A sign permitted in a right-of-way under subtitle 5 "Signs" of title 3 "Buildings" of the Howard County Code.
- (b) *Prohibitions Against Obstructions, Damage, and Drainage of Water.* A person may not:
- (1) Obstruct, damage, or destroy public property; or
 - (2) Except as provided under an approved plan under title 16, subtitle 1 of the County Code, discharge water or wastewater onto a public road.
- (c) *Structures on Public Property.* A person may not install temporary or permanent structures in, on, over, through, or across public property:
- (1) Without the permission of the Director; or
 - (2) Unless the person has authority to install the structure without permission under State law, or under a franchise or license issued by the County.
- (d) *Remedies:*
- (1) A person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, is subject to a fine of not more than \$1,000.00, imprisonment for not more than six months, or both.
 - (2) The Department may also enforce the provisions of this subtitle with civil penalties, under title 24 "Civil Penalties" of the Howard County Code. A first violation is a Class B offense. A subsequent violation is a Class A offense. Each day that a violation continues shall be considered a separate violation.
 - (3) (i) At the request of the Director the person who installed a structure on public property, or who caused water or wastewater to be discharged onto a public road shall remove the structure or stop the discharge. The Director may require removal of a structure even if the Director previously gave permission for the structure.
 - (ii) If, after a notice from the Director under subparagraph (i) of this paragraph, a person fails to remove a structure or to stop the discharge of water or wastewater within the time stated in the notice, the Director may order the removal of the structure or cause the discharge of water or wastewater to be stopped at the expense of the person notified.
 - (iii) The Director shall keep an accurate account of the cost of the removing a structure from public property or the cost of stopping the discharge of water or wastewater onto a road, and shall submit this account to the Director of Finance. The Director of Finance shall bill the person notified under subparagraph (i) or (ii) of this paragraph. The person so notified shall pay the bill for work performed by the Department within 30 days of billing.
 - (4) The recovery of costs and the imposition of civil and criminal penalties shall be in addition to any other remedies the County may have in law or equity.

(C.B. 66, 1997; C.B. 26, 2017, § 1)

Editor's note— Section 1 of C.B. 66, 1997, repealed §§ 18.205—18.208 in their entirety. Formerly, §§ 18.205—18.208 pertained to encroachments and damages; securing permits and providing bonds; repair of damages and derived from Ch. 142 of the 1870 Code, P.L.L. 1888, Art. 14, § 113; § 252 of the 1930 Code; Ch. 740 of the 1966 Code and C.B. 32, 1985. Section 2 of C.B. 66, 1997, added §§ 18.205 and 18.206 as herein set out.

Sec. 18.206. - Construction work on public property.

- (a) *Permit Required Prior to Construction.* A person may not install, maintain, repair, relocate, or remove pipe, wire, cable, fiber optics, or other material, or perform any excavation or construction in, on, over, through, or across any public property without first obtaining a permit from the Department authorizing the work.
- (b) *Permit.* An application for a permit under this section shall be made to the Department. The application shall contain a plan and description of the proposed work and restoration of public property satisfactory to the Director. All work shall be performed in accordance with the description and plan authorized under the permit.
- (c) *Permit Fee.* The Department may not issue a permit until the Applicant has paid the permit fee pursuant to a fee schedule adopted by resolution of the County Council.
- (d) *Surety.* If required by the Director, the issuance of a permit under this section shall be conditioned on the posting of a bond, letter of credit, or other surety acceptable to the Director, which shall guarantee the cost of restoration of the public property. The Director shall determine the necessity for and the amount of the surety based on the Director's estimate of restoration that may be required as a result of the proposed work. The surety will be returned to the Applicant when the Director determines that any restoration has been satisfactorily performed.
- (e) *Restoration.* A person who performs work in public property pursuant to a permit under this section shall restore public property to a condition satisfactory to the Director. All restoration work shall conform to standards set forth in the design manual, the permit, or an agreement entered into with the Director.
- (f) *Remedies.* If the holder of a permit under this section does not satisfactorily restore the public property as provided under subsection (e) of this section, the County shall have the right to exercise any or all of the remedies as provided in this section.
 - (1) The Director may order the work done and apply the surety posted by the permit holder to recover the costs incurred by the County in performing the work.
 - (2) The Director may invoke civil penalties against the permit holder under title 24 "Civil Penalties" of the Howard County Code. A first offense is a Class B offense. A subsequent offense is a Class A offense.
 - (3) The County may file a criminal complaint. A person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, is subject to a fine of up to \$1,000.00.
 - (4) The demand on surety and the imposition of civil and criminal penalties shall be in addition to any other remedies the County may have in law or equity.
- (g) *Exemption.* The section does not apply to construction covered by a developer's agreement under title 16, subtitle 1 of the Howard County Code.

(C.B. 66, 1997)

Note— See the editor's note following § 18.205.

Sec. 18.206A. - Wireless facilities on public street lights.

- (a) *Application for a Permit* . A permit is required for the installation, operation, maintenance, and removal of wireless facilities on a public street light. A permit shall not be issued by the Director unless and until an agreement for use of public street lights setting forth the terms and conditions for the installation of the wireless facilities has been reached between the County and the applicant and which agreement may include the items listed in subsection (d) of this section.
- (b) *Definitions* . In addition to the terms previously defined in this subtitle, the following terms shall have the meanings indicated:
- (1) *Public right-of-way* means the roads listed as owned and maintained by the County in the "Howard County Master Road Book" and which are classified as arterial or collector.
 - (2) *Public street light* means the existing structure owned by the County, primarily designed for lighting a public right-of-way, including the supporting pole, luminaire, arms, leased electric wires, foundations, internal dividers, hand holes, vaults, pedestals, and bases. A public street light does not include:
 - (i) A lighting system attached to a utility pole, traffic signal pole, building, or similar structure; or
 - (ii) Any facility that is privately owned.
 - (3) *Wireless facility* .
 - (i) Wireless facility means a facility that:
 - a. Is licensed or authorized by the Federal Communications Commission;
 - b. Is at a fixed location; and
 - c. Enables wireless communications between user equipment and a communications network.
 - (ii) A wireless facility includes:
 - a. Equipment associated with wireless communications services such as private, broadcast, and public safety services;
 - b. Unlicensed wireless services and fixed wireless services such as microwave backhaul;
 - c. All elements of the facility, including, without limitation, antennas, cabinets, cables, wires, back-up power supplies, and radio units; and
 - d. Facilities in, at, or near the wireless facility and associated with the facility's operations, including electric meters and electrical wiring irrespective of whether the meters and wiring are owned or maintained by the same person that owns other portions of the wireless facility.
 - (4) *Wireless provider* means the entities that are authorized by the Federal Communication Commission to provide personal wireless services as defined at 47 U.S.C., section 332(c)(7).
- (c) *Information Required* . The County shall create an application form that may require an applicant to submit the following information in the request to use the public street lights:
- (1) A technical description of the proposed wireless facilities including detailed specifications and diagrams accurately depicting the proposed wireless facilities, and the locations of the public street lights on the public rights-of-way the applicant proposes to use;
 - (2) A detailed deployment plan describing construction of the wireless facilities planned for the 12-month period following the issuance of the permit;
 - (3) Engineering certifications relating to the proposed construction;

- (4) A statement describing the applicant's intentions with respect to collocation, and if the applicant is not a wireless provider, the identity of the wireless provider(s) using the proposed wireless facilities;
 - (5) A statement demonstrating the applicant's duty to comply with applicable safety standards for the proposed activities in the public right-of-way including emergency response plan, schedule of maintenance, operation, relocation, and removal of the wireless facilities at applicant's sole cost;
 - (6) Such other information as the County may require in an application form; and
 - (7) Such other information as the County may require in its review of the application.
- (d) *Agreement for Use of Public Street Lights* . An agreement for use of public street lights shall include terms and conditions for the installation of the wireless facilities as agreed upon by the applicant and the County, which shall include fair compensation to the County for the applicant's use of the public street lights and which may also include:
- (1) Provisions that allow for the routine maintenance of the wireless facility;
 - (2) Provisions that allow for the replacement of a wireless facility with another small wireless facility that is substantially similar or smaller in size, weight, and height;
 - (3) Provisions that allow for multiple wireless facilities;
 - (4) The length of time for which an application may be considered; or
 - (5) The length of time for which a permit will be valid.
- (e) *Discretion of Director* . The Director:
- (1) May not issue a permit where, in the judgment of the Director, sufficient capacity no longer exists for additional wireless facilities to be placed in the proposed location without jeopardizing the physical integrity of public water and sewer and other utilities or other facilities already present in the proposed location, or the safe and efficient vehicular or pedestrian use of the public right-of-way; or where the use of the public street light or work associated with the use or maintenance of the wireless facility would violate applicable law.
 - (2) Shall review the application for a permit in light of the application's conformity with applicable regulations and community design guidelines and shall issue a permit on nondiscriminatory terms and conditions.
- (f) *Fees for Permit Review* . The County shall charge and an applicant shall pay a reasonable application review fee for the review of a permit issued under this section. The public street light permit review fee shall be adopted by resolution of the County Council and shall be in addition to any compensation agreed to by the parties under the agreement for use of the public street lights.
- (g) *Use of Public Right-of-Way* . Nothing in this section shall affect or limit the County's right to charge a separate fee or to require a separate consent for access to or the use of the public rights-of-way. Any permit granted pursuant to this section shall be in addition to, and not in lieu of, the fee and permit required to utilize and construct within the public right-of-way.

(C.B. 26, 2017, § 1)

Sec. 18.207. - Nontransit activity on County roads—Prohibited.

- (a) *Purpose*. In order to provide for the public's safety, to maintain the flow of traffic for vehicles using the County roads, to prevent congestion, to facilitate the passage of emergency vehicles, to protect pedestrians, and, generally, to preserve law and order, it is necessary to prohibit, with certain exceptions, activities unrelated to transit from being conducted on a County road.
- (b) *Definitions*:

- (1) *County road* means the paved portion of a County owned or controlled road, road right-of-way, or bridge, including the shoulder, and the median areas, regardless of whether the median areas are paved.
 - (2) *Patronage* means support, benefaction, investment, backing, sponsorship, aid, or donations regardless of whether anything is given in return.
 - (3) *Nontransit activity* means any activity not related to transit and includes, but is not limited to buying, selling, offering, giving of anything, and soliciting or seeking patronage, by any means or media.
 - (4) *Site-specific vending/operating* means selling or offering to sell goods or services from a stationary location on a County road with valid licenses and permits.
 - (5) *Transit* means traveling, crossing, conveying goods or persons, by vehicle or on foot, and includes related activities such as parking, stopping, resting, and observing.
- (c) *Prohibition; Exception:*
- (1) County roads are designed for transit and related activities. Except as provided in subsections (d) and (e) of this section, nontransit activities are prohibited on a County road.
 - (2) A solicitor's or peddler's license issued pursuant to subtitle 7 of title 14 of the Howard County Code, does not give the holder the right to engage in a nontransit activity prohibited by this section on a County road.
- (d) *Exceptions for Temporary Activities with Permit:*
- (1) A person may hold a parade or other activity conducted in accordance with a permit issued under subtitle 3 of title 14 of this Code.
 - (2) A person may conduct a temporary, non-transit activity in the median area of a County road for up to four days per calendar year, as follows:
 - (i) At least 21 days before the date on which the activity is planned to begin, the person shall submit an application for a permit from the County specifying the location and dates for which permission for the activity is being requested;
 - (ii) The application shall be signed by the person or an individual authorized to sign on the person's behalf;
 - (iii) The person shall submit with the application:
 - a. A permit fee of \$100.00; and
 - b. A statement of indemnification holding Howard County harmless against any claim of liability arising out of the activity;
 - (iv) The activity shall be permitted and conducted:
 - a. Only between the hours of 9:00 a.m. and sunset;
 - b. Only in median areas adjacent to a road that has a posted speed limit of 45 miles per hour or less; and
 - c. Without offering an inducement for motor vehicle drivers and passengers to leave their vehicles; and
 - d. Only if the Department of Police determines that the activity at the location will not impede traffic or endanger the person or the public.
- (e) *Exception for Site-Specific Vending/Operating With Licenses and Permits.* Subject to subsection (2) below, a person may conduct site-specific vending/operating in the shoulder area on a County road as follows:
- (1) The activity shall be permitted and conducted:

- (i) Only with appropriate and valid State and local licenses and permits displayed; and
 - (ii) Only between the hours of 8:00 a.m. and sunset; and
 - (iii) Only on roads that have a posted speed limit of 45 miles per hour or less; and
 - (iv) Only at a location in the shoulder that is at least eight feet from the edge line of the travel lane and at least 100 feet from the nearest intersections and other points of ingress or egress.
- (2) If the Department of Police or the Department of Public Works determines that a site-specific vending/operating activity at a given location impedes traffic or endangers the person or the public, then the appropriate department may order the activity to cease operating or relocate to an area deemed safe by the Department.
- (f) *Penalty for Violation.* Any person, firm or corporation who violates any provisions of this section is guilty of a misdemeanor, and, if convicted, shall be subject to a fine not exceeding \$100.00 or imprisonment not to exceed 30 days, or both fine and imprisonment. The provisions of this subtitle shall be enforced with civil penalties under title 24, "Civil Penalties," of the Howard County Code. A violation of this section is a Class B offense.

(C.B. 4, 2004, § 2; C.B. 14, 2004)

Sec. 18.208. - Reserved.

Note— See the editor's note following § 18.205.

Sec. 18.209. - Prisoners working roads.

Whenever any person shall have been convicted in any criminal proceeding of any crime or any offense against, or violation of any law, State, County or municipal, and as a punishment therefor or in default of a fine imposed, has been committed to the County jail of Howard County by the judgment of the Circuit Court for Howard County, or any district court thereof, it shall be lawful for the Department of Public Works, and it is hereby authorized and empowered, with the consent of the Sheriff of Howard County, to employ or cause to be employed any such convict or person so committed to jail as aforesaid in manual labor in cleaning, working upon, mending and repairing the public roads of Howard County and the public streets of any municipality in Howard County and in cleaning and maintaining any publicly owned building or property in Howard County, and they are hereby fully authorized and empowered, with the concurrence of the sheriff, to pass all necessary rules and regulations to prevent the escape of such convicts or persons so committed to jail as aforesaid, while so employed, and to pass such other rules and regulations which may be necessary to carry this law into full and efficient operation and effect.

(1957, Ch. 438)

Sec. 18.210. - Authority to adopt Howard County road construction regulations and specifications.

- (a) The Director of Public Works shall be empowered to develop regulations and specifications affecting the design and construction of roads and highways to be used in Howard County and shall publish them in a code to be made available by the Howard County Department of Public Works and the Department of Planning and Zoning at a minimum charge to the general public upon request. The code and its amendments shall include general instructions and specifications for the design and construction of road and highway systems, as well as details for miscellaneous structures used in connection with such systems.
- (b) Any proposed code or amendments shall be submitted to the Board of Public Works, who shall schedule a public hearing on the proposed code or amendments within 30 days of receipt of the

proposed code or amendments. The time and place of the public hearing before the Board of Public Works shall be published in at least two newspapers of general circulation in the County. The Board of Public Works may make recommendations to the Director of the Department of Public Works.

- (c) The Director of Public Works shall thereafter present the regulations and specifications, or amendments, to the County Council for adoption by appropriate resolution.
- (d) Until the County Council adopts standards and specifications under the provisions of this section, the road construction code and standard specifications adopted by the County commissioners of Howard County on March 27, 1962, shall remain in full force and effect and subject to amendment.
- (e) *Maintenance of scenic roads.* Standards for maintenance of scenic roads shall be developed by the Director of Public Works and adopted by resolution of the County Council in accordance with the procedures established in paragraphs (a) through (c) above. The standards shall ensure protection of scenic roadway elements while allowing necessary maintenance.

(C.B. 28, 1972; C.B. 51, 1994; C.B. 16, 1995)

Sec. 18.211. - Notice of preliminary and final design of certain capital projects.

- (a) The Department of Public Works shall give public notice of the availability of preliminary design plans for the following capital projects when such plans are 30 percent completed:
 - (1) Bridge or roadway construction or reconstruction.
 - (2) Installation of street lights, drainage improvements, or water and sewer systems, when such projects affect a scenic road designated pursuant to section 16.1403 of this Code.
- (b) The Department of Public Works shall hold a public meeting on the preliminary design, except the Board of Public Works shall hold the public meeting and shall comment on the design of all capital projects which affect scenic roads. Notice shall be given through the following methods:
 - (1) Posting notices for at least four weeks immediately before the meeting at the site of the project. The notice shall include purpose of meeting, project number, date and place and time of public meeting and contact telephone number.
 - (2) Publication in a newspaper of general circulation in the County for two consecutive weeks prior to meeting.
 - (3) Written notice by first-class mail at least four weeks before the meeting to the registered list of subscribers maintained by the Department of Planning and Zoning pursuant to the subdivision and land development regulations.
- (c) The Department of Public Works shall consider all comments while proceeding to final design, and wherever possible modifications which reflect concerns raised at the meeting on preliminary design may be made in the project.
- (d) When the final design is complete, a public meeting shall be held by the Department of Public Works on capital projects listed in (a) above, except that the public meeting shall be held by the Board of Public Works for all capital projects affecting scenic roads. Notice shall be given two weeks prior to the meeting through the following methods:
 - (1) Publication of notice of meeting shall appear in a newspaper of general circulation in the County for two consecutive weeks prior to meeting.
 - (2) First-class mail notices shall be sent to attendees at the preliminary design meeting on the capital project and citizens who have sent written comments to the Department of Public Works on the project.

(C.B. 42, 1983; C.B. 51, 1994)

Sec. 18.212. - Capital Improvement Master Plan (C.I.M.P.) for transportation.

(a) *Definitions:*

Capital Improvement Master Plan or C.I.M.P. for Transportation is a plan proposed by the County Executive upon the recommendations of the Director of Public Works and the Director of Planning and Zoning and adopted by the County Council pursuant to the provisions of section 22.405 of the Howard County Code. The plan indicates the capital improvements to the County's road and bridge network and public transportation system to be constructed during the next ten years in order to implement the housing and employment growth projections of the County's general plan. The C.I.M.P. for Transportation includes the roads, bridges, traffic lights, and public transportation system projects included in the Howard County Capital Budget and Capital Program and Extended Capital Program and the Maryland Consolidated Transportation Program.

(b) *Requirement to Prepare C.I.M.P. and Review it Annually.* The Department of Public Works and the Department of Planning and Zoning shall jointly prepare the C.I.M.P. for transportation pursuant to the provisions of section 22.405 of this Code. The Departments shall review the plan annually and shall submit updates as appropriate for adoption by the County Council.

(C.B. 10, 1992)

SUBTITLE 2A. - SUBSTANDARD PRIVATE ROADS¹

Footnotes:

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Editor's note— C.B. 4, 1981 created subtitle 2A, §§ 18-204—18.214. After consultation with the County, the provisions have been redesignated §§ 18.250—18.260.

Sec. 18.250. - Council declarations and findings.

The County Council of Howard County hereby declares and finds as follows:

- (1) There exist within the County a substantial number of privately owned roads which are used by the public as if they are owned by the County and are connected to existing State and County roads, but which were not constructed in accordance with any particular standards since they were not subject to subdivision regulations nor developer agreements.
- (2) It may be the desire of the citizens who own and utilize those roads to have the County acquire fee simple ownership or a right-of-way in order to guarantee that the roads will be maintained in a manner which will render them serviceable for the providing of public safety and environmental protection services.
- (3) It is in the public interest that said roads be brought into the County roads system and be improved to a minimum all-weather roadway as referenced in Howard County Design Manual, Vol. III to the extent that they are serviceable for the providing of public safety and environmental protection services.
- (4) While cognizant of the Charter prohibition against the levying of a tax for the purpose of raising revenues for the construction and maintenance of public roads on other than a County-wide basis, the providing of loans for the improvement of the privately owned roads in order to permit them to be brought into the County system is consistent with the responsibility of County Government.

(C.B. 4, 1981)

Sec. 18.251. - Criteria for acceptance.

Notwithstanding the provisions of subtitle 1 hereof, roads which meet the following criteria may be accepted into the County road system:

- (1) They shall be open to the public without restriction and shall have been actually utilized by the public for vehicular traffic by January 1, 1981.
- (2) They shall be directly connected to existing State or County roads.
- (3) They shall not have been subject to subdivision regulations nor developer agreements with the County at the time of their construction nor at the time that the petition is filed.
- (4) They shall serve a minimum of five buildings of multiple ownership for each mile of roadway, and further the buildings may be dwellings or commercial buildings.
- (5) They shall be the subjects of agreements which provide for:
 - (a) The reimbursement to the County of the cost of improving the road in such amounts and under such conditions as determined by the Director of Public Works; provided however that the cost is limited to the actual audited costs of work completed in place, less overhead charges by the Department of Public Works or other County agencies.
 - (b) Liens on the real estate of those who have agreed to reimburse the County for the cost of improving the road.
 - (c) Acquisition of either fee simple title or a right-of-way to the road without any cost to the County.

(C.B. 4, 1981)

Sec. 18.252. - Estimate of improvement of the road.

The Director of Public Works shall provide to any individual who owns a road or property adjacent to a road, upon request, an estimate of the complete cost of improving a privately owned road to the extent that it would provide an all-weather minimum roadway and meet the criteria established for acceptance into the County system under this subtitle. This estimate is to be used in assisting the community in considering a petition. Actual costs of labor and materials will be subsequently determined by the actual costs of work completed to bring the road to a minimum all-weather roadway.

(C.B. 4, 1981)

Sec. 18.253. - Contents of petition.

A petition for acceptance into the County road system of a road meeting criteria as stated in section 18.251 shall be addressed to the Director of Public Works. The petition shall be signed by the owners of not less than two-thirds of the parcels of property abutting a road or of not less than two-thirds of the assessable frontage abutting the road and shall contain the following:

- (1) The names, residence or business addresses and telephone numbers of the petitioners.
- (2) The name, address and telephone number of the representative, if any, of the petitioners.
- (3) A legal description of the road.

- (4) For each parcel of the road, a list of the names, addresses and telephone numbers of the owners of property adjacent to the road, indicating as to each whether or not they are among the petitioners.
- (5) List of names of all owners of roadbed. If an owner of the roadbed is other than an abutting property owner, he shall consent to convey a right-of-way or easement.
- (6) A statement affirming that a shared cost of improving the road must be borne by the petitioners and that a lien to the extent of their agreement will be offered to the County.

(C.B. 4, 1981)

Sec. 18.254. - Review of petition.

Upon receipt of a petition, the Director of Public Works shall submit copies of same to the Director of Planning and Zoning.

(C.B. 4, 1981)

Sec. 18.255. - Hearing procedures.

- (1) Within six months of receipt of the petition, the Director of Public Works shall hold a hearing on the petition.
- (2) The Director of Public Works shall give notice of the pending hearing by publication, in one newspaper published in the County, and send notice to owners of record of the roadway, setting forth the length, location and termini of the road and the time, date and place of the hearing.
- (3) Not less than two weeks prior to the date of the hearing, the Director of Public Works shall post signs at either end of the street. The signs shall set forth the fact that the road is the subject of a petition to accept it into the County road system and that a hearing thereon will be held at the time, location and on the date as scheduled. The notice sign shall:
 - (i) Give the location or street name of the road.
 - (ii) Be double-sided and at least 30 inches by 36 inches in size.
 - (iii) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
 - (iv) State that the road is proposed to be accepted into the County's road system and include a description of the proposed road incorporation.
 - (v) Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.
- (4) The burden shall be upon the petitioners to prove the criteria set forth in section 18.251.
- (5) Individuals who oppose the acceptance of the road into the County road system may be parties to the proceedings.
- (6) The hearing may be continued from time to time in the discretion of the Director of Public Works, but the notice requirements set forth in subparagraphs (2) and (3) above need be given only one time.
- (7) The Director of Public Works may promulgate regulations for the hearing process which are not inconsistent with the Howard County Administrative Procedures Act [section 2.100 et seq.] nor with the procedures set forth herein.

(C.B. 4, 1981; C.B. 69, 2018, § 1)

Sec. 18.256. - Recommendation of Director of Public Works.

Within 60 days of the conclusion of the hearing, the Director of Public Works shall make a recommendation to the County Executive as to whether the petition should be granted. In making his recommendation to the County Executive, the Director of Public Works shall utilize the criteria set forth in section 18.251.

(C.B. 4, 1981)

Sec. 18.257. - Decision of County Executive.

The County Executive shall issue a written decision either granting or denying the petition within 30 days of receipt of the recommendation of the Director of Public Works, which decision shall be mailed forthwith to all parties.

(C.B. 4, 1981)

Sec. 18.258. - Responsibility for costs.

The total project cost as determined by the Director of Public Works, including but not limited to advertising, legal fees, title fees, labor and materials, less overhead charges by the Department of Public Works or other County agencies, will be shared one-third by the County and two-thirds equally by the landowners who sign agreements with the County.

(C.B. 4, 1981)

Sec. 18.259. - Road improvement loan fund.

- (a) A road improvement revolving fund is established for the purpose of making loans available to owners of private roads within Howard County.
- (b) The length of the loan shall be determined by the agreement as set forth in subsection 18.251(5), but in no event shall it exceed 25 years. Interest rates shall be determined by the said agreement.
- (c) The Director of Public Works is authorized to establish and administer rules and procedures for the road improvement loan fund in accordance with section 2.102 of the Howard County Code.

(C.B. 4, 1981)

Sec. 18.260. - Severability.

If any clause, sentence, part or parts of this subtitle or of any section thereof shall be held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining part of this subtitle or of any section thereof. The County Council hereby declares that it would have passed the remaining parts of this subtitle or any section thereof if it had known such clause, sentence, part or parts of any section thereof should be declared invalid or unconstitutional.

(C.B. 4, 1981)

SUBTITLE 3. - SEDIMENT AND EROSION CONTROL [L21](#)

Footnotes:

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Editor's note— C.B. 3, 2013, amended Subtitle 3 in its entirety to read as herein set out. The previous Subtitle 3 pertained to the same subject matter and its derivation is as follows: Subtitle 3, §§ 18.300, 18.301, entitled "Bridges," derived from §§ 1, 2 of ch. 280 of the Acts of 1892 and P.L.L. 1930, art. 14, §§ 32, 33, was repealed by C.B. 11, 1985. Subsequently, C.B. 6, 2001, enacted a new Subtitle 3 as set out herein.

State Law reference— Sedimentation control, Ann. Code of Md., Environment article, § 4-101 et seq.

Sec. 18.300. - Purpose and authority.

- (a) *Purpose.* The purpose of this subtitle is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with land disturbance.
- (b) *Authority.* The goal is to minimize soil erosion and prevent off-site sedimentation by using soil erosion and sediment control practices designed in accordance with the Code of Maryland Regulations (COMAR) 26.17.01, the 2011 Maryland Standards and Specifications (Standards and Specifications) and Title 4 of the Environment Article of the Annotated Code of Maryland. This subtitle represents the minimum erosion and sediment control requirements and is not intended to limit or repeal any other powers granted to the County under State law.

(C.B. 3, 2013, § 1.2)

Sec. 18.301. - Definitions.

Terms used in this subtitle shall have the meanings set forth in section 3.401 of this Code.

(C.B. 3, 2013, § 1.2)

Sec. 18.302. - Applicability.

No person shall disturb land or create or cause a discharge of sediment or stormwater in violation of this subtitle without implementing soil erosion and sediment controls in accordance with the requirements of this subtitle; title 3, subtitle 4 of this Code; and the standards and specifications, except as provided within this subtitle. A person may not clear or grade land unless the person obtains a grading permit under section 3.402 of this Code and implements soil erosion and sediment controls in accordance with the requirements of section 3.403 of this Code.

(C.B. 3, 2013, § 1.2)

Sec. 18.303. - Inspection.

- (a) The Administration is responsible for the inspection and enforcement of all land disturbing activities, including those sites requiring an erosion and sediment control plan as specified by this subtitle and title 3, subtitle 4 of this Code. This enforcement authority may be delegated to the County through a request by the County or required as a condition of a National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System Permit. This section applies to the Administration, or, the County, if delegated enforcement authority.

- (b) **Inspection; Frequency and Reports:**
- (1) The owner/developer shall maintain a copy of the approved erosion and sediment control plan on site.
 - (2) Every active site having a designed erosion and sediment control plan should be inspected for compliance with the plan on average once every two weeks.
 - (3) A written report shall be prepared by the Department of Public Works after every inspection. The report shall describe:
 - (i) The date and location of the site inspection;
 - (ii) Whether the approved plan has been properly implemented and maintained;
 - (iii) Practice deficiencies or erosion and sediment control plan deficiencies;
 - (iv) If a violation exists, the type of enforcement action taken; and
 - (v) If applicable, a description of any modifications to the plan.
 - (4) The Department of Public Works shall notify the on-site personnel or the owner/developer in writing when violations are observed, describing:
 - (i) The nature of the violation;
 - (ii) The required corrective action; and
 - (iii) The time period in which to have the violation corrected.
 - (5) A permittee shall request that the Department of Public Works inspect completed work to ensure compliance with the approved site development plan, erosion and sediment control plan, the grading or building permit, and this subtitle:
 - (i) Upon completion of installation of perimeter erosion and sediment controls, prior to proceeding with any other earth disturbance or grading.
 - (ii) Upon establishment of final grades; and
 - (iii) Upon final stabilization before removal of sediment controls.
 - (6) No other building or grading inspection approvals may be authorized until initial approval by the Department of Public Works under paragraph (5) of this subsection is granted.
- (c) *Modifications to Erosion and Sediment Control Plans.* When inspection of a site indicates that modification of an approved erosion and sediment control plan is appropriate:
- (1) For a major modification to an approved plan, including a modification due to inadequate control of erosion and sediment as revealed through inspection, the permittee shall submit a request for a modification to the Howard Soil Conservation District; or
 - (2) For a minor modification, an inspector may approve a modification in the field based on a documented field inspection report. The Howard Soil Conservation District, in conjunction with the Department of Public Works, shall maintain a list of allowable field modifications approved by the Administration for use by the inspector.
- (d) *Complaints.* The Inspection Agency shall accept and investigate complaints regarding erosion and sediment control concerns from any interested parties and:
- (1) Conduct an initial investigation within three working days from receipt of the complaint;
 - (2) Notify the complainant of the initial investigation and findings within seven days from receipt of the complaint; and
 - (3) Take appropriate action when violations are discovered during the course of the complaint investigation.

(C.B. 3, 2013, § 1.2)

Sec. 18.304. - Enforcement.

- (a) *Enforcement Authority.* The County shall, through the authority of this subtitle and COMAR 26.17.01 and 26.08.01.01b(20), use enforcement actions when violations of this subtitle occur. Any step in the enforcement process may be taken at any time, depending upon the severity of the violation.
- (b) *Right of Entry.* The County may enter upon property to ensure compliance with this subtitle. If a permit is revoked, the County may enter the property and perform work in order to stabilize the soil within the construction areas, to construct sediment control measures on the perimeter of the site to control mud and silt, or to provide positive drainage patterns.
- (c) *Corrective Action Order.* When the County determines that a violation of this subtitle has occurred, the County shall notify the on-site personnel or the permittee in writing of the violation, describe the required corrective action and the time period in which the violation shall be corrected.
- (d) *Stop-Work Order.* If a person clears or grades land in violation of the approved site development plan or erosion and sediment control plan, the County may issue a stop-work order banning any or all construction activity on the site except temporary sediment control measures specified by the County, until a grading permit is issued or the violation is abated.
- (e) *Civil Citation.* When the County identifies a violation of this subtitle, the County may issue a citation to the owner/developer or the permittee, or both, assessing civil penalties in accordance with section 18.306 of this subtitle. The contents and enforcement of the citation shall be governed by title 24 of this Code.
- (f) *Injunctive Relief.* Any agency whose approval is required under this subtitle or any interested person may seek an injunction against any person who violates or threatens to violate any provision of this subtitle.
- (g) *Other Legal Action.* The County may take any of the enforcement actions authorized by this subtitle regardless of whether any other enforcement action has been taken for a violation and may take other legal action including, without limitation, referral for criminal enforcement or a civil action for damages to recover double the amount of costs incurred by the County for actions taken to abate a violation. The county shall use any damages recovered under this section solely for the county's erosion and sediment control program, including correcting failures to implement or maintain sediment and erosion controls.

(C.B. 3, 2013, § 1.2)

Sec. 18.305. - Denial of permits.

The Department of Inspections, Licenses and Permits may deny the issuance of any permits to an applicant when it determines that the applicant is not in compliance with the provisions of a building or grading permit or approved erosion and sediment control plan.

(C.B. 3, 2013, § 1.2)

Sec. 18.306. - Penalties.

- (a) *Criminal Penalties.* Any person who violates any provision of this subtitle, or any rule, regulation, order or permit issued under this subtitle, is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding \$1,000.00, or imprisonment not exceeding six months, or both, for each violation. Each day a violation occurs or continues is a separate offense. Costs may be imposed at the discretion of the court.

- (b) *Civil Penalties.* A violation of this subtitle is a Class A offense and any person who violates any provision of this subtitle, or any rule, regulation, order, or permit issued under this subtitle, is subject to a civil penalty up to \$1,000.00 for each violation. Each day a violation occurs or continues is a separate offense.

(C.B. 3, 2013, § 1.2)

Sec. 18.307. - Severability.

If any portion, section, subsection, sentence, clause, or phrase of this subtitle is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this subtitle, it being the intent of Howard County that this subtitle shall stand, notwithstanding the invalidity of any portion, section, subsection, sentence, clause, or phrase, hereof.

(C.B. 3, 2013, § 1.2)

SUBTITLE 4. - SIDEWALKS

Sec. 18.400. - Sidewalks; obstructions.

The County Council of Howard County is empowered to adopt such reasonable rules and regulations respecting the use of sidewalks in Howard County, including the right to prevent encroachment thereon and obstruction of the same.

(1947, Ch. 590, § 73B)

Sec. 18.401. - Sidewalks; obstructions; penalties.

Any persons violating any rules or regulations that may be adopted in accordance with section 18.400, "Sidewalks; Obstructions," shall, upon conviction, be deemed guilty of a misdemeanor, and be subject to a fine of not less than \$25.00 nor more than \$50.00. Alternatively or in addition to and concurrent with all other remedies, the Department of Public Works or the Police Department may enforce the rules and regulations with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation shall be a Class E offense.

(1947, Ch. 590, § 73C; C.B. 32, 1985)

Sec. 18.402. - Maintenance of sidewalks, driveways and sod.

- (a) It shall be the duty and obligation of the owner of property abutting a public right-of-way to maintain the abutting sidewalk, driveway apron and sod or grass within the public right-of-way in such condition as to be safe for public use. However, if the sidewalk has been damaged solely by the roots of trees in the County right-of-way or by a County water or sewer construction project, then it shall be the responsibility of the County to replace or repair the sidewalk damaged by the tree roots or by the County water or sewer construction project.
- (b) The repair of any sidewalk or driveway apron may be made after first obtaining a permit from the Department of Public Works, and the work shall be done in accordance with County standards.
- (c) A property owner whose property abuts a public sidewalk in need of repair may request the Director of Public Works to do the required sidewalk repair or replacement at the property owner's expense.

- (d) When the Director of the Department of Public Works finds public sidewalk, driveway apron or sod which needs repairs and is not safe for public use, it shall be his duty to give notice to the abutting property owner of the necessary repairs by sending a registered letter to the address of the owner shown on the current tax records in the office of the Director of Finance. The notice shall advise the property owners that they have a 60-day period from the date of notice in order to repair the sidewalk, driveway apron or sod. The notice to repair sent by the Director to the property owner shall also indicate that the Department of Public Works will do the work on the sidewalk at the property owner's request if the property owner agrees to pay the costs of the work. The notice shall advise the owner that he has the right to appeal the Director's decision to the Board of Appeals within 30 days of the issuance of the notice and shall explain the procedures upon failure to comply with the order or repair the sidewalk, driveway apron or sod.
- (e) Any person aggrieved of the action of the Director with regard to subsection (d) shall have the right to appeal the action to the Board of Appeals, within 30 days from the mailing of the notice by the Director of Public Works to the property owner.
- (f) If the property owner has not:
 - (1) Repaired the sidewalk, driveway apron or sod within the 60-day period or within 60 days following a final decision on appeal; or
 - (2) Notified the Department of Public Works of intent to repair by exhibiting a signed contract or other proof satisfactory to the Department of Public Works; or
 - (3) Agreed to repair the driveway apron and/or sod and signed an agreement with the Department of Public Works to have the Department of Public Works do any necessary sidewalk work;

The Director of the Department of Public Works shall order the work done and shall bill the owner of the property an amount equal to 100 percent of the cost of labor and material.

- (g) Whenever the Department of Public Works repairs or replaces sidewalks at the request of the owner of the abutting property or does any repair because the owner has not complied with a notice to do so, the Department shall keep an accurate account of the costs of the work. The Department of Public Works shall provide the Director of Finance with a copy of the accounts.
 - (1) *Billing.* Upon completion of the repair or replacement, the Director of Finance shall bill the property owner for the costs of the work.
 - (2) *Payment.* The property owner shall pay the bill for the work on the driveway apron or sod within 30 days of billing. The property owner may pay the bill for the sidewalk work within 30 days of billing or may pay the costs plus six percent annual interest in installments over a five-year period.
 - (3) *Early repayment:*
 - (i) A property owner who has elected to pay the costs of sidewalk repair or replacement over a five-year period may pay the entire outstanding balance plus interest to date at any time during the five-year period.
 - (ii) If the property owner sells or transfers the property, the outstanding balance plus interest to date shall become due and payable as of the date of transfer of the property.
- (h) (1) Subject to paragraph (2) of this subsection, it shall be the duty and obligation of the owner of property abutting a sidewalk in a public right-of-way to remove snow from the sidewalk within 48 hours after the snow has fallen. In the case of a multiunit building with more than one occupant, it shall be the duty of the lessor to remove the snow unless the lessor has obligated a tenant who is actually occupying the property to do so. Any owner of property abutting a sidewalk in a public right-of-way, lessor of a multiunit building, or tenant obligated by the lessor, who fails to remove the snow from the abutting sidewalk within 48 hours after the snow has fallen shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not less than \$25.00 nor more than \$50.00. Alternatively or in addition to and concurrent with all other remedies, the Department of Public Works or the Police Department may enforce the

subsection with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation shall be a Class E offense.

- (2) If the County Executive declares a state of emergency under section 6.103 of the County Code, the County Executive may extend the time to remove snow.
- (i) The term *property owner* as used in this subtitle includes any interest in property held by a condominium or homeowners' association.

(C.B. 4, 1970; C.B. 21, 1976; C.B. 32, 1985; C.B. 63, 1988; C.B. 105, 1989; C.B. 13, 2016, § 1)

SUBTITLE 5. - STORM DRAINAGE SYSTEMS¹

Footnotes:

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Editor's note— Section 5 of C.B. 5, 2005 amended former subtitle 5 in its entirety to read as herein set out. Former subtitle 5, §§ 18.500—18.503 pertained to private drainage systems in residential areas and derived from C.B. 7, 1980; C.B. 32, 1985; C.B. 56, 2000.

State Law reference— Stormwater management, Ann. Code of Md., Environment article, § 4-201 et seq.
Sec. 18.500. - Purpose.

The purpose of this subtitle is to provide for the proper functioning of the storm drainage systems within the County, including waterways, to prohibit certain stormwater and nonstormwater discharges to storm drainage systems or waterways, to require the repair and maintenance of privately owned storm drainage facilities, and to provide that the failure to maintain certain privately owned storm drainage facilities is a violation of this subtitle.

(C.B. 3, 2005, § 5; C.B. 10, 2019, § 1)

Sec. 18.501. - Definitions.

Terms used in this subtitle have the meaning indicated.

- (a) *Best management practice* shall have the meaning set forth in title 18, subtitle 9 of the Howard County Code.
- (b) *Department* means the Department of Public Works.
- (c) *Director* means the Director of the Department of Public Works or the Director's authorized designee.
- (d) *Discharge* means:
 - (1) The addition, introduction, leaking, spilling, or emitting of a pollutant into the waters of this State; or
 - (2) The placing of a pollutant in a location where the pollutant is likely to pollute.
- (e) *Hazardous material* means a material, including a substance, waste, or combination thereof, which, because of its quantity, concentration, physical, chemical, or infectious characteristics, may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

- (f) *Illicit connection* means either:
 - (1) A drain or conveyance, either on the surface or subsurface, which allows a discharge, prohibited under section 18.502 of this subtitle, to enter a public storm drainage facility or waterway, regardless of whether the drain or conveyance had been previously allowed, permitted, or approved by the Department; or
 - (2) A drain or conveyance connected to a public storm drainage facility or waterway which has not been documented in a plan, map, or equivalent record and approved by the Department.
- (g) *National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit* means a permit issued by the Environmental Protection Agency or by a State acting under authority delegated pursuant to 33 U.S.C. § 1342(b) that authorizes the discharge of pollutants to waters of the United States. The permit may be applicable on an individual, group, or general area-wide basis.
- (h) *Nonstormwater discharge* means any discharge to a storm drainage facility or waterway that is not composed entirely of stormwater.
- (i) *Person* means an individual, corporation, firm, partnership, association, organization, a group acting as a unit, or an executor, Administrator, trustee, receiver or other representative appointed according to law.
- (j) *Pollutant* means anything which causes or contributes to pollution. A pollutant may include, but is not limited to, paints, varnishes and solvents, oil or other automotive fluids, nonhazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter, other discarded or abandoned objects, ordinances and accumulations which may cause or contribute to pollution, floatables, pesticides, herbicides, fertilizers, hazardous substances and wastes, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal wastes, construction wastes and residues, noxious or offensive matter of any kind, or any other chemical substance.
- (k) *Premises* means a building, lot, parcel of land, or portion of land whether improved or unimproved including, without limitation, adjacent sidewalks or parking strips.
- (l) *Storm drainage facility* means a facility in which stormwater is collected or conveyed, including, without limitation, a road with a drainage facility, a municipal street, gutter, curb, inlet, piped storm drain, pumping facility, best management practice, reservoir, or other drainage structure.
- (m) *Storm Drainage System* means public and privately-owned storm drainage facilities and waterways.
- (n) *Stormwater* means any surface flow, runoff, or drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.
- (o) *Waterway* means any natural, manmade, or altered stream, river, creek, ditch, gully, ravine, lake, or wash, in and including any adjacent area that is subject to inundation from overflow or flood water.

(C.B. 3, 2005, § 5; C.B. 10, 2019, § 1)

Sec. 18.502. - Prohibited discharges and illicit connections.

- (a) *Prohibited Discharges.* Except as provided in subsection (b) of this section, a person shall not discharge or cause or allow to be discharged any pollutant or nonstormwater discharge into a storm drainage facility or waterway which shall contaminate or otherwise alter the physical, chemical, or biological properties of any water conveyed to a storm drainage facility including, without limitation, a change in the temperature, taste, color, turbidity, or odor.
- (b) *Exceptions.* The following discharges are exempt from the prohibitions set forth in subsection (a) of this section:
 - (1) Waterline flushing or discharges from other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, foundation or footing drains, air conditioning

condensate, irrigation waters, springs, individual residential vehicle washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and fire fighting activities; or

- (2) Discharges permitted under a NPDES stormwater discharge permit or a nonstormwater discharge permitted under a NPDES discharge permit.
- (c) *Prohibited Illicit Connections.* A person shall not construct, use, maintain, or allow the continued existence of an illicit connection.
- (d) *Remedies:*
- (1) *Written notice.* The Director shall provide written notice to the owner, tenant, licensee, or any other person causing or permitting a prohibited discharge or illicit connection to cease the prohibited discharge or illicit connection or to remove the illicit connection. The Director may require removal of an illicit connection even if the Director previously gave permission for the connection. The Director's written notice shall specify the time allowed for completion of the remedial action and shall be served by personal service or certified mail, restricted delivery. In the event that service cannot be obtained by personal service or certified mail, restricted delivery, the notice may be posted on the property in a conspicuous location.
 - (2) *Court order.* Upon failure to cease the prohibited discharge or failure to remove an illicit connection within the time allowed in the notice, the Director shall petition the court for an order to enter the property, to conduct remedial repairs, and to be awarded the costs to complete those repairs.
 - (3) *Emergency repairs.* If the Director has evidence that a prohibited discharge or illicit connection threatens the public health and safety, the Director may enter the property and make repairs in order to abate the public health or public safety hazard without prior written notice to the owner, tenant, licensee, or any other person causing or permitting a prohibited discharge or illicit connection. The Director may seek a court order assessing the costs of the abatement against the owner, tenant, licensee, or any other person causing or permitting a prohibited discharge or illicit connection.
 - (4) *Additional penalties.* The recovery of costs and the imposition of civil and criminal penalties shall be in addition to and concurrent with any other remedies the County may have in law or equity.

(C.B. 3, 2005, § 5)

Sec. 18.503. - Right of entry.

- (a) *Generally.* Except as provided in subsection (b) of this section, the Director may enter any building, structure, or premises at any reasonable time for the purpose of enforcing this subtitle and for performing duties related to this subtitle.
- (b) *Consent.* The Director may enter a private dwelling to inspect for a violation of this subtitle with the consent of the occupant or owner. If entry is refused, the Director may seek a court order to permit entry to the dwelling.
- (c) *Threat to Public Health and Safety.* Upon providing proof of identity prior to entry, the Director may enter a building, structure, or premises:
 - (1) Where there is evidence that a violation of this subtitle exists which threatens or may threaten the public health and safety for the purpose of performing duties pursuant to the provisions of this subtitle; or
 - (2) To remove natural and man-made obstructions in stream channels and in the floodway of streams, which may impede the passage of water during rain events. This provision does not create any responsibility of the County for the clearance or maintenance of the stream, or for

flooding, and does not affect the rights and obligations of private property owners regarding the floodplain or maintenance of stream channels.

(C.B. 3, 2005, § 5; C.B. 10, 2019, § 1)

Sec. 18.504. - Repair and maintenance of private storm drain facilities in residential areas.

(a) *Single Residential Lot Storm Drainage Facilities:*

- (1) Privately owned storm drainage facilities which are associated with the development of a lot or parcel for a single residence and which primarily benefit the owner or user of the lot or parcel shall be the responsibility of the property owner to maintain, repair, or replace.
- (2) The repair or replacement of any storm drainage facility associated with the development of a lot or parcel for a single residence may be made by the property owner after written approval is obtained from the Department, and the work shall be done in accordance with such approval.
- (3) If the County determines that deficiencies exist in a private stormwater drainage facility associated with the development of a lot or parcel for a single residence, the County shall give notice to the property owner in writing of the deficiencies, describe the required corrective action, and the time period to have the deficiencies corrected. The notice shall be given by sending a letter by certified mail to the address of the owner as shown in the current tax records kept by the Department of Finance. Failure of the property owner to complete the required corrective action in the specified time is a violation of this subtitle.
- (4) If the property owner fails to correct the deficiencies within the specified time frame, the County may apply to the appropriate court for an order allowing the County to enter the property and to make, at the property owner's expense, the necessary repairs or replacement of the facility.
- (5) Following entry of the order and completion of the repair or replacement, the County shall send to the property owner a bill for the costs to correct the deficiencies. If the bill is not paid within 30 days, the County may file with the court a verified statement of costs, for the purpose of entering a civil judgment in the County's favor against the property owner.

(b) *Storm Drainage Facilities Serving More Than a Single Residential Lot:*

- (1) For purposes of this subsection, a residentially developed lot or parcel shall not include an apartment building or other residential property owned or operated for a commercial use. Privately owned storm drainage facilities that primarily serve residentially developed lots or parcels and which convey or retain stormwater from other upstream lots or parcels, public rights-of-way, easements, or fee simple lands shall be the responsibility of Howard County to maintain, repair, or replace after:
 - (i) The Director determines that the facility is in compliance with County standards in design, construction, and maintenance; and
 - (ii) An easement, public right-of-way, or fee simple land is dedicated by the property owner, accepted by Howard County, and recorded in the land records of Howard County.
- (2) If a privately owned storm drainage facility is not in compliance with County standards, the property owner may request the Director to repair or replace the storm drainage facility at the property owner's expense in order to bring the facility into compliance with County standards after an easement, public right-of-way, or fee simple land is dedicated by the property owner to the County. The property owner shall enter into an agreement with the County to have the County repair or replace the storm drainage facility. The agreement shall be recorded among the land records of Howard County. The agreement shall include the terms and conditions for completion of the work and for payment by the property owner of the costs to repair or replace the storm drainage facility. The cost to repair or replace the storm drainage facility shall be paid in full upon the transfer of all or any portion of the property served by the storm drainage facility.

With the consent of the County, the property owner may elect to pay the costs in annual installments.

- (3) If the Director determines that a privately owned storm drainage facility that primarily serves residential developed lots or parcels is adversely affecting the function, performance, or physical condition of a structure or storm drainage facility on publicly owned land or within a public right-of-way, other downstream property, or represents a safety or health hazard, the Director may enter into an agreement with the property owner to make such repairs or replace the facility as may be deemed necessary to relieve the adverse condition. The cost of the repairs or replacement shall not be charged to the private property owner unless the adverse condition on the private property is directly attributable to the property owner's failure to perform adequate maintenance, in which case the owner may be charged any amount of the cost of repairs or replacement up to 100 percent of the total cost. The agreement between the property owner and the County shall include the terms and conditions for completion of the work and for payment by the property owner of any amount of the cost of repairs or replacement which is charged to the property owner.
- (4) In lieu of repairing or replacing a storm drainage facility that primarily serves residentially developed lots or parcels, as provided in paragraphs (1) and (2) of this subsection, it is within the discretion of the Director to construct alternative storm drainage facilities to relieve the adverse condition caused by the existing facility.
- (5) If a property owner does not permit the County to repair or replace a storm drainage facility that primarily serves residentially developed lots or parcels, as provided in paragraph (3) of the subsection, and the Director deems it appropriate not to exercise the option of constructing alternative storm drainage facilities to relieve the adverse condition, as provided in paragraph (4) of this subsection, then the repair or replacement of the storm drainage facility shall be the responsibility of the property owner. In such case, the provisions of subsections (a)(3) through (5) of this section shall apply, and the procedures therein shall be followed.

(C.B. 3, 2005, § 5; C.B. 10, 2019, § 1)

Sec. 18.505. - Implementation.

The County Executive is authorized to create a fund and appropriate capital projects to implement the provisions of section 18.504 of this subtitle. The Director shall be responsible for implementing the provisions of section 18.504 of this subtitle to the extent that funds for such are approved in the annual budget.

(C.B. 3, 2005, § 5)

Sec. 18.506. - Annual report.

The Director shall publish an annual report on April 1, which shall contain the following information relating to the repair or replacement of storm drainage facilities on private land:

- (a) The location, description of the work, and costs involved in each case, of:
 - (1) Any storm drainage facilities repaired or replaced by owners under the provisions of subsection 18.504(a)(2) of this subtitle;
 - (2) Any storm drainage facilities repaired or replaced by the County, or otherwise, under the provisions of subsection 18.504(a)(4) of this subtitle;
 - (3) Any storm drainage facilities repaired or replaced by the County under the provisions of subsection 18.504(b)(3) of this subtitle; and

- (4) Any storm drainage facilities repaired or replaced by owners under the provisions of subsection 18.504(b)(5) of this subtitle;
- (b) The location, description of the work, and cost of any alternative storm drainage facilities constructed under the provisions of subsection 18.504(b)(4) of this subtitle;
- (c) The location and description of any storm drainage facilities dedicated to Howard County under the provisions of subsections 18.504(b)(1) and (2) of this subtitle; and
- (d) An accounting of the fund authorized under section 18.505 of this subtitle if such a fund is established.

(C.B. 3, 2005, § 5)

Sec. 18.507. - Penalties and remedies.

- (a) *Criminal Penalties.* Any person, firm or corporation violating any section of this subtitle is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding \$900.00, or imprisonment not exceeding five months or both.
- (b) *Civil Penalties.* Alternatively or in addition to and concurrent with all other remedies, the Department may enforce the provisions of this subtitle with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle is a Class A offense. Each day that a violation continues is a separate offense.
- (c) *Injunctive and Other Relief.* The Director is authorized to institute on behalf of Howard County any legal action, including an action for appropriate injunctive relief, in order to compel compliance with any of the provisions of this subtitle.

(C.B. 3, 2005, § 5)

SUBTITLE 6. - SANITARY LANDFILL REGULATIONS

Sec. 18.600A. - Capital Improvement Master Plan (C.I.M.P.) for Solid Waste.

- (a) Definitions:
 - (1) *Capital Improvement Master Plan; C.I.M.P. for Solid Waste* is a plan proposed by the County Executive upon the recommendation of the Director of Public Works and adopted by the County Council pursuant to the provisions of section 22.405 of the Howard County Code. The plan indicates the capital improvements to the County's solid waste acceptance and disposal systems to be constructed during the next ten years in order to implement the housing and employment growth projections of the County's general plan and the master plan for solid waste adopted pursuant to the requirements of the natural resources article of the Annotated Code of Maryland. The C.I.M.P. for Solid Waste included the solid waste acceptance and disposal projects included in the Howard County Capital Budget and Capital Program and Extended Capital Program.
- (b) *Requirement to Prepare C.I.M.P. and Review It Annually.* The Department of Public Works shall prepare the C.I.M.P. for Solid Waste pursuant to the provisions of section 22.405 of this Code. The Department shall review the plan annually and shall submit updates as appropriate for adoption by the County Council.

(C.B. 10, 1992)

Sec. 18.600. - Authority of Director of Public Works to adopt landfill rules and regulations.

The Director of Public Works is empowered to adopt such reasonable rules and regulations in the interest of public health and safety, respecting the design, construction and operation of any sanitary landfills in Howard County, including establishing operating hours, schedules and administrative procedures for County-owned sanitary landfills, not inconsistent with this subtitle.

(C.B. 12, 1978)

Sec. 18.601. - Definitions.

- (a) *Cell* means compacted solid wastes that are enclosed by natural soil or cover material in a land disposal site.
- (b) *Cover material* means other suitable material that is used to cover compacted solid wastes in a land disposal site.
- (c) *Daily cover* means cover material that is spread and compacted on the top and side slopes of compact solid waste (to densities averaging 593 kilograms/cubic meter (1,000 pounds/cubic yard)) at the end of each operating day in order to control vectors, fire, moisture and erosion and to assure an aesthetic appearance.
- (d) *Director* means the Director of the Howard County Department of Public Works or his designated agent.
- (e) *Final cover* means cover material that serves the same functions as daily cover but, in addition, is permanently exposed on the surface of the disposal area.
- (f) *Free moisture* means liquid that will drain freely by gravity from solid materials.
- (g) *Groundwater* means water present in the saturated zone of the soil; water within the earth that supplies wells and springs.
- (h) *Reserved.*
- (i) *Leachate* means liquid that has percolated or seeped through solid waste and has extracted dissolved or suspended materials from it.
- (j) *Open burning* means burning of solid wastes in the open.
- (k) *Plans* means reports and drawings, including a narrative operating description, prepared to describe the land disposal site and its proposed operation.
- (l) *Runoff* means the portion of precipitation that drains from an area as surface flow.
- (m) *Operating area* means the area where construction of refuse cells is performed within the land disposal site.
- (n) *Salvaging* means the controlled removal of waste materials for utilization in a manner approved in writing by the Director.
- (o) *Sanitary landfill* means a land disposal site permitted by the State Department of Health and Mental Hygiene and employing an engineered method of disposing of solid wastes on land in a manner that minimizes environmental hazards by spreading the solid wastes in thin layers, compacting the solid wastes to the smallest practical volume, and applying and compacting cover material at the end of each operating day.
- (p) *Scavenging* means unauthorized removal of solid waste materials.
- (q) *Solid wastes* means garbage, refuse, sludges, and other discarded solid materials resulting from residential, industrial and commercial operations and from other activities of the community.
- (r) *Site* means the entire property, including buffer and operating area, on which the land disposal operation is located.

- (s) *Vector* means a carrier, such as an insect or rodent, that is capable of transmitting a disease-causing agent from one organism to another.
- (t) *Water table* means the upper water level of a body of groundwater.
- (u) *Working face* means that portion of the land disposal site where solid wastes are discharged and are spread and compacted prior to the placement of cover material.

(C.B. 12, 1978)

Sec. 18.602. - Design and construction standards.

- (a) Plans for the design and construction of sanitary landfill sites or modifications to existing sanitary landfill sites shall be prepared and signed by a registered professional engineer, and approved by the Director. The plans shall be in accordance with all applicable procedures and regulations for evaluating and designing sanitary landfill sites as promulgated by the Maryland Department of Health and Mental Hygiene and the Maryland Department of Natural Resources or any other permitting agencies. Such plans shall be consistent with public health and welfare, State and Federal air and water quality standards, noise standards, and the Howard County general plan. The following design procedures shall be followed prior to submission of plans to the appropriate agencies for the issuance of an approved operating permit:
 - (1) The types and quantities of all solid wastes expected to be generated in Howard County through the year 2,000 (as a minimum) and disposed of at the facility shall be determined by survey and analysis to form a basis for design.
 - (2) Quantitative measurements of the solid wastes handled at the landfill site shall be provided for in the plans. This may be accomplished by planning for utilization of scales and topographic surveys of the site at various intervals of the landfill site life, or by other suitable means approved by the Director.
- (b) Site development plans shall include:
 - (1) Initial and final topographies of contour intervals of 0.6 meters (two feet) or less.
 - (2) Land use and zoning within 0.8 kilometers (one-half mile) of the site, including location of all residences, buildings, wells, watercourses, rock outcroppings, roads, and soil or rock borings. Topography and visual impact analysis shall also be developed for the site and surrounding area.
 - (3) Location of all utilities within the site and within a 30.5-meter (100-foot) distance beyond its boundaries.
 - (4) Narrative descriptions, with associated drawings, indicating site development and operation procedures.
 - (5) Location of the sole access point to the Alpha Ridge landfill site from Marriottsville Road at a point as near as possible to Maryland Route I-70.
- (c) The hydrogeology of the site shall be evaluated in order to design landfill site development in a manner to protect groundwater resources. Unacceptable hydrogeologic conditions may be altered to render the site acceptable, but such alterations must be detailed and justified in the plans. Precipitation, evapotranspiration, and other climatological conditions shall be considered in site design.
- (d) The location, design, construction and operation of the working disposal area of the landfill site shall conform to the most stringent of applicable water quality standards established in accordance with Federal, State and local provisions. In order to achieve these standards, plans should include:
 - (1) Current and projected use of water resources in the potential zone of influence of the landfill site.

- (2) Groundwater elevation and movement and proposed separation between the lowest point of the lowest cell and the predicted maximum water table elevation.
 - (3) Potential interrelationship of the land disposal site, local aquifers and surface waters, based on historical records or other sources of information.
 - (4) Background and initial quality of water resources within the land disposal site.
 - (5) Proposed location of observation wells, sampling stations, and the testing and monitoring program which is planned for implementation.
 - (6) Description of soil and other geologic material to a depth adequate to allow evaluation of the water quality protection provided by the soil and other geologic material.
 - (7) Potential of leachate generation and proposed control systems, where necessary, for the protection of ground and surface water resources.
- (e) Characteristics of on-site soil shall be evaluated with respect to their effects on-site operations, such as vehicle maneuverability, and use as cover material. Plans shall specify cover material sources and soil classifications; surface grades and side slopes needed to promote maximum runoff, without excessive erosion, and to minimize infiltration; procedures to promote vegetative growth as promptly as possible to combat erosion and improve appearance of idle and completed areas; and information as to the character and attenuation characteristics of the soil to the depth of at least one and one-half meters (five feet) below the proposed or intended excavation operations, and the elevation of the groundwater table in that area.
 - (f) An all-weather access road, negotiable by loaded refuse vehicles, shall be provided to the entrance of the landfill site. All access to the landfill site shall be through permanent gates or barricades which can be locked. Appropriate physical measures such as fencing, ditching or banking shall be planned to prevent indiscriminate access at all other locations. Temporary roads shall be provided for in the planning as needed to deliver wastes to the working face of the landfill operation.
 - (g) The sanitary landfill site design shall provide that the operating area of the landfill not be closer than 76.2 meters (250 feet) from the site property line.
 - (h) The design of the operating area of the landfill shall not encroach into the natural 100-year floodplain of any stream, tributary area, creek, river or natural watercourse. Therefore, where floodplains may exist on or bordering the proposed site, the effect of the proposed fill operation shall be investigated to assure no interference with stream flow at flood stages. Diversion channels of adequate size and grade based upon runoff estimates from the area surrounding and within the landfill site shall be provided in the plans in order to provide for surface water runoff control to minimize infiltration and erosion of cover material. Such diversion design shall also minimize the impacts of drainage off the landfill site on adjacent properties. Siltation or retention basins or other approved methods of retarding runoff shall be designed where necessary to avoid stream siltation or flooding problems due to excessive runoff. Design computations shall be prepared to determine the effect of landfill construction on the surface water flows adjacent to the site. All applicable State, Federal and local stormwater management regulations and standards shall be adhered to in the design plans.
 - (i) Plans shall include an effective dust control program to protect public health and eliminate nuisance conditions. Air quality monitoring at site perimeter locations shall be provided on a quarterly basis to ensure compliance with appropriate Federal, State and local air quality provisions.
 - (j) Plans shall assess the need for gas control and indicate the location and design of any vents, barriers, collection or other control measures to be provided. Air quality monitoring at site perimeter locations shall be provided on a quarterly basis to ensure compliance with appropriate Federal, State and local air quality provisions.
 - (k) Plans shall include contingency programs for vector control and eradication in the event that a problem does occur.

- (l) Plans shall include an effective litter control program, both on-site and encompassing the immediate area surrounding the site. Portable litter collection fences shall be placed adjacent to and on the leeward side of the active fill and be directed toward prevention of litter being left or transmitted from the site to the surrounding area.
- (m) The plans shall include:
 - (1) Arrangements whereby substitute equipment will be available to provide uninterrupted service during routine equipment maintenance periods or equipment breakdowns.
 - (2) An equipment maintenance facility on-site, or appropriate contract arrangements to receive such service.
- (n) A manual, which shall be in accordance with the Maryland Occupational and Safety Health Act, describing safety precautions and procedures to be employed, shall be developed prior to landfill site operations.
- (o) Plans shall prescribe methods to be used in maintaining records and monitoring the environmental impact of the land disposal site, including air, water, noise, etc.
- (p) Landscaping shall be included in the plans to provide adequate buffer to screen the landfill activity from the surrounding area. Buffer and site layout shall be planned so as to ensure adherence to Maryland Department of Health and Mental Hygiene regulations governing the control of noise pollution. On-site vegetation shall be cleared only as necessary, and a schedule providing for progressive clearance of trees shall be developed.
- (q) Plans shall describe the projected use of the completed land disposal site. In addition to maintenance programs and provisions, where necessary, for monitoring and controlling decomposition gases and leachate, the plans shall address the following ultimate use criteria:
 - (1) *Cultivated or open space area.* If the completed landfill site is to be cultivated or retained as open space, the integrity of the final cover shall not be disturbed by agricultural cultivation or stabilization activities. In this regard, a sufficient depth of cover material to allow cultivation and to support vegetation shall be designed for in addition to that recommended for final cover.
 - (2) *Structures.* If any enclosed structures are to be built within the landfill site, the Director shall review and approve their design and construction, including provision for protection against potential hazards of solid waste decomposition gases.

(C.B. 12, 1978)

Sec. 18.603. - Future use of landfill site upon completion of fill operations.

- (a) Prior to the completion of the final design of the landfill site and the operating area, the Director of Public Works, in conjunction with the Director of recreation and parks and other appropriate County, State and Federal agencies, shall develop a plan broadly outlining the ultimate use of the landfill site upon completion of the filling operation thereon. Said plan may address a phasing-in of uses prior to the completion of filling operations and may address possible use alternatives.
- (b) Upon completion, the above plan shall be presented to the County Council for their consideration and approval. The Department of Public Works may propose alternatives to the future use plan from time to time, for either the entire site or for a portion thereof, by submitting a proposal to the County Council.

(C.B. 12, 1978)

Sec. 18.604. - Operational procedures.

- (a) Sanitary landfill techniques of spreading and compacting solid wastes and placing cover material at the end of each operating day should be used to dispose of municipal solid wastes. The following details of daily operations shall be followed as the operators conduct all operations in accordance with the approved design and development plans and specifications; solid waste handling equipment shall on any operating day perform the following functions and adhere to the following requirements:
- (1) Spread the solid waste accepted in layers no more than 0.6 meters (two feet) thick while confining it to the smallest practicable area.
 - (2) Compact the spread solid wastes to the smallest practicable volume (several such completed layers will form a cell).
 - (3) Place, spread and compact the cover material over the cell at least by the end of each day's operation.
 - (4) Daily cover shall be applied regardless of weather; sources of cover material shall, therefore, be accessible on all operating days. The thickness of the compacted daily cover shall not be less than 0.15 meters (six inches).
 - (5) Intermediate cover shall be applied on areas where additional cells are not to be constructed for extended periods of time; normally, a period which may vary between one week to one year. The thickness of the compacted intermediate cover shall not be less than 0.3 meters (1.7 foot).
 - (6) Final cover shall be applied on each area as it is completed or if the area is to remain idle for over one year. The thickness of the compacted final cover shall not be less than 0.6 meters (two feet).
 - (7) No refuse shall remain uncovered for more than eight hours from the time of deposit.
 - (8) Dead animals shall not be accepted for disposal at sanitary landfill sites.
- (b) During day-to-day operations, solid wastes and any leachate therefrom shall not be allowed to contact ground or surface water. If such contact occurs, as noted by water quality monitoring, immediate action shall be taken to correct the situation and eliminate any water quality impairment. Such action shall provide for elimination of the source of leachate and the collection, treatment and safe disposal of any impaired water. The water quality of all streams, ponds, springs, and any other bodies of water within the site and within 30.5 meters (100 feet) of the site boundary, to include the groundwater table shall be tested, as a minimum, quarterly. The following tests shall provide indicators of any potential contamination of surface and groundwater prior to any migration of contamination off-site: pH; specific conductance; five-day biochemical oxygen demand; total organic carbon; nitrogen as ammonia (as N), nitrite-nitrate (as N), organic nitrogen (as N); total phosphate; sulfate (SO_4); chloride (Cl); iron, total (Fe); zinc; alkalinity (as CaCO_3). Additional testing and the required physical and chemical analyses shall be prescribed by the Director and/or by the Maryland Department of Health and Mental Hygiene and the Maryland Department of Natural Resources. Leachate collection and treatment systems shall be used where necessary to protect ground and surface water resources.
- (c) Open burning of solid waste in Howard County is prohibited.
- (d) Measures to control dust shall be initiated as necessary to protect the health and safety of facility personnel, nearby residents, and persons using the facility.
- (e) Gases resulting from decomposition of organic materials shall be monitored at strategic locations around the perimeter of the landfill quarterly to prevent explosive concentrations (five percent to 15 percent methane) or toxicity hazard to adjacent properties. If such concentrations or hazards occur, immediate actions shall be taken to correct the situation. Monitoring of any gases generated on the site shall be provided by purchase of equipment or through contractual services.
- (f) Continual inspection for any evidence of vermin and rodent life shall be performed, and any vermin or rodent life shall be eliminated by the immediate implementation of a planned program of eradication.

- (g) Portable litter fences or other devices shall be used in the immediate vicinity of the working face and at other appropriate locations to control blowing litter. At the end of each operating day, or more often as required, litter shall be removed from the fences and incorporated into the cell area being used. Alternatively, the litter may be containerized for disposal on succeeding operating days. Wastes that are easily moved by wind shall be covered, as necessary, to prevent their becoming airborne and scattered.
- (h) Certain bulky wastes, such as appliances, shall be salvaged in a controlled manner at a point other than the working face, or otherwise they shall be crushed on solid ground and then pushed onto the working face near the bottom of the cell.
- (i) A safety manual shall be available for use by employees, and they shall be instructed in application of its procedures. A training program shall be developed and implemented for all employees.
- (j) Personal safety devices, such as hard hats, gloves, safety glasses, and footwear, shall be provided to facility employees as required. Safety devices, including, but not limited to, such items as rollover protective structures, seat belts, audible reverse warning devices, and fire extinguishers, shall be provided on all equipment used to spread and compact solid wastes or cover material at the facility. All such safety equipment shall be in accordance with the Maryland Occupational Safety and Health Act. All specifications for the purchase of heavy equipment shall include provisions for adherence to applicable State, Federal and local noise standards.
- (k) No scavenging of refuse delivered to the sanitary landfill shall be permitted by Howard County employees or by citizens.
- (l) Access to the site shall be limited, and the gates and barricades shall be open only when an attendant or operator is on duty. Gates or barricades shall be locked at all other times. Traffic and informational signs and markers shall be provided to promote an orderly traffic pattern to and from the discharge area, maintain efficient operating conditions, inform as to the hours of landfill operation, and restrict access to hazardous areas. No vehicle shall be left unattended at the working face or along traffic routes. If a regular user persistently poses a safety hazard, this user shall be barred from the site.
- (m) Records shall be maintained to cover the following, as a minimum:
 - (1) Major operational problems, complaints or difficulties.
 - (2) Qualitative and quantitative evaluation of the environmental impact of the sanitary landfill, with regard to the effectiveness of gas and leachate control, including results of leachate sampling and analyses, gas sampling and analyses, ground and surface water quality sampling and analyses upstream and downstream of the site.
 - (3) Vector control efforts.
 - (4) Dust and litter control efforts.
 - (5) Quantitative measurements of the solid wastes handled and disposed and progressive records showing area and subarea fill completion and remaining disposal capacity.
 - (6) Description of solid waste materials received, identified by source of materials.
- (n) Fire protection shall be provided by any or all of the following methods:
 - (1) An adequate supply of water shall be available at all times at the site;
 - (2) A stockpile of cover material shall be maintained reasonably close to the working face of the fill;
or
 - (3) Means and devices mutually agreeable in writing to the Director and the Howard County Fire Administrator may be used.
- (o) There shall be an adequate number of large waste containers with adequate volume located inside the entrance to all sanitary landfills. These containers shall be accessible during normal hours of landfill operations to private passenger vehicles as a citizens' convenience center.

- (p) Upon completion of a sanitary landfill cell, the entire surface of the intermediate cover shall be inspected monthly. All cracked, eroded or uneven covers shall be repaired.
- (q) No solid waste or special waste generated from out-of-County sources will be accepted at landfill(s) owned and operated by Howard County, Maryland.

(C.B. 12, 1978; C.B. 20, 1982; C.B. 41, 1983)

Sec. 18.605. - Regulatory requirements.

- (a) The Director shall develop a feasible plan of action for the rescue of all recoverable materials accepted at the sanitary landfill. Such materials shall include:
 - (1) Automobile tires.
 - (2) Leaf waste.
 - (3) Bulky residential appliances ("white goods").
 - (4) Christmas trees.
 - (5) Waste oil.
 - (6) Batteries.
- (b) The Director shall ensure that existing sanitary landfills in Howard County shall meet the provisions of section 18.604 contained herein.
- (c) Any Howard County citizen may direct written inquiry or written notice of alleged violations of this subtitle or of any rules or regulations promulgated pursuant thereto to the Director of Public Works and the County Health Department. The Director/Health Officer shall review such written evidence and perform such investigation as may be necessary to determine the nature of the alleged violation. The Director of Public Works, in cooperation with the County health department, shall take such action as may be necessary to correct any suspected violation within a specified period of time, not to exceed 30 days. Appeal of the Director's action or decision shall be to the Board of Appeals.

(C.B. 12, 1978; C.B. 116, 1981)

Sec. 18.606. - Penalties; other remedies.

- (a) Any person, firm or corporation violating any rules or regulations specified herein, or that may be adopted in accordance with the subtitle shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$1,000.00, or imprisoned for not more than six months or both, at the discretion of the court, for each offense.
- (b) Alternatively or in addition to and concurrent with all other remedies, the Department of Public Works may enforce the provisions of this subtitle with civil penalties pursuant to title 24, Civil Penalties," of the Howard County Code. A first violation shall be a Class E offense. A second violation shall be a Class B offense and subsequent violations shall be Class A offenses.
- (c) The Director of Public Works or the Director's designee is authorized to institute on behalf of Howard County any legal action in order to compel compliance with any of the provisions of this subtitle, including prohibition of entry to any sanitary landfill in Howard County.

(C.B. 12, 1978; C.B. 32, 1985)

SUBTITLE 6A. - SOLID WASTE COLLECTION

Sec. 18.610. - Unauthorized removal of recyclable materials.

(a) *Definition:*

- (1) In this section, *recyclable material* means any solid waste that is separated from the solid waste stream for collection and return to the marketplace in the form of raw materials or products.
- (2) *Recyclable material* includes paper, glass, plastic, aluminum, cardboard, and any other material included in the County's recycling program.

(b) *Removal of Recyclable Material Prohibited:*

- (1) Except as provided in paragraph (2) of this subsection, an individual may not remove or cause to be removed any recyclable material that is separated for collection under the County's recycling collection program and placed at curbside or other pickup location.
- (2) Paragraph (1) of this subsection does not apply to:
 - (i) A law enforcement official conducting a search or seizure; or
 - (ii) A County employee, contractor, or other individual authorized by the County to collect recyclable material.

(c) *Penalties.* A person who violates the provisions of this section is guilty of a civil violation under title 24 "Civil Penalties" of the County Code. A first offense is a Class C offense. A subsequent offense is a Class B offense.

(d) *Enforcement.* A civil citation under this section may be issued by:

- (1) The Howard County Police Department; and
- (2) County employees designated by the Director of the Department of Public Works to serve as enforcement personnel empowered to issue civil citations under this section.

(C.B. 62, 1996)

Sec. 18.611. - Apartment and condominium recycling.

(a) *Definitions.* In this section, the following terms have the meanings indicated:

- (1) *Plan* means the "apartment and condominium recycling plan", adopted as part of the County's solid waste management plan, pursuant to Subtitle 5 and Subtitle 7, both of Title 9 of the Environment Article of the Annotated Code of Maryland.
- (2) *Responsible party* means the property owner or manager of an apartment building that contains ten or more dwelling units or the council of unit owners for a condominium that contains ten or more dwelling units.

(b) *Requirements.* In accordance with Section 9-1711 of the Environment Article of the Annotated Code Of Maryland, the responsible party shall:

- (1) Provide for the collection of recyclable materials from residents of the dwelling units;
- (2) Provide for the removal for further recycling of recyclable materials collected from residents of the dwelling units; and
- (3) Comply with the plan.

(c) *Inspections.* The County may conduct inspections of an apartment complex or condominium to enforce the provisions of this section and the plan.

(d) *Civil penalties.* Alternatively or in addition to and concurrent with other remedies at law or equity, the County may enforce the provisions of this subtitle and the plan with civil penalties pursuant to the

provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle is a class E offense. Each day that a violation occurs or continues is a separate offense.

- (e) *Injunctive and other relief.* In addition, the County may institute injunctive, mandamus or other appropriate legal action or proceedings for the enforcement of or to correct violations of this subtitle or the plan. Any court of competent jurisdiction may issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.

(C.B. 2, 2014, § 1)

Sec. 18.612. - Special events recycling.

- (a) *Definitions.* In this section, the following terms have the meanings indicated:

(1) *Plan* means the county's Solid Waste Management Plan that includes special events recycling, adopted pursuant to Subtitle 5 and Subtitle 17, both of Title 9 of the Environment Article of the Annotated Code of Maryland.

(2) *Special event* means an event that:

- a. Includes temporary or periodic use of a public street, publicly owned site or facility, or public park;
- b. Serves food or drink; and
- c. Is expected to have 200 or more persons in attendance.

- (b) *Requirements* . In accordance with Section 9-1712 of the Environment Article of the Annotated Code of Maryland, and in addition to any other conditions required as part of a special events or other permit, the organizer of a special event shall:

- (1) Provide a recycling receptacle immediately adjacent to each trash receptacle at the special event;
- (2) Ensure that all recycling receptacles are clearly distinguished from trash receptacles by color or signage;
- (3) Ensure that all recyclable materials deposited into recycling receptacles at the special event are collected for recycling; and
- (4) Comply with the Plan.

- (c) *Inspections* . The County may conduct inspections of a special event to enforce the provisions of this section and the Plan.

- (d) *Civil Penalties.* Alternatively or in addition to and concurrent with other remedies at law or equity, the county may enforce the provisions of this subtitle and the Plan with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle is a Class E offense. Each day that a violation occurs or continues is a separate offense.

- (e) *Injunctive and Other Relief.* In addition, the county may institute injunctive, mandamus or other appropriate legal action or proceedings for the enforcement of or to correct violations of this subtitle or the Plan. Any court of competent jurisdiction may issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.

(C.B. 15, 2015, § 1)

SUBTITLE 7. - FEES

Sec. 18.700. - Approval of subdivision and site development plans—Review and inspection fees.

- (a) The Director of Public Works shall prepare a proposed fee schedule to cover the cost of services performed by the Department of Public Works related to the physical inspection and approval of construction of roads and storm drainage structures as shown on the approved subdivision and site development plans. The Director shall submit the proposed fee schedule to the Public Works Board, which shall set a time and date of a public hearing and advertise the same in two separate insertions at weekly intervals in one or more of the newspapers published in the County. Within 15 days subsequent to the date of the hearing, the Public Works Board shall forward the proposed fee schedule, with its recommendations, to the County Executive. The County Executive, after considering the recommendations of the Public Works Board, shall forward the proposed fee schedule as may be amended by the County Executive to the County Council for adoption by resolution.
- (b) The Director of Finance shall collect the fee provided herein at the same time that the financial assurance requirement set forth in section 16.103 of this Code is posted.

(C.B. 44, 1972; C.B. 43, 1977; C.B. 116, 1981; C.B. 16, 1995)

SUBTITLE 8. - STREETLIGHTS

Sec. 18.800. - Council findings and declarations.

- (a) The County Council hereby finds and declares that illumination of the public roads enhances the general safety and welfare, but that in some areas of Howard County the illumination is inadequate.
- (b) The County Council also finds and declares that for those areas which are not new developments or subdivisions where installation of streetlights is required under the provisions of section 16.130 of the Howard County Code, the creation of streetlight districts would be an appropriate method of providing the enhancement of the safety and welfare desired.
- (c) The County Council also finds and declares that in order to guarantee the continuance of sufficient street lighting in those areas currently being served by privately owned streetlights, the acquisition by gift of those streetlights would be an appropriate method of providing the enhancement of the safety and welfare desired.

(C.B. 99, 1980)

Sec. 18.801. - Streetlight districts.

- (a) New streetlights may be installed in a streetlight district on public roads and public rights-of-way and on private property adjacent to public roads if Howard County has acquired an easement therefor as provided in section 4.200 of the Howard County Code.
- (b) Two years after the installation of the first new streetlight in a district, Howard County may, by gift, accept title to streetlights that existed in a streetlight district prior to creation of the district located on public roads and public rights-of-way and on private property adjacent to public roads, if Howard County has acquired an easement therefor as provided in section 4.200 of the Howard County Code. Such streetlights shall be acceptable to the Director of Public Works with regard to spacing, height, illumination and hardware.

(C.B. 99, 1980)

Sec. 18.802. - Petition for streetlight district.

- (a) A petition to create a streetlight district shall be filed with the Director of Public Works by a majority of the property owners within the district sought to be created; provided, however, that at least 25 property owners shall be signatories to a petition.
- (b) A petition to create a streetlight district shall contain:
 - (1) The name and address of each petitioner.
 - (2) The street address or legal description of each property as to which a property owner claims ownership.
 - (3) A description of the boundaries of the district sought to be created, which description shall be sufficient if it contains only the roads which would serve as the boundaries of the district.
 - (4) The name and address of a contact person for the petitioners.
 - (5) A certification by the petitioners acknowledging:
 - (i) That new streetlights may be installed in the proposed district on public roads and public rights-of-way and on private property adjacent to public roads, if Howard County has acquired an easement therefor; and
 - (ii) That Howard County may, by gift, accept title to existing streetlights in the proposed district located on public roads and public rights-of-way and on private property adjacent to public roads, if Howard County has acquired an easement therefor.

(C.B. 99, 1980)

Sec. 18.803. - Verification of signatures on petition.

Upon receipt of a petition to create a streetlight district, the Director of Public Works shall forthwith refer the petition to the Director of Finance for verification. Within one week thereof, the Director of Finance shall certify to the Director of Public Works as to whether the petition contains the signatures of a majority of property owners within the district sought to be created.

(C.B. 99, 1980)

Sec. 18.804. - Plat of district.

- (a) Upon receipt of certification that the petition contains the signatures of a majority of property owners within the district sought to be created, the Director of Public Works shall complete a plat of the proposed district, which can modify the boundaries of the district as proposed in the petition.
- (b) The plat shall conform to section 4.5 of the Howard County Design Manual, Volume III, "Road and Bridge Design," as amended. However, the Director of Public Works may vary the standards of the design manual with respect to spacing, height and illumination of streetlights in order to take into account existing street lighting, type of housing developments in the area and other factors related to safety or security.
- (c) The plat shall indicate:
 - (1) The location of all existing streetlights.
 - (2) The location of the proposed new streetlights.
 - (3) The design specifications for each proposed new streetlight.
 - (4) The total estimated material and installation cost for the proposed new streetlights.

- (5) The total projected operating and maintenance cost, including but not limited to energy consumption, for the proposed new streetlights for the two-year period following installation of the first new streetlight in the district.
- (6) The estimated annual charge for each parcel in the district.

(C.B. 99, 1980)

Sec. 18.805. - Notice to the community.

- (a) Immediately upon completion of the plat, the Director of Public Works shall advertise in at least one newspaper published in the County for two consecutive weeks that the petition will be presented to the Public Works Board for its recommendation and that a public hearing will be held on a particular date and time.
- (b) The Director of Public Works shall also post notice advising of the time, date and place of the Public Works Board hearing throughout the district sought to be created for three consecutive weeks prior to the Public Works Board hearing.
 - (1) The notice sign shall:
 - (i) Give the location of the district.
 - (ii) Be double-sided and at least 30 inches by 36 inches in size.
 - (iii) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
 - (iv) State that the area is proposed to have streetlights installed.
 - (v) Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.
- (c) Both the newspaper advertisement and the notice shall contain the boundaries of the district sought to be created and contain a notice that a plat has been prepared, that it contains all of the information outlined in subsection 18.804(c), that the plat is available for inspection in the Office of the Director of Public Works and that any interested person may be heard by the Public Works Board, pursuant to its rules, at a time specified in the notice.
- (d) The Director of Public Works shall also send a copy of the plat and notice and a list containing the names of each property owner within the district sought to be created to the contact person designated in accordance with subsection 18.802(b).

(C.B. 99, 1980; C.B. 69, 2018, § 1)

Sec. 18.806. - Public Works Board recommendation.

- (a) The Public Works Board shall hold a hearing for the purpose of providing a recommendation to the Director of Public Works relative to the creation of the streetlight district.
- (b) Within 30 days of its hearing, the Public Works Board shall provide its recommendation to the Director of Public Works as to whether or not to proceed with the creation of the streetlight district as proposed or with modifications.

(C.B. 99, 1980)

Sec. 18.807. - Determination by Director of Public Works.

- (a) Upon receipt of the recommendation of the Public Works Board, the Director of Public Works shall make a determination as to whether or not a streetlight district should be created. The determination shall be made within 30 days of receipt of the recommendation of the Public Works Board.
- (b) In the event that the Director of Public Works determines that a streetlight district should not be created, then the district shall not be created nor shall the area which was the subject of the petition be the subject of another petition for at least one year from the date on which it was received by the Director of Public Works.
- (c) In the event that the Director of Public Works determines that a streetlight district should be created, he shall:
 - (1) Complete a final plat, which can modify the boundaries of the district based on recommendations of the Public Works Board.
 - (2) Mail to each property owner within the proposed streetlight district the following material, with notice to each property owner being effective on the date the material is mailed by the Director of Public Works:
 - (i) A copy of the final plat, which shall contain all of the information outlined in subsection 18.804(c).
 - (ii) Notice to each property owner of the charge as computed in accordance with section 20.701 of the Howard County Code for the parcel owned by the property owner.
 - (iii) A form which, if signed by a property owner and returned to the Director of Public Works, would indicate that the property owner is opposed to the creation of the streetlight district. The notice shall indicate that it will not be considered by the Director of Public Works unless it is received on or before a specified date.

(C.B. 99, 1980)

Sec. 18.808. - Opposition notices.

- (a) In the event that a majority of property owners within the proposed streetlight district return the opposition notices to the Director of Public Works indicating that they are opposed to the creation of the district, then the district shall not stand created nor shall the area which was the subject of the petition be the subject of another petition for at least one year from the date on which it was received by the Director of Public Works.
- (b) In the event that a majority of property owners within the proposed streetlight district fail to return the opposition notices to the Director of Public Works indicating that they are opposed to the creation of the district, then the district shall be created.
- (c) All opposition notices must be received by the Director of Public Works within 30 days of their having been sent to the property owners in order for them to be counted.
- (d) The Director of Public Works shall issue a final order reflecting the outcome of the return of opposition notices.

(C.B. 99, 1980)

Sec. 18.809. - Records of streetlight district.

- (a) Upon creation of a streetlight district, the Director of Public Works shall cause a copy of the final plat to be filed in the Office of the Director of Public Works and available for public inspection.

- (b) Upon creation of a streetlight district, the Director of Public Works shall cause a copy of the final plat to be filed among the land records of Howard County.

(C.B. 99, 1980)

Sec. 18.810. - Operation.

- (a) After creation of the streetlight district, the Director of Public Works shall provide for the installation of the new streetlights in the district in accordance with the final plat.
- (b) Howard County shall assume the operating and maintenance costs for the new streetlights in the district, as shown on the final plat, with financing to be in accordance with section 20.700 of the Howard County Code.
- (c) Upon accepting title to any existing streetlights in the district, the County shall also assume their operating and maintenance costs. The County shall acquire an easement before accepting title to, or assuming operating and maintenance costs for, such existing streetlights located on private property adjacent to public roads.

(C.B. 99, 1980)

Sec. 18.811. - Property ownership and definitions.

- (a) Joint owners of a single parcel shall constitute a single owner for the purpose of this subtitle.
- (b) Each unit owner of a condominium shall constitute a single owner for the purpose of this subtitle.
- (c) The property tax records maintained by the Director of Finance of Howard County shall determine the names and mailing addresses of property owners for the purpose of this subtitle.
- (d) The term *majority of property owners* as used in this subtitle shall mean the owners of a majority of the parcels within a district sought to be created.
- (e) The term *public road* as used in this subtitle for street lighting purposes shall mean the entire width between the boundary lines of every way or thoroughfare in any residential area, excluding rental apartment areas, used by the public for purposes of vehicular travel, whether actually dedicated to the public and accepted by the proper authorities or otherwise, where the owners of the road agree as a condition of creation of a district not to restrict access or close any part of the road to the public.

(C.B. 99, 1980)

Sec. 18.812. - Petition for gift of streetlights.

- (a) The legal or equitable owner of existing streetlights may petition the Director of Public Works to accept, by gift, lien-free title to streetlights which were constructed in subdivisions recorded prior to the effective date of this legislation [December 5, 1980].
- (b) A petition shall include a copy of the recorded subdivision or a plat shown on a map of suitable scale marked to indicate the location of the subject streetlights.
- (c) A petition may be filed with respect to streetlights which are located on public roads and public rights-of-way and on private property adjacent to public roads, if Howard County will be granted an easement therefor.

(C.B. 99, 1980)

Sec. 18.813. - Public hearing; criteria for acquisition of streetlights.

- (a) Upon receipt of a petition to accept by gift streetlights, the Director of Public Works shall schedule a hearing before the Board of Public Works after giving at least 30 days' notice of the subject, time and place of hearing by publication on two separate occasions at weekly intervals in one newspaper published in Howard County. The notice shall also include the total projected operating and maintenance costs as determined by the Director of Public Works for the subject streetlights for a two-year period following acquisition of the streetlights by Howard County. The Board of Public Works shall make its recommendations to the Director of Public Works not later than 30 days after the public hearing on the petition.
- (b) The streetlights which are the subject of the petition may be acquired by gift if the Director of Public Works finds:
 - (1) That either:
 - (i) The subject streetlights have been installed in accordance with a developer's agreement with Howard County in subdivisions recorded prior to the effective date of this legislation [December 5, 1980] wherein streetlights were not installed at the time of initial development, such streetlights to be acceptable to the Director of Public Works with regard to spacing, height, illumination and hardware; or
 - (ii) The subject streetlights have been installed prior to the effective date of this legislation in subdivisions recorded prior to the effective date of this legislation in a manner determined by the Director of Public Works to be acceptable with regard to spacing, height, illumination and hardware.
 - (2) That the acceptance of the subject streetlights by Howard County at that time will be in the public interest.
 - (3) That the petitioner has agreed to pay in advance for the projected operating and maintenance costs for the subject streetlights for a period of two years after acquisition of ownership and assumption of responsibility for the streetlights by Howard County.
- (c) In connection with making the findings required under subsection (b) above, the Director of Public Works shall take into consideration the recommendations of the Board of Public Works. The Director of Public Works shall have absolute discretion and final authority to accept or acquire the subject streetlights on behalf of the County.

(C.B. 99, 1980)

Sec. 18.814. - Transfer of title and assumption of responsibility.

- (a) The petitioner shall cause to be prepared, at its expense, an instrument of conveyance by gift granting and conveying to Howard County lien-free title to the subject streetlights.
- (b) Upon acceptance of the subject streetlights by the Director of Public Works, Howard County shall thereafter assume responsibility for operating and maintenance costs in connection with said streetlights; provided, however, that the petitioner shall have paid to Howard County in advance of such conveyance a sum equal to two years of operating and maintenance costs as determined by the Director of Public Works as provided in section 18.813.

(C.B. 99, 1980)

Sec. 18.815. - Appeals and procedure.

- (a) The following actions may be appealed to the Howard County Board of Appeals:

- (1) Certification by the Director of Finance pursuant to section 18.803 that a petition fails to contain the signatures of a majority of property owners within the district sought to be created.
 - (2) The final order of the Director of Public Works pursuant to subsection 18.808(d) creating the streetlight district or failing to create the streetlight district.
- (b) Only the following shall have standing to the appeal:
- (1) A property owner who signed a petition to create a streetlight district may appeal as provided in subsection 18.815(a)(1).
 - (2) Any owner of property within the streetlight district as created, as proposed by petition or as shown on the plat prepared by the Director of Public Works, may appeal as provided in subsection 18.815(a)(2).
- (c) All proceedings in connection with a petition to create a streetlight district and a petition to accept by gift existing streetlights shall be exempt from all provisions of section 2.100 of the Howard County Code.

(C.B. 99, 1980)

Sec. 18.816. - Severability.

If any provision of this subtitle or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this subtitle which can be given effect without the invalid provision or application; and to this end the provisions of this subtitle are severable.

(C.B. 99, 1980)

SUBTITLE 9. - STORMWATER MANAGEMENT⁴

Footnotes:

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Editor's note— C.B. 13, 2010, § 1, amended subtitle 9 in its entirety to read as herein set out. Former subtitle 9, §§ 18.900—18.909, pertained to similar subject matter and derived from C.B. 28, 1984, C.B. 32, 1985, C.B. 101, 1990, C.B. 16, 1995, C.B. 42, 1995, C.B. 58, 1997 and C.B. 57, 2000.

State Law reference— Stormwater management, Ann. Code of Md., Environment article, § 4-201 et seq.

Sec. 18.900. - Purpose and authority.

- (a) The purpose of this subtitle is to protect, maintain and enhance public health, safety and welfare by establishing minimum requirements and procedures to control the adverse impacts associated with stormwater runoff. The goal is to manage stormwater by using environmental site design (ESD) to the maximum extent practicable (MEP) in order (i) to maintain, after development and as nearly as possible, the predevelopment runoff characteristics; (ii) to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding; and (iii) to use appropriate structural best management practices (BMPs) only when necessary. The intent is to restore, enhance, and maintain the chemical, physical, and biological integrity of streams; to minimize damage to public and private property; and to reduce the impacts of land development through Stormwater Management and Watershed Protection and Restoration Programs as authorized by Title 4, Subtitle 2 of the Environment Article of the Annotated Code of Maryland.

- (b) The provisions of this subtitle, pursuant to Title 4, Subtitle 2 of the Environment Article, Annotated Code of Maryland, are adopted under the authority of the Howard County Code and shall apply to all development and redevelopment occurring in Howard County. The application of this subtitle and provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by State law. Howard County is responsible for the coordination and enforcement of the provisions of this subtitle.
- (c) For the purpose of this subtitle, the following documents are incorporated by reference:
 - (1) The 2000 Maryland Stormwater Design Manual Volumes I and II (Maryland Department of the Environment, April 2000), and all subsequent revisions, is incorporated by reference by Howard County and shall serve as the official guide for stormwater principles, methods, and practices.
 - (2) USDA Natural Resources Conservation Service Maryland Conservation Practice Standard Pond Code 378 (latest edition).
 - (3) The Howard County Design Manual.
- (d) It is also the purpose of this subtitle and Title 20, Subtitle 11 of this Code to authorize and establish a system of charges in accordance with Title 4, Subtitle 2 of the Environment Article of the Annotated Code of Maryland to adequately and equitably finance the County's Stormwater Management, Storm Drainage, and Water Quality Programs.

(C.B. 13, 2010, § 1; C.B. 8, 2013, § 1)

Sec. 18.901. - Definitions.

The following terms have the meanings indicated:

- (a) *Administration* means the Maryland Department of the Environment (MDE) Water Management Administration (WMA).
- (b) *Adverse impact* means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity or stability, or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
- (c) *Agricultural land management practices* means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.
- (d) *Applicant* means a person, firm, or governmental agency who applies for approval of a project to carry out construction activities involving stormwater management.
- (e) *Approving agency* means the entity responsible for the review and approval of stormwater management plans. As set forth in the Howard County Design Manual and depending on the nature of the project, the approving agency is the Department of Planning and Zoning or the Department of Public Works.
- (f) *Best management practice (BMP)* means any structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, or provide other amenities.
- (g) *Channel protection storage volume (cPv)* means the volume used to design structural management practices to control stream channel erosion. Methods for calculating the channel protection storage volume are specified in the 2000 Maryland Stormwater Design Manual.
- (h) *Clearing* means the removal of trees and brush from the land, but shall not include the ordinary mowing of grass.

- (i) *Concept stage* means the first stage of the stormwater management design process. Approval of the environmental concept plan constitutes the approval of the concept stage.
- (j) *County* means Howard County, Maryland.
- (k) *Design manual* means the 2000 Maryland Stormwater Design Manual, and all subsequent revisions, that serves as the official guide for stormwater management principles, methods, and practices. The 2000 Maryland Stormwater Design Manual VOLUME I AND II MAY be supplemented by the Howard County Design Manual.
- (l) *Develop land* means to change the runoff characteristics of a parcel of land or lot in conjunction with residential, commercial, industrial, or institutional construction or alteration.
- (m) *Drainage area* means an area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.
- (n) *Easement* means a grant or reservation by the owner of land for the use of such land by others for a specific purpose, and which shall be recorded in the land records of Howard County.
- (o) *Environmental concept plan* means the first of three required plan approvals that includes the information necessary to allow an initial evaluation of a proposed project.
- (p) *Environmental site design (ESD)* means using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources. Methods for designing ESD practices are specified in the design manual.
- (q) *Exemption* means those land development activities that are not subject to the stormwater management requirements of this subtitle.
- (r) *Extended detention* means a stormwater design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events. Methods for designing extended detention BMPs are specified in the design manual.
- (s) *Extreme flood volume (Q_f)* means the storage volume required to control those infrequent but large storm events in which the overbank flows reach or exceed the boundaries of the 100-year floodplain.
- (t) *Final stage* means the third stage of the stormwater management design process. Approval of the grading plan constitutes the approval of the final stage.
- (u) *Flow attenuation* means prolonging the flow time of runoff to reduce the peak discharge.
- (v) *Grading* means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled, or any combination thereof.
- (w) *Grading plan* means the last of a multi-step plan-approval process that includes the information necessary to allow all approvals and permits to be issued by the approving agency.
- (x) *Impervious area or impervious surface* means any surface that does not allow stormwater to infiltrate into the ground.
- (y) *Infiltration* means the passage or movement of water into the soil surface.
- (z) *Maximum extent practicable (MEP)* means designing stormwater management systems so that all reasonable opportunities for using ESD planning techniques and treatment practices are exhausted and, only where absolutely necessary, implementing a structural BMP.
- (aa) *Off-site stormwater management* means the design and construction of a facility necessary to control stormwater from one or more properties other than the one on which the stormwater management facility lies.
- (bb) *On-site stormwater management* means the design and construction of a facility necessary to control stormwater from one property within the boundary of the subject property.

- (cc) *Overbank flood protection volume (Qp)* means the volume controlled by structural practices to prevent an increase in the frequency of the out of bank flooding by development. Methods for calculating the overbank flood protection volume are specified in the design manual.
- (dd) *Person* means the Federal Government, the State, any County, Municipal Corporation, or other political subdivision of the State, or any of their units; an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind; or any partnership, firm, association, public or private corporation, or any other entity.
- (ee) *Planning techniques* means a combination of strategies employed early in project design to reduce the impact from development and to incorporate natural features into a stormwater management plan.
- (ff) *Private stormwater management facility* means any best management practice which is not to be owned and maintained by the County.
- (gg) *Recharge volume (REv)* means that portion of the water quality volume used to maintain groundwater recharge rates at development sites. Methods for calculating the recharge volume are specified in the design manual.
- (hh) *Redevelopment* means any construction, alteration, or improvement performed on sites where existing site impervious area exceeds 40 percent and where existing land use is commercial, industrial, institutional, or multifamily.
- (ii) *Retrofitting* means the implementation of ESD practices, the construction of a structural BMP in a previously developed area, the modification of an existing structural BMP, or the implementation of a nonstructural practice to improve water quality over current conditions.
- (jj) *Sediment* means soil or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.
- (kk) *Site* means a tract of land, lot or parcel of land or combination of tracts, lots, or parcels of land, which are in one ownership, or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision or project.
- (ll) *Site development stage* means the second stage of the stormwater management design process. Approval of one of the following plans constitutes the approval of the site development stage: sketch plan, preliminary plan, preliminary equivalent sketch plan, final plan, or site development plan as defined in section 16.108 of the Howard County Subdivision and Land Development Regulations. The applicable plan will act as the second of three required plan approvals that include the information necessary to allow a detailed evaluation of a proposed project.
- (mm) *Stabilization* means the prevention of soil movement by any of various vegetative or structural means.
- (nn) *Stormwater management design process* means the three stage process required by MDE for the review of stormwater management. The three stages include concept, site development and final stages as defined herein.
- (oo) *Stormwater management system* means natural areas, ESD practices, stormwater management measures, and any other structure through which stormwater flows, infiltrates, or discharges from a site.
- (pp) *Stripping* means any activity which removes the vegetative cover including tree removal, clearing, grubbing, and storage or removal of topsoil.
- (qq) *Waiver* means the reduction of stormwater management requirements for a specific development on a case-by-case basis.
- (rr) *Watershed* means the total drainage area contributing runoff to a single point.
- (ss) *Watershed management plan* means a plan developed by the County for the purpose of implementing different stormwater management policies for waivers and redevelopment. A watershed management plan shall contain the items set forth in section 18.908 of this subtitle.

- (tt) *Watershed protection and restoration fee* means a fee, as set forth in title 20, subtitle 11 of this Code.
- (uu) *Water quality volume (WQv)* means the storage needed to capture and treat the runoff from 90 percent of the average annual rainfall at a development site. Methods for calculating the water quality volume are specified in the design manual.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1; C.B. 8, 2013, § 2; C.B. 38, 2013, § 1(1))

Sec. 18.902. - Applicability.

- (a) *Definitions.* For purposes of this section only, the following terms have the meanings indicated:
- (1) Approval shall mean a documented action by the County following review to determine and acknowledge the sufficiency of submitted materials to meet the requirements of a specified stage in the development process. Approval shall not mean an acknowledgement by the County that submitted materials have been received for review.
 - (2) Final project approval shall mean that the County has approved:
 - (i) The grading plan which includes final stormwater and erosion and sediment control design; and
 - (ii) If applicable, bond or financing, or both, has been secured based on the final plans for the development.
 - (3) Preliminary project approval shall mean projects for which the Department of Planning and Zoning has reviewed and determined the project to be technically complete. A plan that has received preliminary project approval shall include the following information:
 - (i) Number of planned dwelling units or lots and proposed density;
 - (ii) Proposed size and location of all land uses in the project;
 - (iii) A plan that identifies:
 - a. The proposed drainage patterns;
 - b. Locations of all points of discharge from the site; and
 - c. The type, location, and size of all stormwater management controls based upon site-specific computations of stormwater management requirements;
 - (iv) The proposed alignment, location, and construction type and standard for all proposed roads, access ways, and areas of vehicular travel;
 - (v) The general location, size, type, and adequacy of all infrastructure proposed for water and wastewater systems; and
 - (vi) Any other information deemed necessary by the County to adequately review the proposal.
- (b) *Applicability.* This subtitle shall apply to all development projects, except projects that received preliminary project approval prior to May 4, 2010 are subject to stormwater management regulations in effect at the time of approval provided that:
- (1) Final project approval is received prior to May 4, 2013; and
 - (2) Construction is complete prior to May 4, 2017.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

Sec. 18.902A. - Requirement to provide stormwater management measures, exemptions.

- (a) *Requirement to Provide.* A person shall not develop any land for residential, commercial, industrial, or institutional uses without providing stormwater management measures that control or manage runoff from such developments, except as provided within this subtitle. Stormwater management measures must be designed consistent with the design manual and constructed according to an approved plan for new development or redevelopment.
- (b) *Exemptions.* Stormwater management is not required for:
 - (1) Additions or modifications to existing single-family detached residential structures that do not disturb over 5,000 square feet of land area;
 - (2) Developments that disturb less than 5,000 square feet of land area;
 - (3) Land development activities which are regulated under specific State laws regarding the management of stormwater; or
 - (4) Agricultural land management practices.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

Sec. 18.903. - Design criteria; minimum control requirements; alternatives.

- (a) The minimum control requirements established in this section and the design manual are as follows:
 - (1) The County shall require that the planning techniques, nonstructural practices, and design methods specified in the design manual be used to implement ESD to the MEP. The use of ESD planning techniques and treatment practices must be exhausted before any structural BMP is implemented. Stormwater management for development projects subject to this subtitle shall be designed using ESD sizing criteria, recharge volume, water quality volume, and channel protection storage volume criteria according to the design manual. The MEP standard is met when channel stability is maintained, predevelopment groundwater recharge is replicated, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary.
 - (2) Control of the two-year and ten-year frequency storm event is required according to the design manual and all subsequent revisions if the County determines that additional stormwater management is necessary because historical flooding problems exist and downstream floodplain development and conveyance system design cannot be controlled.
 - (3) One-hundred-year peak management control is required according to the design manual. For purposes of calculating the 100-year 24-hour storm event, 8.51 inches of rainfall depth shall be the minimum depth used.
 - (4) The County may require more than the minimum control requirements if:
 - (i) Hydrologic or topographic conditions warrant; or
 - (ii) Flooding, stream channel erosion, or water quality problems exist downstream from a proposed project.
- (b) Stormwater management where applicable, shall be consistent with adopted and approved watershed management plans or flood management plans as approved by the Maryland Department of the Environment in accordance with the Flood Hazard Management Act of 1976.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1; C.B. 79, 2016, § 1)

Sec. 18.904. - Stormwater management measures.

- (a) *Required.* The ESD planning techniques and treatment practices and structural stormwater management measures established in this subtitle and the design manual shall be used, either alone

or in combination, in a stormwater management design. A developer shall demonstrate that ESD has been implemented to the MEP before the use of a structural BMP is considered in developing the stormwater management design.

- (b) *ESD Planning Techniques.* The following planning techniques shall be applied in accordance with the design manual to satisfy the applicable minimum control requirements established in this subtitle:
- (1) Preserving and protecting natural resources;
 - (2) Conserving natural drainage patterns;
 - (3) Minimizing impervious area;
 - (4) Reducing runoff volume;
 - (5) Using ESD practices to maintain 100 percent of the annual predevelopment groundwater recharge volume;
 - (6) Using green roofs, permeable pavement, reinforced turf, and other alternative surfaces;
 - (7) Limiting soil disturbance, mass grading, and compaction;
 - (8) Clustering development; and
 - (9) Any practices approved by the administration.
- (c) *ESD Treatment Practices.* The following ESD treatment practices shall be designed in accordance with the design manual to satisfy the applicable minimum control requirements established in this Code:
- (1) Disconnection of rooftop runoff;
 - (2) Disconnection of non-rooftop runoff;
 - (3) Sheetflow to conservation areas;
 - (4) Rainwater harvesting;
 - (5) Submerged gravel wetlands;
 - (6) Landscape infiltration;
 - (7) Infiltration berms;
 - (8) Dry wells;
 - (9) Micro-bioretenion;
 - (10) Rain gardens;
 - (11) Swales;
 - (12) Enhanced filters; and
 - (13) Any practices approved by the administration.
- (d) *Structural Stormwater Management Practices.* The following structural stormwater management practices shall be designed in accordance with the design manual to satisfy the applicable minimum control requirements established in this Code:
- (1) Stormwater management ponds;
 - (2) Stormwater management wetlands;
 - (3) Stormwater management infiltration;
 - (4) Stormwater management filtering systems; and
 - (5) Stormwater management open channel systems.

- (e) *Structural Stormwater Management Selection.* The following requirements shall apply when selecting structural stormwater management:
 - (1) The performance criteria specified in the design manual with regard to general feasibility, conveyance, pretreatment, treatment and geometry, environment and landscaping, and maintenance shall be considered; and
 - (2) Structural stormwater management practices shall be selected to accommodate the unique hydrologic or geologic regions of the State.
- (f) *Requirement to Record; Alterations Prohibited.* A maintenance agreement or easement setting forth the ESD planning techniques and treatment practices and structural stormwater management measures used to satisfy the minimum requirements in this subtitle shall be recorded in the land records of Howard County and remain unaltered by subsequent property owners. Prior approval from the County shall be obtained before any stormwater management practice is altered.
- (g) *Alternatives.* Alternative ESD planning techniques and treatment practices and structural stormwater measures may be used for new development runoff control if they meet the performance criteria established in the design manual and all subsequent revisions. Practices used for redevelopment projects shall be approved by the County. All alternative ESD practices shall be approved by the Administration.
- (h) *Modifications.* For the purposes of modifying the minimum control requirements or design criteria, the owner or developer shall submit to the County an analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon a dam, highway, structure, or natural point of restricted streamflow. The point of investigation is to be established with the concurrence of the County, downstream of the first downstream tributary whose drainage area equals or exceeds the contributing area to the project or stormwater management facility.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

Sec. 18.905. - Stormwater management design process.

- (a) *Review and Approval of Stormwater Management.* The County shall perform a comprehensive review of the stormwater management for each step of plan review. The County shall remove design impediments from the review process that prohibit the implementation of ESD to the MEP unless inconsistent with public safety, health, and the public welfare. Coordinated comments will be provided by the department of planning and zoning for each design stage that reflects input from all appropriate agencies including, but not limited to, the Soil Conservation District (SCD), the Department of Public Works, and specific divisions within the Department of Planning and Zoning. All comments from the County and other appropriate agencies shall be addressed and approval received at each stage of the project design before subsequent submissions.
- (b) *Contents and Submission of Stormwater Management.* Stormwater management design shall contain the following:
 - (1) A concept stage that provides sufficient information for an initial assessment of the proposed project and whether stormwater management can be provided according to this subtitle. Plans submitted for concept stage approval shall include, but are not limited to:
 - (i) A map at a scale specified by the Department of Planning and Zoning showing site location, existing natural features, water and other sensitive resources, topography, and natural drainage patterns;
 - (ii) The anticipated location of all proposed impervious areas, buildings, roadways, parking, sidewalks, utilities, and other site improvements;

- (iii) The location of the proposed limit of disturbance, erodible soils, steep slopes, and areas to be protected during construction;
 - (iv) Preliminary estimates of stormwater management requirements, the selection and location of ESD practices to be used, and the location of all points of discharge from the site;
 - (v) A narrative that supports the concept design and describes how ESD will be implemented to the MEP; and
 - (vi) Any other information required by the County.
- (2) Following concept stage approval by the County, the owner or developer shall submit plans meeting requirements for the site development stage.

Plans submitted for site development stage approval shall be of sufficient detail to allow the plan to be reviewed and shall include, without limitation, the following items:

- (i) All information provided during the concept stage;
 - (ii) Site layout, exact impervious area locations and acreages, proposed topography, delineated drainage areas at all points of discharge from the site, and stormwater volume computations for ESD practices and quantity control structures;
 - (iii) A proposed erosion and sediment control plan that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to natural resources, and an overlay plan showing the types and locations of ESD and erosion and sediment control practices to be used;
 - (iv) A narrative that supports the site design, describes how ESD will be used to meet the minimum control requirements, and justifies any proposed structural stormwater management measure; and
 - (v) Any other information required by the County.
- (3) Following site development stage approval by the County, the owner or developer shall submit plans meeting requirements for final stage. Plans submitted for final stage approval shall be of sufficient detail to allow all approvals and permits to be issued according to the following:
- (i) Final erosion and sediment control plans shall be submitted according to COMAR 26.17.01.05; and
 - (ii) Final stormwater management design shall be submitted for approval in the form of construction drawings and shall be accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design.
- (4) Reports submitted for final stormwater management design shall include, but are not limited to:
- (i) Geotechnical investigations including soil maps, borings, site specific recommendations, and any additional information necessary for the final stormwater management design;
 - (ii) Drainage area maps depicting post development runoff flow path and land use;
 - (iii) Hydrologic computations of the applicable ESD and unified sizing criteria according to the design manual for all points of discharge from the site;
 - (iv) Hydraulic and structural computations for all ESD practices and structural stormwater management measures to be used;
 - (v) A narrative that supports the final stormwater management design; and
 - (vi) Any other information required by the County.
- (5) Construction drawings submitted for final stormwater management design approval shall include, but are not limited to:

- (i) A vicinity map;
 - (ii) Existing and proposed topography and proposed drainage areas, including areas necessary to determine downstream analysis for proposed stormwater management facilities;
 - (iii) Any proposed improvements including location of buildings or other structures, impervious surfaces, storm drainage facilities, and all grading;
 - (iv) The location of existing and proposed structures and utilities;
 - (v) Any easements and rights-of-way;
 - (vi) The delineation, if applicable, of the 100-year floodplain and any on-site wetlands;
 - (vii) Structural and construction details including representative cross sections for all components of the proposed drainage system or systems, and stormwater management facilities;
 - (viii) All necessary construction specifications;
 - (ix) A sequence of construction;
 - (x) Data for total site area, disturbed area, new impervious area, and total impervious area;
 - (xi) A table showing the ESD and unified sizing criteria volumes required in the design manual;
 - (xii) A table of materials to be used for stormwater management facility planting;
 - (xiii) All soil boring logs and locations;
 - (xiv) An inspection and maintenance schedule;
 - (xv) Certification by the owner/developer that all stormwater management construction will be done according to this plan;
 - (xvi) An as-built certification signature block to be executed after project completion; and
 - (xvii) Any other information required by the County.
- (6) If a stormwater management plan involves direction of some or all runoff off of the site, the developer shall obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water.
- (c) [Reserved.]
- (d) [Reserved.]
- (e) *Preparation of Plans and Reports.* The design of stormwater management shall be prepared by any individual whose qualifications are acceptable to the County as follows:
- (1) The County shall require that the design be prepared by either a professional engineer, professional land surveyor, or landscape architect licensed in the State, as necessary to protect the public or the environment; and
 - (2) If a stormwater BMP requires either a dam safety permit from the Maryland Department of the Environment or small pond approval from the Howard Soil Conservation District, the County shall require that the design be prepared by a professional engineer licensed in the State.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

Editor's note— C.B. 47-2011, § 1, amended § 18.905 title to read as herein set out. Former § 18.905 title pertained to stormwater management plans.

Sec. 18.906. - Grading or building permits.

- (a) *Permit Requirement.* A grading or building permit may not be issued for any parcel or lot unless final erosion and sediment control and stormwater management design has been approved by the County as meeting all the requirements of the design manual and this Code. Where appropriate, a building permit may not be issued without:
- (1) Recorded easements for the stormwater management facility and easements to provide adequate access for inspection and maintenance from a public right-of-way;
 - (2) A recorded stormwater management maintenance agreement as described in this subtitle; and
 - (3) A performance bond as described in this subtitle.
- (b) *Permit Suspension and Revocation.* Any grading or building permit issued by the County may be suspended or revoked after written notice is given to the permittee for any of the following reasons:
- (1) Any violation of the conditions of the stormwater management design approval;
 - (2) Changes in site runoff characteristics upon which an approval or waiver was granted;
 - (3) Construction is not in accordance with the approved plan;
 - (4) Noncompliance with any correction notice or stop work order issued for the construction of any stormwater management practice; and
 - (5) In the opinion of the County, an immediate danger exists in a downstream area.
- (c) *Permit Conditions.* In granting an approval for any phase of site development, the County may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this subtitle and the preservation of public health, safety, and welfare.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

Sec. 18.907. - Watershed protection and restoration fee.

There is a watershed protection and restoration fee as established in Title 20, Subtitle 11 of this Code.

(C.B. 8, 2013, § 1)

Sec. 18.908. - Waivers; watershed management plans.

- (a) *Waiver Requests.* A request for a waiver under this section shall:
- (1) Be in writing;
 - (2) Contain sufficient descriptions, drawings, and any other information that is necessary to demonstrate that ESD has been implemented to the MEP; and
 - (3) Be prohibited for any property located in the Tiber Branch Watershed unless the waiver:
 - (i) Was requested on or before November 7, 2016;
 - (ii) Is necessary for the reconstruction of existing structures or infrastructure damaged by flood, fire, or other disaster;
 - (iii) Is necessary for the construction of a stormwater management or flood control facility as part of a redevelopment project;
 - (iv) Is necessary for the retrofit of existing facilities or installation of new facilities intended solely to improve stormwater management or flood control for existing development;

- (v) Is requested as part of a development proposal and the Director of the Department of Public Works, or his designee serving as Floodplain Administrator, finds that upon completion of construction of the development, which may include off-site improvements within the Tiber Branch Watershed, there will be improvement to flood control in the Tiber Branch Watershed at least ten percent more than what would otherwise be required by law; or
 - (vi) Is necessary for the construction of an addition, garage, driveway or other accessory use improvement of an existing residential structure on property located within the Tiber Branch Watershed that increases the square footage of the impervious surfaces on the property by no more than 25 percent over the square footage of impervious surfaces that existed on the property prior to the effective date of this bill [Dec. 9, 2016].
- (b) *Criteria to Grant Waivers.* The approving agency may grant a waiver when it has been demonstrated that ESD has been implemented to the MEP and any grant shall:
- (1) Be on a case-by-case basis;
 - (2) Consider the cumulative effects waivers; and
 - (3) Reasonably ensure the development will not adversely impact stream quality and one of the following requirements are satisfied:
 - (i) Off-site ESD implementation for a drainage area comparable in size and percent of increased imperviousness to that of the project;
 - (ii) Watershed stream restoration as approved by the approving agency;
 - (iii) Retrofitting of an existing stormwater management system to meet or exceed the current design criteria;
 - (iv) A fee in lieu, as established in section 18.909 of this subtitle, where physical constraints do not allow implementation of an MDE approved stormwater management system; or
 - (v) Other practices approved by MDE and the County.
- (c) *Quantitative Control Waivers—Requirement to have Watershed Management Plan.* Except as provided in subsection (e) of this section, the County shall grant stormwater management quantitative control waivers only to those projects within areas where watershed management plans have been developed consistent with this section.
- (d) *Watershed Management Plan.* A watershed management plan shall:
- (1) Include detailed hydrologic and hydraulic analyses to determine hydrograph timing;
 - (2) Evaluate both quantity and quality management and opportunities for ESD implementation;
 - (3) Include a cumulative impact assessment of current and proposed watershed development;
 - (4) Identify existing flooding and receiving stream channel conditions;
 - (5) Be conducted at a reasonable scale;
 - (6) Specify where on-site or off-site quantitative and qualitative stormwater management practices are to be implemented;
 - (7) Be consistent with the general performance standards for stormwater management in Maryland found in the design manual; and
 - (8) Be approved by the administration.
- (e) *Quantitative Control Waivers Without Watershed Management Plans.* If a watershed management plan consistent with this section has not been developed, a stormwater management quantitative control waiver may be granted provided that it has been demonstrated that ESD has been implemented to the MEP when the approving agency determines that circumstances exist that prevent the reasonable implementation of quantity control practices.

- (f) *Quantitative Control Waiver—Additions, Extensions, or Modifications.* If there are subsequent additions, extensions, or modifications to a development that has received a quantitative control waiver, a separate written waiver request is required that shall comply with subsection (b) of this section.
- (g) *Qualitative Control Waiver.* A stormwater management qualitative control waiver applies only to:
 - (1) In-fill development projects where ESD has been implemented to the MEP and it has been demonstrated that other BMPs are not feasible;
 - (2) Redevelopment projects if the approving agency determines that the requirements of this subtitle are satisfied; or
 - (3) Sites where the approving agency determines that circumstances exist that prevent the reasonable implementation of ESD to the MEP.
- (h) Stormwater management quantitative and qualitative control waivers may be granted for phased development projects if a system designed to meet the Administration's 2000 regulatory requirements and Howard County Code requirements for multiple phases, as set forth in this subtitle, has been constructed by May 4, 2010. If the 2009 regulatory requirements cannot be met for future phases constructed after May 4, 2010, all reasonable efforts to incorporate ESD in future phases must be demonstrated.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1; C.B. 80, 2016, § 1)

Editor's note— C.B. 47-2011, § 1, amended § 18.908 title to read as herein set out. Former § 18.908 title pertained to stormwater management waivers; watershed management plans.

Sec. 18.909. - Fee in lieu of implementing best management practices.

- (a) If the Department of Public Works or the Department of Planning and Zoning determines that implementation of ESD to the MEP or structural practices required to control the quantity of stormwater or runoff is not feasible or will be ineffective, then the Department of Public Works or the Department of Planning and Zoning may allow the person obligated under this subtitle to pay a fee to the County instead of implementing the best management practice.
- (b) The amount of the fee in lieu of implementing best management practices shall be calculated by methods established by the County.
- (c) The County Executive shall recommend and the County Council shall set by resolution the amount per acre-foot of storage volume used to calculate the fee. This storage volume shall be determined using assumed ESD practices.
- (d) Amounts collected from this fee shall be deposited in the watershed protection and restoration fund in accordance with the provisions of Title 20, Subtitle 11 of this Code.
- (e) Payment of a fee-in-lieu shall not relieve the property owner of the obligation to pay the annual watershed protection and restoration fee as required by Title 20, Subtitle 11 of this Code.

(C.B. 13, 2010, § 1; C.B. 8, 2013, § 3)

Sec. 18.910. - Redevelopment.

- (a) Stormwater management design for redevelopment shall be consistent with the design manual.
- (b) All redevelopment projects shall reduce existing impervious area within the limit of disturbance by at least 50 percent. Where site conditions prevent the reduction of impervious area, then ESD practices shall be implemented to provide qualitative control for at least 50 percent of the site's impervious

area. When a combination of impervious area reduction and stormwater management practice implementation is used, the combined reduction shall equal or exceed 50 percent of the existing impervious area within the limit of disturbance.

- (c) Alternative stormwater management measures may be used to meet the requirements in subsection (b) of this section if the owner or developer satisfactorily demonstrates to the County that impervious area reduction has been maximized and ESD has been implemented to the MEP. Alternative stormwater management measures include, but are not limited to:
 - (1) An on-site structural BMP;
 - (2) An off-site structural BMP to provide water quality treatment for an area equal to or greater than 50 percent of the existing impervious area; or
 - (3) A combination of impervious area reduction, ESD implementation, and an on-site or off-site structural BMP for an area equal to or greater than 50 percent of the existing site impervious area within the limit of disturbance.
- (d) The County may develop separate policies for providing water quality treatment for redevelopment projects if the requirements of subsections (b) and (c) of this section cannot be met. Any separate redevelopment policy shall be reviewed and approved by the Administration and may include, but not be limited to:
 - (1) A combination of ESD and an on-site or off-site structural BMP;
 - (2) Retrofitting including existing BMP upgrades, filtering practices, and off-site ESD implementation;
 - (3) Participation in a stream restoration project;
 - (4) Pollution trading with another entity;
 - (5) Payment of a fee-in-lieu; or
 - (6) A partial waiver of the treatment requirements if ESD is not practicable.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

Sec. 18.911. - Performance bond.

- (a) *Requirement to Provide.* The developer shall provide a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the County prior to the issuance of any building or grading permit for the construction of a development requiring stormwater management.
- (b) *Amount.* The amount of the security shall not be less than the estimated construction cost of all stormwater management facilities.
- (c) *Required Provisions.* The bond required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this subtitle, and other applicable laws and regulations, and any time limitations.
- (d) *Release.* The bond shall not be fully released without a final inspection of the completed work by the County, submission of "as-built" plans, and certification of completion by the County that all stormwater management facilities comply with the approved plan and the provisions of this Code. At the County's discretion, a procedure may be used to release parts of the bond held by the County after various stages of construction have been completed and accepted by the County. The procedures used for partially releasing performance bonds must be specified by the county in writing prior to stormwater management design approval.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

Sec. 18.912. - Right of entry and inspection.

- (a) *Right of Entry.* The County may enter upon property to ensure compliance with this subtitle.
- (b) *Inspection During Construction.* The County shall make regular inspections at various stages of construction as provided in Chapter 5, stormwater management, of Volume I (Storm Drainage) of the Howard County Design Manual. Inspections shall be documented in writing by the County.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1; C.B. 8, 2013, § 4)

Editor's note— C.B. 8, 2013, § 4, amended § 18.912 title to read as herein set out. Former § 18.912 title pertained to inspection.

Sec. 18.913. - Howard County Design Manual.

- (a) The Howard County Design Manual Volume I (Storm Drainage) shall include the minimal control requirements and design criteria for stormwater management; procedures for the approval of plans; and construction inspection requirements.
- (b) The County Executive shall submit the Howard County Design Manual to the County Council for the Council's approval by resolution. Amendments to the manual shall be prepared and approved in the same manner.
- (c) The County Executive shall review the Howard County Design Manual at least every third year to ensure that the figures used to calculate rainfall depth and intensity are consistent with those published by the National Oceanic and Atmospheric Administration, the Natural Resources Conservation Service, and any other federal government agency which tracks and publishes local precipitation data as the County Executive may deem appropriate and, subject to section 22.1000 of the County Code, report to the County Council:
 - (1) Whether the figures are consistent; and
 - (2) If the figures are not consistent, a plan to amend the Design Manual to be consistent with the current figures published by the National Oceanic and Atmospheric Administration, the Natural Resources Conservation Service, and any other federal government agency consulted as part of the review required by this section.

(C.B. 13, 2010, § 1; C.B. 79, 2016, § 1; C.B. 43, 2018, § 1)

Sec. 18.914. - Maintenance.

The County or property owner or both the County and the property owner, shall perform periodic maintenance as required in chapter 5, stormwater management, of volume I (storm drainage) of the Howard County Design Manual.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

Sec. 18.915. - Appeals.

Any person aggrieved by any final decision made by the Official charged with the enforcement of this subtitle may appeal the action to the Board of Appeals. The appeal shall be filed in writing within 30 days of the date of official transmittal of the final decision or determination to the applicant, state clearly the grounds on which the appeal is based, and be processed in the manner prescribed for hearing administrative appeals in Howard County.

(C.B. 47, 2011, § 1)

Editor's note— C.B. 47-2011, § 1, repealed former § 18.915, and enacted a new § 18.915 as set out herein. Former § 18.915 pertained to the same subject matter and derived from C.B. 13, 2010, § 1.

Sec. 18.916. - Penalties.

- (a) *Criminal Penalties.* Any person who violates any provision of this subtitle, or any rule, regulation, order or permit issued under this subtitle, is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding \$1,000.00, or imprisonment not exceeding six months, or both, for each violation. Each day a violation occurs or continues is a separate offense. Costs may be imposed at the discretion of the court.
- (b) *Civil Penalties.* Alternatively or in addition to and concurrent with other remedies at law or equity, the county may enforce the provisions of this subtitle with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle is a Class A offense. Each day that a violation occurs or continues is a separate offense.
- (c) *Injunctive and Other Relief.* In addition, the County may institute injunctive, mandamus or other appropriate legal action or proceedings for the enforcement of or to correction violations of this subtitle. Any court of competent jurisdiction may issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1; C.B. 8, 2013, § 5)

Sec. 18.917. - Severability.

If any portion of this Code is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall not affect the validity of the remaining portions of this subtitle. It is the intent of the County that this subtitle shall stand, even if a section, subsection, sentence, clause, phrase, or portion may be found invalid.

(C.B. 13, 2010, § 1)

SUBTITLE 10. - DEPARTMENT OF PUBLIC WORKS⁵

Footnotes:

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Editor's note— Subtitle 10, §§ 18.1000, 18.1001, was added by § 89 of C.B. 62, 1988. Section 101 declared the bill effective July 1, 1989.

Sec. 18.1000. - General provisions.

General provisions applicable to this department are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 62, 1988)

Sec. 18.1001. - Department of Public Works.

- (a) *Head.* The Director of Public Works shall be the head of the Department of Public Works.
- (b) *Qualifications of Director of Public Works.* The Director of Public Works shall be appointed solely with regard to qualifications for the duties and responsibilities of the office. The Director shall be a registered professional engineer in Maryland. The Director shall have comprehensive knowledge of the principles and practices of civil engineering and Public Works administration. The Director shall have at least ten years of increasingly responsible experience in engineering and Public Works administration, including a minimum of five years in a managerial position in Public Works.
- (c) *Duties and Responsibilities.* The Department of Public Works shall be responsible for the following functions:
 - (1) Developing and administering the capital projects, including, but not limited to:
 - (i) Preparation of necessary plans, and other documents.
 - (ii) Management and inspection, as appropriate, of construction.
 - (iii) Participation with the Purchasing Agent in the tabulation and evaluation of bids and recommendation of contract awards.
 - (2) Preparation of reports, studies, surveys, maps, plans, specifications and estimates for the County's public facilities and utilities.
 - (3) Preparation of specifications in connection with the purchasing of materials, services, supplies and equipment.
 - (4) Construction of County-owned buildings and improvements to them. Construction, improvement, alteration, operation, maintenance and repair of all County-owned roads, bridges, water systems, sewerage systems and drainage facilities.
 - (5) Administration and enforcement of laws, rules and regulations relating to the use of the water and sewerage systems.
 - (6) Ensuring that the Howard County Design Manual is reviewed and revised in accordance with subsection (d) of this section.
 - (7) Acceptance, on behalf of the County, of roads, drainage facilities and water and sewerage systems, and right-of-way, and easements related thereto, as provided by law.
 - (8) Care and maintenance of County-owned or leased space, including alterations, repairs, cleaning, heating, cooling, lighting, power supply, floor covering, painting, and gardening.
 - (9) Acquisition of land as prescribed by law and as directed by the County Executive.
 - (10) Obtaining and administering agreements which provide for the construction of public facilities which the County may acquire upon completion of the terms of the agreement.
 - (11) Collection of refuse and operation of facilities for the processing, handling, recycling and disposal of refuse.
 - (12) Provision of engineering, architectural and surveying services for all agencies of County Government.
 - (13) Managing property owned by the County and for obtaining leased space to be used by the County and agencies for which the County provides space, including:
 - (i) Renting or leasing land to be used by the County;
 - (ii) Renting or leasing buildings to be used by the County;
 - (iii) Renting or leasing County property to private individuals or companies, if the County does not have an immediate use for the property; and

- (iv) Coordinating with agencies to determine their needs for additional or alternate space and arranging for securing that space in property owned or leased by the County.
- (14) Such other duties and responsibilities as may be prescribed by directive of the County Executive or by law.
- (d) *Design Manual.*
 - (1) With the assistance of each appropriate agency of County government, the Department of Public Works shall review each volume of the Howard County Design Manual to ensure that each volume is complete, accurate, and reflects the latest available data and best practices.
 - (2) Subject to paragraph (4) of this subsection, the review of each volume shall occur, at the latest, every fifth year in accordance with the staggered schedule established by Council Bill 4-2017.
 - (3) Subject to section 22.1000 of the County Code, within 18 months after each review is complete, the Department of Public Works:
 - (i) Shall submit revisions to the County Council for approval; or
 - (ii) Shall notify the County Council that the volume of the Howard County Design Manual does not require any revisions.
 - (4) For good cause, including budgetary constraints, the Director may adjust the schedule required by this subsection. The Director shall notify promptly the County Council whenever an adjustment is made and include the reasons for the adjustment.

(C.B. 62, 1988; C.B. 117, 1989; C.B. 8, 1993; C.B. 11, 1994; C.B. 28, 1996; C.B. 4, 2017, § 1; C.B. 43, 2018, § 1)

SUBTITLE 11. - PUBLIC WORKS BOARD^[6]

Footnotes:

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Editor's note— Subtitle 11, § 18.1100, was added by § 90 of C.B. 62, 1988. Section 101 declared the bill effective July 1, 1989.

Sec. 18.1100. - Public Works Board.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members.* The Public Works Board shall have five members.
- (c) *Qualifications.* All members of the Public Works Board shall be residents of Howard County.
- (d) *Executive Secretary.* The Director of Public Works or the Director's designee shall be the Executive Secretary of the Public Works Board and shall attend all meetings of the Board.
- (e) *Duties and Responsibilities.* The Public Works Board shall have the following duties:
 - (1) Make recommendations to the County Executive and to the County Council relating to plans and policies on matters under the jurisdiction of the Department of Public Works.
 - (2) At the directive of the County Executive or by resolution of the County Council, the Board of Public Works shall review and make recommendations on any matter related to Public Works.

(C.B. 62, 1988)

SUBTITLE 12. - SHARED SEWAGE DISPOSAL FACILITIES⁷¹

Footnotes:

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Editor's note— Sections 1 of C.B. 6, 2006 amended and restated former Subtitle 12 in its entirety to read as herein set out. Former Subtitle 12 pertained to the same subject matter and derived from C.B. 8, 2005, §§ 1 and 2.

Cross reference— Shared sewage disposal facilities charges and assessments, § 20.1200 et seq.

Sec. 18.1200. - COMAR authority; application; purpose.

- (a) *COMAR Authority.* This subtitle is enacted pursuant to provisions of the Code of Maryland Regulations that regulate shared sewage disposal facilities.
- (b) *Application.* This subtitle applies to shared sewage disposal facilities that serve cluster developments in RR and RC zoned land.
- (c) *Purpose.* The purpose of this subtitle is to protect the public health, safety, and welfare by establishing requirements and procedures for the ownership, operation, repair, ownership, and maintenance of shared sewage disposal facilities.

(C.B. 16, 2006, § 1)

Sec. 18.1201. - Definitions.

Terms used in this subtitle have the meanings indicated.

- (a) *Board of Education* means the Board of Education of Howard County.
- (b) *COMAR* means the Code of Maryland Regulations.
- (c) *Controlling authority* means the County, the Board of Education, or a governmental body empowered by the County or the Board of Education by a written agreement to provide for management, operation, and preventive and corrective maintenance of a shared sewage disposal facility.
- (d) *Covenants* means the declaration of covenants required by subsection 18.1203(a) of this subtitle.
- (e) *Department* means the Department of Public Works.
- (f) *Drainfield* means an area upon which all or a portion of the subsurface wastewater disposal area of a shared sewage disposal facility is located, including, without limitation:
 - (1) A preservation parcel;
 - (2) A public right-of-way; or
 - (3) Land owned by the Board of Education.
- (g) *Easement* means the easement to the County required by subsection 18.1204(d) of this subtitle.
- (h) *Land owned by the Board of Education* means land owned, leased, or dedicated for the beneficial use of the Board of Education, including by easement or right-of-way.

- (i) *Permit* means the State groundwater discharge permit issued by the Maryland Department of the Environment pursuant to title 9 of the environment article of the Annotated Code of Maryland permitting the discharge of effluent from the shared sewage disposal facility to the groundwaters of the State of Maryland in accordance with the terms of the permit.
- (j) *Preservation parcel* means a nonbuildable parcel created under the Howard County zoning regulations upon which all or a portion of the subsurface wastewater disposal area is located.
- (k) *Residential lot* means in a subdivision, a privately-owned lot containing one, single-family dwelling unit that is served by a shared sewage disposal facility.
- (l) *Shared sewage disposal facility* means a sewage system that:
 - (1) Serves more than one residential lot;
 - (2) Is located on one or more of the following:
 - (i) A public right-of-way;
 - (ii) Land owned by the Board of Education; or
 - (iii) A preservation parcel; and
 - (3) Is subject to the easement and covenants; and
 - (4) Consists of:
 - (i) All mainline collection sewers and appurtenances, including pumping units, located within a public right-of-way that act to convey wastewater to the subsurface wastewater disposal area;
 - (ii) A subsurface wastewater disposal area required to operate the sewage system, including:
 - a. All conveyance, collection, treatment, piping, and components of the facility, and disposal equipment; and
 - b. Any area that has been approved as suitable to support a soil absorption system or drainfield to safely dispose of effluent in conformity with COMAR requirements governing sewage disposal;
 - (iii) Cables, wires, control panels, or other electrical or mechanical systems and controls used to operate and maintain the system on a residential lot or on land owned by the Board of Education; and
 - (iv) Other related equipment, chemicals, and materials.

(C.B. 16, 2006, § 1)

Sec. 18.1202. - Types of approved shared sewage disposal facilities.

A shared sewage disposal facility may be approved by the Department if the shared sewage disposal facility meets all of the requirements of this subtitle and:

- (a) A permit is not required for the shared sewage disposal facility; or
- (b) A permit is required for the shared sewage disposal facility and:
 - (1) The Health Department determined that, on or before July 14, 2004, the field work was substantially completed;
 - (2) Approval for the shared sewage disposal facility was denied as of July 14, 2004, in writing, by the Department; or
 - (3) Is operated by the Board of Education:
 - (i) Under a permit issued prior to June 30, 2006; or

- (ii) Solely to serve Howard County Public Schools.

(C.B. 16, 2006, § 1)

Sec. 18.1203. - Plan approval; covenants; design and construction; construction inspection.

- (a) *Plan Approval and Covenants.* If a developer or the Board of Education proposes a shared sewage disposal facility, the Department and the Department of Planning and Zoning may not approve the final subdivision plan for the development unless:
 - (1) The Department and the Health Department have approved the proposed shared sewage disposal facility;
 - (2) If applicable, the permit has been approved; and
 - (3) The developer has:
 - (i) Created a perpetual incorporated homeowners association that is in good standing with the State Department of Assessments and Taxation;
 - (ii) Executed and delivered the easement; and
 - (iii) Executed and delivered to the County a declaration of covenants that:
 - a. Is binding upon the developer and all subsequent owners of preservation parcels and residential lots;
 - b. Is approved by the County and, if applicable, the controlling authority;
 - c. Is enforceable by the homeowners association or the controlling authority by injunction or any other means, cumulatively and concurrently, allowed under Maryland law or this Code;
 - d. Is in proper form for recordation in the land records for Howard County;
 - e. Prohibits activities by owners of residential lots or preservation parcels to ensure that there is no adverse effect on the continued functioning of the shared sewage disposal facility, no violation of the terms of the permit, and no violation of the COMAR requirements governing sewage disposal;
 - f. Requires payment by each residential lot owner of an annual fee for sewage that includes the cost of operations, maintenance, and repair for the continued functioning and future replacement of the shared sewage disposal facility, as authorized in title 20, subtitle 8 of this Code;
 - g. Limits the use of the shared sewage disposal facility to ensure that:
 - 1. There is no adverse effect on the continued functioning of the facility; and
 - 2. If a permit is required, the facility complies with all conditions of the permit and with all COMAR requirements governing sewage disposal; and
 - h. Allows the Department to enter the drainfield and to access the portions of the shared sewage disposal facility on a residential lot, preservation parcel, or land owned by the Board of Education in accordance with section 18.1213 of this subtitle to make required repairs and maintenance;
 - i. Requires the owner of a residential lot to maintain the pipes, control panels, and components serving the residential lot up to the County or Board of Education right-of-way where connected to the shared sewage disposal facility in good repair; and
 - j. Restricts the owner from altering:

1. The pumps, pipes, control panels, and components without prior written consent of the Department; or
 2. The drainfield without the prior written consent of the Department.
- (b) *Design and Construction Standards.* The design and construction of a shared sewage disposal facility shall comply with standards of the following:
- (1) The Department's Design Manual;
 - (2) If a permit is required, the permit;
 - (3) If a controlling authority is required by the permit, the standards of the controlling authority;
 - (4) The Health Department; and
 - (5) The Maryland Department of the Environment.
- (c) *Construction Inspection.* The Department, controlling authority, and the Health Department shall inspect a shared sewage disposal facility during construction to determine whether the construction is consistent with the approved plan.

(C.B. 16, 2006, § 1)

Sec. 18.1204. - Designation of drainfield; requirements applicable to the subsurface wastewater disposal area; preservation parcel; easement.

- (a) *Drainfield.* A drainfield shall be located on a preservation parcel, public right-of-way, or land owned by the Board of Education and shall be subject to the easement and covenants.
- (b) *Requirements Applicable to the Subsurface Wastewater Disposal Area.* The subsurface wastewater disposal area shall satisfy the requirements of the Design Manual, COMAR, and, if a controlling authority is required by the permit, the controlling authority that govern the size of the area and the methods of determining whether the area is suitable for use as a subsurface wastewater disposal area.
- (c) *Preservation Parcel.* Except for a preservation parcel owned by the Board of Education, a preservation parcel containing a drainfield shall be:
- (1) Nonbuildable;
 - (2) Owned in perpetuity by the homeowners association serving the residential lots; and
 - (3) Subject to the easement and covenants.
- (d) *Easement.* The developer shall grant an easement to the County for the shared sewage disposal facility on a residential lot or preservation parcel that:
- (1) Gives a right of access to inspect and monitor all pumps, components, pipes, and the subsurface wastewater disposal area, including the pumps, pipes, control panels, and components located on a residential lot;
 - (2) Gives a right of entry for the inspection, maintenance, repair, replacement, and operation of the shared sewage disposal facility;
 - (3) Shall be in a form approved by the County; and
 - (4) Restricts use of a residential lot or preservation parcel to protect pumps, pipes, control panels, and components that serve each lot.

(C.B. 16, 2006, § 1)

Sec. 18.1205. - Developer agreement.

- (a) *Timing.* After final plan approval and signature approval of all construction drawings and prior to the submission of the original final plat, the developer shall enter into a developer agreement with the County.
- (b) *Requirements.* The agreement shall:
 - (1) Guarantee the construction of the shared sewage disposal facility in accordance with the approved final plan and all applicable regulations and standards of the State and the County; and
 - (2) Include guarantees by the developer that shall include the following:
 - (i) A performance surety in a form acceptable to the County in an amount that:
 - a. Is equal to 100 percent of the estimated cost of construction;
 - b. Guarantees timely and satisfactory completion of the shared sewage disposal facility; and
 - c. Guarantees the operation of the facility in accordance with the developer agreement; and
 - (ii) A payment surety in a form acceptable to the County in an amount that:
 - a. Is equal to 50 percent of the estimated cost of construction; and
 - b. Guarantees the payment of debts owed for labor and materials used in the construction of the shared sewage disposal facility; and
 - (iii) A maintenance and repair surety in a form acceptable to the County and in an amount that:
 - a. Is equal to 50 percent of the original amount of the performance surety; and
 - b. Guarantees the developer's obligation to complete repairs to the shared sewage disposal facility and to remedy damages.

(C.B. 16, 2006, § 1)

Sec. 18.1206. - Board of Education as the controlling authority.

- (a) *Powers and Authorities.* If the Board of Education is the controlling authority or if a shared sewage disposal facility is located on land owned by the Board of Education, the Board of Education shall construct, own, operate, and maintain the shared sewage disposal facility with respect to this subtitle, as follows:
 - (1) The covenants and easement shall be to the benefit of the Board of Education;
 - (2) The Board of Education shall have all of the rights and responsibilities of the County and the Department as provided in this subtitle and title 20, subtitle 8 of this Code; and
 - (3) The obligations of the developer required by this subtitle shall not apply to the Board of Education.
- (b) *Written Agreement.* The Board of Education and the County may enter into a written agreement that shall set forth all the rights and responsibilities of each party including, without limitation, construction, inspection, and billing procedures.

(C.B. 16, 2006, § 1)

Sec. 18.1207. - Responsibility of the developer.

- (a) *Construction.* The developer shall construct a shared sewage disposal facility in accordance with the approved plans and terms of the developer agreement required by this subtitle and the shared facilities developer agreement entered into pursuant to section 16.147 of this Code.
- (b) *Operation.* The developer shall operate the shared sewage disposal facility in accordance with the developer agreement until the facility is accepted by the County.
- (c) *Deed.* The deed for the sale of each residential lot shall state that the lot is subject to the obligations and restrictions set forth in the easement and covenants and shall recite the covenants set forth in section 18.1203 of this subtitle.
- (d) *Required Disclosures.* Upon the initial sale of a residential lot by the developer or its assigns, the developer or its assigns shall disclose:
 - (1) The estimated annual cost of the operation, maintenance, repair, and replacement of the shared sewage disposal facility for the residential lot served by the facility; and
 - (2) Restrictions in the easement and covenants in accordance with the requirements of the Maryland Contract Lien Act.

(C.B. 16, 2006, § 1)

Sec. 18.1208. - Power and authority of the County.

- (a) *Controlling Authority.* The County or the Board of Education may, by written agreement, designate a governmental body to be the controlling authority.
- (b) *Agreement.* The agreement shall authorize the controlling authority to perform one or more of the following functions:
 - (1) Purchasing, holding, leasing, building, or constructing a shared sewage disposal facility;
 - (2) In conjunction with the Department and the Department of Planning and Zoning, reviewing and approving plans for a shared sewage disposal facility;
 - (3) Establishing minimum design criteria;
 - (4) Establishing and collecting a fee for the design approval and construction inspection of a shared sewage disposal facility;
 - (5) Establishing and collecting a fee for the operation, maintenance, repair, and replacement of a shared sewage disposal facility as provided in title 20, subtitle 8 of this Code;
 - (6) Operating, repairing, improving, and maintaining a shared sewage disposal facility, including but not limited to:
 - (i) Periodically inspecting the shared sewage disposal facility and components of the facility on residential lots, preservation parcels, and land owned by the Board of Education;
 - (ii) Periodically removing septage;
 - (iii) Repairing tanks, piping, pumps, and electrical systems;
 - (iv) Repairing the subsurface wastewater disposal area;
 - (v) Replacing, at the end of their anticipated useful lives, tanks, pumps, piping, electrical systems or other components within the subsurface wastewater disposal area or residential lot;
 - (vi) Relocating the subsurface wastewater disposal area at the end of its anticipated useful life;

- (vii) Repairing, replacing, or maintaining the wastewater treatment facilities;
 - (viii) Paying electrical costs that are not the responsibility of the owner of a residential lot;
 - (ix) Performing administrative tasks and making payments associated with being a controlling authority; and
 - (x) Enforcing the restrictions in the easement and covenants; and
- (7) Maintaining records of its operation and maintenance activity at the shared sewage disposal facility.
- (c) *Inspection of Records.* The agreement shall provide that records maintained by the controlling authority are subject to inspection and review during regular business hours.
- (d) *Delegated Functions.* For each function delegated to the controlling authority by the agreement, the controlling authority and the Board of Education, if the Board is the controlling authority, shall have all the rights and responsibilities that are conferred on the County and the Department in this subtitle.

(C.B. 16, 2006, § 1)

Sec. 18.1209. - Responsibilities of a residential lot owner; damage to shared sewage disposal facility; reimbursement for damage.

- (a) *Residential Lot Owner.* The owner of a residential lot shall:
- (1) Pay the annual operating, maintenance, repair, and replacement fee for the shared sewage disposal facility pursuant to title 20, subtitle 8 of this Code;
 - (2) In accordance with the covenants and easement, prevent damage to the shared sewage disposal facility or to the operation of the facility;
 - (3) Pay electrical costs for a pump or other components located on the owner's lot;
 - (4) Notify the controlling authority if the facility's system alarm sounds or if the facility loses power; and
 - (5) Comply with all of the obligations and restrictions set forth in the covenants and the easement to ensure that the shared sewage disposal facility is in compliance with the provisions of the permit and COMAR requirements governing sewage disposal.
- (b) *Damage to Facility.* If the controlling authority determines that a residential lot owner has performed an activity that damages or is likely to damage any part of a shared sewage disposal facility or the operation of the facility, the controlling authority shall:
- (1) Notify the owner in writing of the damage;
 - (2) Require the owner to stop the activity causing or likely to cause the damage; and
 - (3) Repair any damage.
- (c) *Reimbursement.* The residential lot owner who causes any damage to the shared sewage disposal facility or to the operation of the facility is responsible for reimbursing the controlling authority for all costs incurred in repairing the damage, including administrative charges, engineering costs, reasonable attorney's fees, and court costs.
- (d) *Proportionate Share.* If the Department cannot determine which residential lot owner caused damage to the shared sewage disposal facility or to the operation of the facility, each residential lot owner shall be responsible for a proportionate share of all costs caused by or related to the damage based on the number of residential lots.

(C.B. 16, 2006, § 1)

Sec. 18.1210. - Ownership.

- (a) *County*. Except as provided in subsection (b) of this section, upon completion of a shared sewage disposal facility and its acceptance by the Department, the shared sewage disposal facility becomes the property of the County.
- (b) *Board of Education*. If the Board of Education is the controlling authority, the shared sewage disposal facility is owned by the Board of Education.

(C.B. 16, 2006, § 1)

Sec. 18.1211. - Uses on the drainfield; applicability of COMAR; maintenance.

- (a) *Structures*. A structure may not be placed on a drainfield unless:
 - (1) The drainfield is located on land owned by the Board of Education;
 - (2) The structure is a playground or athletic equipment located in a recreational area or athletic field as permitted by COMAR; and
 - (3) The Department, the controlling authority, and the Health Department have approved the structure.
- (b) *Drainfield Covered or Disturbed*. The drainfield may not be:
 - (1) Covered with gravel, asphalt, concrete, or any other covering or topping that impedes the growth of vegetation; or
 - (2) Without prior authorization from the controlling authority, the Health Department, and the Department, disturbed by earth moving or grading.
- (c) *Crops*. Only a crop approved by the Health Department, the Soil Conservation Service, and, if required, the Maryland Department of the Environment may be grown on the drainfield.
- (d) *COMAR*. Notwithstanding the requirements of this section, if COMAR prohibits a structure or use on a drainfield that is not prohibited by this section, the prohibition in COMAR shall apply.
- (e) *Maintenance*. The drainfield shall be maintained as required by the terms of the permit and the COMAR requirements governing sewage disposal.

(C.B. 16, 2006, § 1)

Sec. 18.1212. - Fee for design approval and construction inspection.

- (a) *Approval and Construction Fee*. There is a fee for design approval and construction inspection of a shared sewage disposal facility.
- (b) *Fee Additional*. The fee is in addition to the Health Department fee for an on-site sewage system permit.
- (c) *County is Controlling Authority*. If the County is the controlling authority, the fee shall be adopted annually by resolution of the County Council.
- (d) *County is Not the Controlling Authority*. If another governmental body is the controlling authority, the fee shall be established by the controlling authority or, if an agreement exists between the County and the controlling authority, the fee shall be established in accordance with the agreement.

(C.B. 16, 2006, § 1)

Sec. 18.1213. - Right of entry.

- (a) *Generally.* The Department may enter any residential lot, shared sewage disposal facility, drainfield, preservation parcel, or other property at any reasonable time for the purpose of enforcing the requirements of this subtitle, including, without limitation, making surveys, conducting inspections, reading meters, or repairing any portion of a shared sewage disposal facility.
- (b) *Notice.* Except as provided in subsection (e) of this section, the Department shall provide reasonable notice prior to entry onto a residential lot.
- (c) *Proof of Identity.* The Department shall produce proof of identity prior to entry.
- (d) *Entry Refused.* If entry is refused, the Department may seek a court order to permit entry to the dwelling.
- (e) *Imminent Danger.* The Department shall have the right to enter a building, structure, or premises at any time where there is evidence that an imminent danger exists that may threaten the public health and safety.

(C.B. 16, 2006, § 1)

Sec. 18.1214. - Civil penalties; other rights of enforcement.

- (a) *Civil Penalties:*
 - (1) The Department may enforce the provisions of this subtitle, the easement, covenants, or permit with civil penalties in accordance with title 24 "civil penalties" of this Code.
 - (2) A first violation of this subtitle is a Class D offense.
 - (3) A subsequent violation of this subtitle is a Class C offense.
 - (4) Each day that a violation continues is a separate offense.
- (b) *Other Rights of Enforcement.* The County may take any action at law or in equity against the owner of a preservation parcel or residential lot, as needed from time to time, to enforce the terms of this subtitle, the easement, covenants, or permit.

(C.B. 16, 2006, § 1)

SUBTITLE 13. - PUBLIC WATER SYSTEM CONNECTION COST ASSISTANCE PROGRAM

Sec. 18.1300. - Purpose.

The purpose of this subtitle is to provide financial assistance to certain property owners in the Mariottsville area in order to encourage as many property owners as possible to connect to the public water system so that the capital expenditure by the County in the construction of the water system improvements to the Mariottsville area is utilized to the fullest extent.

(C.B. 72, 1996)

Sec. 18.1301. - Program established.

There is a public water system connection cost assistance program, administered by the Department of Public Works, to assist owners of eligible property pursuant to this subtitle, in payment of certain costs associated with the connection of eligible property to the public water system.

(C.B. 72, 1996)

Sec. 18.1302. - Definitions.

In this section the following terms have the meanings indicated.

- (a) *County connection costs* are the following:
 - (i) Water-house connection charge in the amount of \$1,530.00 or as amended subsequent to the passage of this act.
 - (ii) In-aid-of construction charge in the amount of \$600.00 or as amended subsequent to the passage of this act.
 - (iii) Plumbing permit fee in the amount of \$130.00 or as amended subsequent to the passage of this act.
- (b) *Eligible work* is the following:
 - (i) Extension of the water house connection up to 150 linear feet; and
 - (ii) Installation of the pipe through or under the foundation wall; and
 - (iii) Installation of a pressure reducing valve and related fittings; and
 - (iv) Installation of any necessary plumbing tie-ins.

Eligible work does not include any other work which may be performed as a result of connection to the public water system.

- (c) Eligible costs are those costs incurred by the property owner for eligible work subject to the following limitations:
 - (i) Ten dollars per linear foot (up to 150 feet) to extend the water-house connection to the property; and
 - (ii) Up to \$400.00 for other eligible work.

(C.B. 72, 1996)

Sec. 18.1303. - Eligibility.

Any owner of a property located in the Marriottsville area, as identified in council resolution 8-1996 or by subsequent amendment, is eligible for the assistance program under this subtitle if:

- (a) The owner of the property acquired title to the property prior to July 22, 1993 or a building permit was issued prior to July 22, 1994; and
- (b) The property is in the metropolitan district or the property owner has submitted a petition to the Director of Public Works to incorporate the property into the metropolitan district.

(C.B. 72, 1996; C.B. 38, 1999)

Sec. 18.1304. - Costs for which the County may provide assistance.

An eligible property owner may receive assistance for the payment of County connection costs and eligible costs for eligible work.

(C.B. 72, 1996)

Sec. 18.1305. - Application.

The application for assistance for payment of County connections costs and eligible costs for eligible work shall be signed by each person with an ownership interest in the property and shall be submitted to the Director of Public Works on a form authorized by the Director of Public Works. The application shall contain the following information and acknowledgments:

- (a) The property owner's name and mailing address;
- (b) The address and tax account number of the property which is to be connected;
- (c) A petition to incorporate into the metropolitan district the property to be connected to the public water system unless the property is in the metropolitan district;
- (d) A list of the costs for which the property owner is requesting assistance;
- (e) A statement acknowledging that the property owner is responsible for the selection of the contractor and for the performance of all work needed to connect to public water and that the County does not warrant the work performed by the contractor;
- (f) A statement that the property owner agrees not to connect any on-site well to the public water system and will comply with all applicable laws and regulations;
- [(g) Reserved.]
- (h) A statement that assistance provided pursuant to this subtitle is subject to the availability of funds.

(C.B. 72, 1996)

Sec. 18.1306. - Administration.

(a) *Verification of Eligibility and Application:*

- (1) When the water line serving an eligible property in the Marriottsville area has been placed in service, a property owner may submit verification of eligibility for the public water system connection cost assistance program to the Department of Public Works.
- (2) After the Department verifies eligibility, the property owner may submit an application, including a signed petition to incorporate the property into the metropolitan district, if necessary, to the Director of Public Works for assistance in the payment of eligible costs.
- (3) Subject to the availability of funds, the Director of Public Works shall process the application and shall prepare legislation incorporating the property into the metropolitan district, if necessary.
- (4) The property owner and the County shall enter into an agreement in which the County agrees to provide assistance for the payment of County connection costs and eligible costs for eligible work and the property owner agrees to comply with the conditions of the assistance program including the provisions of subsection 18.1306(b).
- (5) The agreement shall be signed by each owner of the property and the County Executive or designee.
- (6) The Director of Public Works shall notify the Director of Finance and the Director of Inspections, Licenses and Permits when the property owner and the County have executed an agreement for the County to provide assistance for payment of County connection costs and eligible costs eligible work.
- (7) After the property owner submits a plumbing application, the Department of Inspections, Licenses and Permits shall issue a plumbing permit to the property owner and shall notify the

Director of Finance of the issuance of such permit who shall transfer the amount of County connection costs from the general fund to the water and sewer fund.

(b) *Connection to the Public Water System:*

- (1) Within 12 months of the date of application, the property owner shall complete the work needed to connect the property to the public water system in accordance with all applicable Howard County standards and specifications.
- (2) Upon completion of the eligible work, the property owner shall submit an itemized receipt for eligible costs, not to exceed \$1,900.00, for which the County has agreed to provide assistance, to the Director of Inspections, Licenses and Permits.
- (3) After the Department of Inspections, Licenses and Permits completes a satisfactory inspection of the work, the Director of Inspections, Licenses and Permits shall notify the Director of Finance that the work to connect the property to the public water system has been completed in accordance with all applicable County standards and specifications.
- (4) Upon notification that the work has been completed satisfactorily within 12 months of the date of application, the Director of Finance shall reimburse the property owner for the eligible costs for which the County has agreed to provide assistance, not to exceed \$1,900.00.

(C.B. 72, 1996)

Sec. 18.1307. - Time for application.

Applications for the program must be filed with the Department of Public Works no later than December 31, 1999 and shall be processed on a first come, first served basis subject to the availability of appropriated funds.

(C.B. 72, 1996; C.B. 38, 1999)

SUBTITLE 14. - ROAD AND STORMWATER MANAGEMENT IMPROVEMENTS FOR PRE-1961 PLATTED SUBDIVISIONS

Sec. 18.1400. - Application for subtitle; definitions.

- (a) *Application.* This subtitle applies to pre-1961 platted subdivisions which created residential lots and road rights-of-way to provide access to existing State and County roads. Because the plats were not subject to the 1961 subdivision regulations or developer agreements, neither the public roads nor the necessary stormwater management facilities were constructed.
- (b) *Subtitle Does Not Levy Tax.* This subtitle is not intended, nor shall it be construed to levy a tax for the purpose of raising revenues for the construction and maintenance of public roads on other than a County-wide basis. In order for the improvements to road rights-of-way and stormwater management facilities to be brought into the County system, and subject to the provisions of this subtitle, the owners of real property within the area served by the improvements shall agree to reimburse the County for its expenses in providing them. This program is consistent with the responsibility of County Government.
- (c) *Exclusive Method.* The procedures under this subtitle shall be the exclusive method for owners of property described under subsection (a) of this section to participate in the construction of improvements in pre-1961 platted subdivisions. Such property owners may not utilize the procedures under subtitle 2A, "substandard private roads" of this title.
- (d) *Definitions.* In this subtitle, the following terms have the meanings indicated.

- (i) *Improvements* means a road and necessary stormwater management facilities that meet the engineering and legal criteria established for acceptance into the County system.
- (ii) *Director* means the Director of the Howard County Department of Public Works.

(C.B. 4, 1997)

Sec. 18.1401. - Eligible road rights-of-way.

Notwithstanding the provisions of subtitle 1 of this title, a road right-of-way is eligible to be constructed as part of a capital project under this subtitle if:

- (1) The existing road right-of-way was not accepted into the County road system as a prescriptive road by resolution of the County Council;
- (2) The road right-of-way is located in a subdivision that was not subject to subdivision regulations or a developer agreement with the County at the time of plat recordation;
- (3) The road right-of-way has been included in a capital project by the Director under section 18.1402 of this subtitle; and
- (4) The road right-of-way will be, when constructed, open to the public.

(C.B. 4, 1997)

Sec. 18.1402. - Capital project; estimate of cost of improvements.

(a) *Capital Project Defined:*

- (1) The Director, after evaluating the public road and stormwater management alternatives, may define one or more capital projects to design and construct improvements in pre-1961 platted subdivisions.
- (2) A capital project under this subsection shall:
 - (i) Be determined on the basis of an engineering study;
 - (ii) Provide a plan to serve adjacent properties with necessary access and stormwater management facilities;
 - (iii) Be self-sufficient and function independently if no additional improvements are constructed within the subdivision in the future;
 - (iv) Serve a sufficient number of lots to be cost-effective;
 - (v) Meet the minimum requirements under the Howard County design manual for acceptance of the improvements into the County system; and
 - (vi) Ensure that when a road is constructed, it is directly connected to an existing public road.

(b) *Preparation of Cost Estimate.* A person who owns property adjacent to a road right-of-way that meets the requirements under section 18.1401 of this subtitle may ask the Director to prepare an estimate of the cost of design and construction of the capital project that serves the person's property.

(c) *Use of Cost Estimate.* A cost estimate provided under subsection (b) of this section may be used only in considering whether to make a formal request under section 18.1403 of this subtitle. If a formal request is approved and the improvements are constructed, the costs of the project will be the actual costs of labor and materials as determined under section 18.1407 of this subtitle.

(C.B. 4, 1997)

Sec. 18.1403. - Formal request.

One or more owners of property adjacent to a road right-of-way that meets the requirements under section 18.1401 of this subtitle may submit a formal request, in writing to the Director, for construction of improvements in accordance with the capital project defined under subsection 18.1402(a) of this subtitle.

(C.B. 4, 1997)

Sec. 18.1404. - Meeting on formal request.

- (a) *Meeting Held within Three Months.* Within three months of receipt of a formal request under section 18.1403 of this subtitle, the Director shall hold an informational meeting on the request.
- (b) *Notice of Meeting.* The Director shall give notice of the meeting by publication, in a newspaper of general circulation in the County, and shall send a notice to the owner of record of each lot that is adjacent to the defined capital project, setting forth the length, location and termini of the project and the time, date and place of the meeting.
- (c) *Posting of Notice.* Not less than two weeks prior to the date of the meeting, the Director shall post signs at appropriate and conspicuous places, which shall set forth the fact that the road right-of-way is the subject of a proposed capital project to construct the road and necessary stormwater management facilities for acceptance into the County system and that a meeting thereon will be held at the time, location, and on the date as scheduled.
 - (1) The notice sign shall:
 - (i) Give the location of the subject property.
 - (ii) Be double-sided and at least 30 inches by 36 inches in size.
 - (iii) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
 - (iv) State that the property is the subject of a proposed capital project and include a description of the proposed capital project and the capital project number.
 - (v) Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.

(C.B. 4, 1997; C.B. 69, 2018, § 1)

Sec. 18.1405. - Action on formal request.

- (a) *Director to Issue Decision.* Within 60 days of the conclusion of the meeting under section 18.1404 of this subtitle, the Director shall conditionally approve or disapprove a formal request.
- (b) *Notice of Decision.* The Director shall immediately mail a written decision either conditionally approving or denying the formal request to the owner of record of each parcel adjacent to the proposed improvements.

(C.B. 4, 1997)

Sec. 18.1406. - Conditions on approval.

- (a) *Conditional Approval.* If the Director conditionally approves a formal request, the County may begin to design and construct the improvements only after the conditions under this section have been satisfied.
- (b) *Property Owner Participation.* Subject to the provisions of subsection (c) of this section, as a condition of approval of a formal request, the owners of all property adjacent to proposed improvements shall agree in writing:
 - (1) To reimburse the County for the costs of engineering services and construction of the improvements as provided in section 18.1407 of this subtitle;
 - (2) To have a lien placed on the real property of the owners in the amount owed for reimbursement; and
 - (3) To transfer to the County, at no cost to the County, fee simple title to the road right-of-way plus, where appropriate, an access, drainage, and/or maintenance easement for stormwater management facilities.
- (c) *Other Conditions.* If the owners of 100 percent of the property abutting the improvements do not agree to the conditions under subsection (b) of this section, the conditions on approval under subsection (a) of this section may be satisfied if:
 - (1) The owners who did not agree to reimburse the County for costs of the improvements under subsection (b) of this section consent, in writing, to transfer to the County, at no cost to the County, fee simple title to the road right-of-way plus, where appropriate, a drainage or access easement for maintenance of stormwater management facilities; and
 - (2) The County Council, by resolution, instructs the office of law to institute condemnation proceedings against any property:
 - (i) That is necessary to complete the capital project; and
 - (ii) Whose owner has not agreed to either the conditions under subsection (b) of this section or item (1) of this subsection.
- (d) *One Hundred Percent of Property to Be Accounted For.* The properties subject to the conditions under subsection (b) of this section, when combined with the properties that satisfy the conditions of approval by complying with subsection (c) of this section, shall equal 100 percent of the property necessary to complete the capital project.

(C.B. 4, 1997)

Sec. 18.1407. - Road and stormwater management facilities improvement financing program.

- (a) *Program Established.* A road stormwater management facilities improvement financing program is established for the purpose of financing improvements in pre-1961 platted subdivisions within Howard County.
- (b) *Terms of Financing:*
 - (1) When construction of improvements under this subtitle is completed, reimbursement to the County shall commence as provided in the agreement under subsection 18.1406(b) of this subtitle.
 - (2) The agreement shall:
 - (i) Provide for reimbursement over a term of 20 years;
 - (ii) Apportion the total costs of the project equally among the property owners who agree to the conditions under subsection 18.1406(b) of this subtitle; and
 - (iii) Establish a mechanism for determination of the interest rate under the agreement.

- (3) The amount to be reimbursed shall be the actual audited costs of work completed, less overhead charges by the Department of Public Works or other County agencies.
- (c) *Rules.* The Director may establish and administer rules and procedures for the road and stormwater management financing program.

(C.B. 4, 1997)

SUBTITLE 15. - MULTI-USED RESIDENTIAL SEWERAGE SYSTEM

Sec. 18.1500. - Application; purpose.

- (a) *Application.*
 - (1) This subtitle applies to multi-used residential sewerage systems that serve a single parcel and for which a permit is issued after January 1, 2008.
 - (2) Except for subsections 18.1503(a)(1) and (b) and subsection 18.1504(e)(1), this subtitle applies to a multi-used residential sewerage system:
 - (i) For which a permit was issued on or before January 1, 2008; and
 - (ii) For which installation has not been completed on or before July 1, 2008.
 - (3) This subtitle does not apply to community sewerage systems, as defined in COMAR 26.03.01.01.
- (b) *Purpose.* The purpose of this subtitle is to protect the public health, safety, and welfare by establishing requirements and procedures for the oversight of multi-used residential sewerage systems in Howard County.

(C.B. 49, 2008, § 1)

Sec. 18.1501. - Definitions.

Terms used in this subtitle have the meanings indicated.

- (a) *Approving authority* has the meaning stated in COMAR 26.03.01.01.
- (b) *COMAR* means the Code of Maryland Regulations.
- (c) *Department* means the Department of Public Works.
- (d) *Financial management plan* has the meaning stated in COMAR 26.03.01.01 and shall comply with section 18.1505 of this subtitle.
- (e) *Health Department* means the Howard County Health Department.
- (f) *Installation* means construction of a multi-used residential sewerage system that meets the effluent requirements of the system's permit.
- (g) *Multi-used residential sewerage system* means:
 - (1) A single sewerage system serving a single parcel for the collection and disposal of residential sewage of a liquid nature, including various devices for the treatment of residential sewage having a treatment capacity in excess of 5,000 gallons per day.
 - (2) Includes a system serving a group of individuals:
 - (i) Whether owned or operated by an individual or group of individual: and
 - (ii) Whether under private or collective ownership.

- (3) Shall not include a community sewerage system, as defined in COMAR 26.03.01.01.
- (h) *Permit* means the State groundwater discharge permit issued by the Maryland Department of the Environment pursuant to title 9 of the environment article of the Annotated Code of Maryland permitting the discharge of effluent from a multi-used residential sewerage system to the groundwaters of the State of Maryland in accordance with the terms of the permit.
- (i) *Responsible party* means:
 - (1) During the development of a parcel served by a multi-used residential sewerage system, the developer and owner of the parcel; and
 - (2) After development, the successors or assigns of the developer or owner, as applicable, including, without limitation, a homeowner's association or condominium association.

(C.B. 49, 2008, § 1)

Sec. 18.1502. - Designation of approving authority.

The Department is the approving authority for certain responsibilities set forth in this subtitle and COMAR. The Department shall enter into an agreement with the Health Department and the Maryland Department of the Environment to carry out the purposes of this subtitle and COMAR.

(C.B. 49, 2008, § 1)

Sec. 18.1503. - Responsibilities of the approving authority; design and construction standards.

- (a) *Responsibilities of the Approving Authority.* As the approving authority and in accordance with the Department's agreement with the Health Department and the Maryland Department of the Environment, the Department may:
 - (1) Review design and construction plans, specifications, and engineering reports for a multi-used residential sewerage system to ensure compliance with required design and construction standards;
 - (2) Review the financial management plan for the multi-used residential sewerage system;
 - (3) Annually review financial statements in a form acceptable to the Department that may include, without limitation, a balance sheet, income statement, statement of cash flow, and statement of capital reserves to ensure consistency with the financial management plan;
 - (4) Review the qualifications of the operator of a multi-used residential sewerage system and the operator's contract to ensure that the operator has met the necessary licensing requirements;
 - (5) Inspect a multi-used residential sewerage system during construction to ensure compliance with construction plans that are approved by the Maryland Department of the Environment; and
 - (6) Monitor compliance with the terms of the permit and provide recommendations to the Maryland Department of the Environment and the responsible party regarding any needed corrective actions.
- (b) *Design and Construction Standards.* The design and construction of a multi-used residential sewerage system shall comply with the following:
 - (1) Standards of the Maryland Department of the Environment;
 - (2) The permit;
 - (3) Standards of the Health Department;
 - (4) Standards of the Department acting as the approving authority; and

(5) Volume II and Volume IV of the Department's Design Manual.

(C.B. 49, 2008, § 1)

Sec. 18.1504. - Duties of the responsible party.

- (a) *Construction.* The responsible party shall construct a multi-used residential sewerage system in accordance with the plans approved by the Maryland Department of the Environment and as required by this subtitle.
- (b) *Operator Information.* The responsible party shall submit to the Department a copy of the operator's contract.
- (c) *Declaration of Covenants.* The responsible party shall execute a declaration of covenants, or similar document, to run with the land as required under section 18.1506 of this subtitle.
- (d) *Required Disclosures.* Prior to the initial sale of a residential unit, the responsible party shall disclose to a prospective purchaser:
 - (1) The estimated annual cost of the operation, maintenance, repair, and replacement of the multi-used residential sewerage system for the residential unit served by the system; and
 - (2) Terms, covenants, and restrictions in any declaration of covenant, or similar document, as required under section 18.1806 of this subtitle.
- (e) *Financial Management Plan and Financial statements.* The responsible party shall provide to the Health Department and the Department:
 - (1) Before the Health Department signs the final plat, the financial management plan; and
 - (2) Annually, financial statements in a form acceptable to the Department that may include, without limitation, a balance sheet, income statement, statement of cash flow, and statement of capital reserves in order to show compliance with the financial management plan.
- (f) *Financial Security.* The responsible party shall provide financial security in the form of a bond, cash deposit, irrevocable letter of credit, or other security approved by the Department to guarantee the cost of completing and maintaining the multi-used residential sewerage system:
 - (1) Before the homeowners' association or condominium association becomes the responsible party for the system, if construction of the system begins on or before September 8, 2008; or
 - (2) Before beginning construction of the system, if construction of the system begins after September 8, 2008.
- (g) Financial security required by subsection (f) of this section shall:
 - (1) Guarantee the construction of the multi-used residential sewerage system in accordance with all applicable regulations and standards of the Maryland Department of Environment and the County; and
 - (2) Include guarantees by the responsible party that shall include the following:
 - (i) Performance financial security in a form acceptable to the County in an amount that:
 - a. Is equal to 100 percent of the estimated cost of construction;
 - b. Guarantees timely and satisfactory completion of the multi-used septic system; and
 - c. Guarantees the operation of the multi-used septic system in accordance with the permit; and
 - (ii) Payment financial security in a form acceptable to the County in an amount that:
 - a. Is equal to 50 percent of the estimated cost of construction; and

- b. Guarantees the payment of debts owed for labor and materials used in the construction of the multi-used septic system; and
 - (iii) A maintenance and repair financial security in a form acceptable to the County and in an amount that:
 - a. Is equal to 50 percent of the original amount of the performance security; and
 - b. Guarantees the responsible party's obligation to complete repairs to the multi-used sewerage system and to remedy damages.
- (h) Financial security required by subsection (f) of this section shall be released as follows:
 - (1) The approving authority shall retain the performance financial security until the later of:
 - (i) One year after the date of issuance of a use and occupancy permit for the residential lots which establishes occupancy of 80 percent of the residential lots served by the system, if during the year after issuance of the use and occupancy permit the reports for the system's operation complied with effluent requirements of the groundwater discharge permit; or
 - (ii) One year after the date the responsible party has operated the system in compliance with the permit for 12 consecutive months;
 - (2) The approving authority shall retain the payment financial security until the later of:
 - (i) The date the performance financial security is released; or
 - (ii) Any claims against the payment financial security have been resolved; and
 - (3) The approving authority shall retain the maintenance and repair financial security until the later of:
 - (i) One year after the date the performance financial security is released; or
 - (ii) One year after the date the responsible party has operated the system in compliance with the permit for 12 consecutive months.

(C.B. 49, 2008, § 1)

Sec. 18.1505. - Financial management plan.

- (a) The financial management plan shall demonstrate that adequate fiscal resources will be available to construct, operate, maintain, repair, and replace the multi-used residential sewerage system for existing and future needs.
- (b) The financial management plan shall contain the estimated cost of service to each residential unit on an annual basis and shall provide adequate detail to support the estimate.

(C.B. 49, 2008, § 1)

Sec. 18.1506. - Declaration of covenants.

- (a) *Declaration of Covenants.* A declaration of covenant, or similar document, relating to the construction, operation, maintenance, repair, replacement, and use of a multi-used residential sewerage system shall include the following terms and conditions:
 - (1) Responsibilities of the residents served by the multi-used residential sewerage system; and
 - (2) A statement that, to secure all shared cost obligations of the resident benefiting from the multi-used residential sewerage system, the resident shall be subject to the Maryland Contract Lien Act if the resident fails to pay the responsible party all fees and charges necessary to construct, operate, maintain, repair, replace, and use the multi-used residential system.

- (b) *Requirement to Record.* The declaration of covenant, or similar document, required by this section shall be recorded among the land records of Howard County.

(C.B. 49, 2008, § 1)

Sec. 18.1507. - Right of entry.

- (a) *Generally.* A representative of the Department may enter a parcel, including any residential unit, to inspect a multi-used residential sewerage system at any reasonable time to enforce the requirements of this subtitle.
- (b) *Notice.* Except as provided in subsection (e) of this section, the representative of the Department shall provide reasonable notice prior to entry onto a parcel or into a residential unit.
- (c) *Proof of Identity.* The representative of the Department shall produce proof of identity prior to entry.
- (d) *Entry Refused.* If entry is refused, the Department may seek a court order to permit entry onto the parcel, including into a residential unit.
- (e) *Imminent Danger.* The Department may enter a parcel, including a residential unit, at any time where there is evidence that an imminent danger exists that may threaten the public health and safety.

(C.B. 49, 2008, § 1)

Sec. 18.1508. - Fees.

- (a) The Director of the Department may recommend a schedule of fees to be paid by a responsible party for:
 - (1) The review of design and construction plans, specifications, and engineering reports and the review of the operator;
 - (2) The review of the financial management plan and financial statements;
 - (3) Construction inspection;
 - (4) Ongoing monitoring; and
 - (5) Other duties as the approving authority of a multi-used residential sewerage system.
- (b) The schedule of fees shall be adopted by resolution of the County Council.

(C.B. 49, 2008, § 1)

Sec. 18.1509. - Enforcement.

- (a) *Civil Penalties.* The Department may enforce the provisions of this subtitle with civil penalties in accordance with title 24 "civil penalties" of this Code. A violation of this subtitle is a Class A offense and each day that a violation continues is a separate offense.
- (b) *Other Rights of Enforcement.* The Department:
 - (1) Shall notify the Maryland Department of the Environment regarding any defects in the operation or funding of a multi-used residential sewerage system; and
 - (2) May recommend that an order of repair be issued for a multi-used residential sewerage system.

(C.B. 49, 2008, § 1)

TITLE 19 - RECREATION AND PARKS¹¹

Footnotes:

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State Law reference— County powers relative to recreation and parks, Ann. Code of Md. art. 25A, § 5(V).

SUBTITLE 1. - PARK LAND WATERSHED FACILITIES FUND

Sec. 19.100. - Park land and watershed facilities fund.

The County Executive is authorized to purchase and develop land within the limits of this County for public park use and possible future expansion of County water facilities.

The purchase price of any such land and development costs shall be paid out of the Park Land and Watershed Facilities Fund, upon the order of the County Executive, directed to the Director of Finance of Howard County. The fund shall consist of one-fourth of the proceeds of the transfer tax established by section 20.404 of this Code and such funds as may be granted to Howard County for the same or similar purposes by the State of Maryland or the United States of America, or any agency or instrumentality of either.

(1963, Ch. 269, § 1; 1965, Ch. 515, § 1; 1981, Ch. 202, § 1)

Sec. 19.101. - Funds for persons displaced by acquisition.

With respect to any land acquired under this subtitle, a portion of the acquisition price of which is contributed by the United States of America, the County Executive may negotiate and add to the purchase price a sum of money sufficient for the relocation of persons displaced by such acquisition in accordance with the terms and provisions as set forth in Public Law 91-646 of the United States of America known as "The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970."

(C.B. 36, 1971)

SUBTITLE 2. - PARK LAND, OPEN SPACE AND NATURAL RESOURCE REGULATIONS²¹

Footnotes:

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Editor's note— C.B. 61, 2004 repealed §§ 19.201, 19-203—19.211 of former, and added new §§ 19.201, 19.203—19.211. Repealed former sections pertained to similar subject matter and derived from C.B.'s 46, 1992; 94, 1995.

Sec. 19.200. - Purpose.

The purpose of this subtitle is to establish regulations providing for the public's safe and peaceful use of County parks and park land; for recreational and educational benefit and enjoyment; and for the protection and preservation of the property, facilities and natural resources of the County. Park land and recreation programs conducted on park land are open for use by all members of the public regardless of race, religion, creed, color, sex, national origin, or disability.

(C.B. 46, 1992)

Sec. 19.201. - Definitions.

In this subtitle the following terms have the meanings indicated:

- (a) *Department* means the Howard County Department of Recreation and Parks.
- (b) *Department official* means an employee acting under the authority of the Director.
- (c) *Director* means the Director of the Department of Recreation and Parks or the Director's authorized designee.
- (d) *Open space* has the meaning set forth in title 16, subtitle 1 of the Howard County Code and is subject to the requirements of that subtitle.
- (e) *Open space buffer* means a portion of open space 12 feet in width which adjoins private property, as measured from the boundary line between the open space and the adjoining private property.
- (f) *Park property* means real and personal property which Howard County owns in fee simple or in which it holds a leasehold or easement interest and which is managed by the Department for the use and benefit of the public for recreation, the protection of wildlife habitats, or the protection of natural, scenic, or historical resources. Park property includes, without limitation, a County park, County pathway, open space property purchased by or dedicated to the County, vegetation, soil, water, wildlife, a building or structure and its contents, a sign, improvement, fixture, equipment, monument, historic artifact, statue, vehicle, or a boundary survey marker or monument.
- (g) *Stream* means water, flowing in a definite direction in a channel with a bed and banks, and having a substantial degree of permanence, although flow may vary and in times of drought may cease for a period of time. A stream includes, without limitation, perennial or intermittent streams as well as drainage swales which are located on park property.
- (h) *Stream buffer* means all land within 75 feet of the bank of a stream which is located on park property.
- (i) *Wetlands* means any land located on park property which has been determined by the army corps of engineers or the Maryland Department of the Environment to be regulated or jurisdictional wetlands, or determined by the soil conservation district to be regulated wetlands using Federal and State standards.
- (j) *Wetlands buffer* means all land within 25 feet of wetlands which is located on park property.

(C.B. 61, 2004)

Sec. 19.202. - Reserved.

Editor's note— As promulgated by C.B. No. 46, 1992, there is no § 19.202 in this subtitle.

Sec. 19.203. - Authority.

The Director may adopt regulations to administer the provisions of this subtitle pursuant to the requirements of title 2, subtitle 1 of the Howard County Code, the "Administrative Procedures Act".

(C.B. 61, 2004)

Sec. 19.204. - Hours of operation.

- (a) Park property shall be open to the public every day from sunrise to sunset, with the following exceptions:
 - (1) If the Director has determined that park property should be closed for public safety, maintenance, construction or a special event, the Director may close park property to public entry by posting signs, or placing barricades in the vicinity of points of entry to the park property; or
 - (2) The Director has permitted activities pursuant to section 19.205 of this subtitle.
- (b) A person shall not be on park property between sunset and sunrise, except for:
 - (1) Law enforcement personnel in the performance of their duties;
 - (2) Department personnel in the performance of their duties;
 - (3) Individuals authorized or accompanied by law enforcement or department personnel in the performance of their duties; or
 - (4) Persons authorized by permit pursuant to section 19.205 of this subtitle.

(C.B. 61, 2004)

Sec. 19.205. - Permits.

- (a) *Permits Generally.* The Director is authorized to issue a permit for each activity set forth in this section. Unless a permit is obtained prior to the date of an activity, each activity set forth in this section is prohibited. A permit granted pursuant to this section is subject to the following requirements:
 - (1) In determining whether to grant a permit, the Director shall consider the following standards for review:
 - (i) Whether the proposed activity will adversely impact the public health and safety or the maintenance or preservation of park property; and
 - (ii) Whether the proposed activity can be accommodated by the size or location of an available facility or park property;
 - (2) The permit holder shall keep the permit on the premises at all times and shall present the permit to department employees or law enforcement officials upon request;
 - (3) The Director may require proof of insurance prior to approving an application for a permit;
 - (4) The Director is authorized to assess a fee for a permit to use a facility or park property;
 - (5) The Director is authorized to impose conditions on the grant of a permit which are necessary to ensure that the public health and safety is preserved and to prevent damage, loss, or destruction of park property;
 - (6) A permitted activity shall be conducted in strict accordance with the requirements of this subtitle and with any conditions imposed on the grant of the permit;
 - (7) A permitted activity is limited to the scope of the activity set forth on the permit application as well as any condition imposed on the grant of the permit;

- (8) The Department may revoke a permit at any time for the violation of any condition on the grant of the permit, the use of misleading or fraudulent information in the permit application, or the violation of any local, State, or Federal law or regulation; and
 - (9) The person or entity listed on the permit application shall reimburse the County for any and all costs caused by loss, damage, destruction, or removal of park property as well as any costs of cleanup beyond routine maintenance performed by the Department.
- (b) *Reserved Use of Park Property.* The Director may issue a permit to reserve an athletic field, recreation building, group picnic area, pavilion, camp site, camp fire, or other park property or facility for the exclusive use of the individual or group designated on the permit. In addition to the requirements of subsection (a) of this section, a permit to use park property is subject to the following conditions:
- (1) A picnic area which is not available for reservation is operated on a "first come, first served basis";
 - (2) The facility or park property applied for shall be available and appropriate for the purpose specified in the permit; and
 - (3) A permit reserving a facility or park property entitles the permit holder to its exclusive use on the date and time specified on the permit.
- (c) *Activities Requiring a Permit.* Unless a permit for the activity is obtained prior to the date of the activity, the following activities are prohibited:
- (1) *Aircraft.* Using an aircraft, helium or hot air balloon, hang glider, ultra-light aircraft, parachute, or any other person-operated aircraft on park property;
 - (2) *Alcoholic beverages.* Consuming or possessing alcoholic beverages on park property; subject to the requirements of subsection (a) of this section, section 19.204, And the following conditions:
 - (i) State laws regarding the use of alcohol shall apply on park property; and
 - (ii) The alcohol shall be consumed or possessed only within the specific facility or area designated on the permit;
 - (3) *Businesses.* Conducting or soliciting a business, trade, or occupation on park property including, without limitation:
 - (i) The taking of a photograph, motion picture, or video tape for commercial or instructional use;
 - (ii) The sale or offer for sale, hire, or lease of merchandise, a vehicle, aircraft, or watercraft;
 - (iii) The training of an animal; or
 - (iv) Except as provided by State law, commercial gambling;
 - (4) *Camping.* Camping on park property in the area specified in the permit;
 - (5) *Cutting or mowing.* Cutting or mowing vegetation on park property;
 - (6) *Fires.* Lighting and maintaining a fire, except in a charcoal grill in a designated area provided by the Department and subject to the requirements of subsection (a) of this section and the following conditions:
 - (i) The fire shall be in continuous care and direction of a competent person over the age of 16;
 - (ii) The fire shall be thoroughly and completely extinguished, i.e., the coals shall be cold, before the permit holder leaves the site; and
 - (iii) A recreational fire is subject to the approval of the Howard County Department of Fire and Rescue Services;

- (7) *Fireworks*. Subject to the requirements of the "Howard County Fire and Prevention Code" as set forth in title 17, subtitle 1 of the Howard County Code, possessing or discharging fireworks, pyrotechnics, ammunition, or other flammable or explosive devices on park property;
- (8) *Grading*. Conducting or causing the grading, removal, or disturbance of soil, rocks, or minerals on park property;
- (9) *Herbicides or fertilizers*. Applying a herbicide, fertilizer, fungicide, insecticide, or other substance or chemical to park property;
- (10) *Hunting*. As permitted by applicable State or County law; hunting, trapping, or destroying wildlife on park property for the purpose of scientific study, environmental education, or wildlife management;
- (11) *Interference with the use of park property*. Interference with the use of park property, including, without limitation, blocking a road, path, or walkway, and a parade or assembly held on park property shall be subject to the provisions of title 17, subtitle 9 of the Howard County Code;
- (12) *Metal detectors*. Use of a metal detector on park property;
- (13) *Models*. Use of a model airplane, car, boat, or rocket on park property;
- (14) *Self-propelled motorized vehicles*. Operating a self-propelled motorized vehicle including, without limitation, an all-terrain vehicle, on a pathway, trail, or other nonpaved area on park property;
- (15) *Signs*. Erecting or posting a sign or notice on park property, including, without limitation, an audio sign or notice such as a talking machine, recorder, or other audio/visual device;
- (16) *Soliciting*. Subject to the requirements of title 14, subtitle 7 of the Howard County Code; soliciting for a contribution, donation, or money on park property;
- (17) *Storage*. Storing material of any description on park property;
- (18) *Structures*. Subject to the requirements of title 3, subtitle 1 of the Howard County Code; erecting or building a structure on park property;
- (19) *Watercraft*. Use of a boat or other watercraft on a lake, stream, pond, or river on park property subject to Federal, State, and local regulations governing the use, operation, and safety of the watercraft; and
- (20) *Weapons*. Carrying, possessing, or discharging a firearm, bow, dart, knife, or any other dangerous weapon on park property; subject to the requirements of subsection (a) of this section, section 19.204, and the following:
 - (i) The permit is applicable only in an area of park property designated for such purpose; and
 - (ii) Unauthorized weapons shall be confiscated.

(C.B. 61, 2004; C.B. 12, 2018, § 4)

Sec. 19.206. - Traffic; vehicles; parking.

(a) *General Provisions:*

- (1) Traffic laws and parking regulations applicable on public roads in the County are applicable on park property.
- (2) The use of roads within park property is subject to regulations of the Department.
- (3) The Director may close roads within park property as necessary.

- (b) *Pedestrian Right-of-Way.* In all instances, a pedestrian shall have the right-of-way within park property.
- (c) *Speed Limits.* Unless a different speed limit is posted, the speed limit for a motor vehicle within park property is 15 miles per hour.
- (d) *Roadways Open to Motor Vehicles.* Except for a County maintenance vehicle, emergency vehicle, or police vehicle, a person shall operate a motor vehicle within park property only on a road or street with public access. A person shall not operate an all-terrain vehicle or a go-kart on a road or street within park property.
- (e) *Vehicle Repair.* Except for an emergency repair, a person shall not repair or perform maintenance on a vehicle within park property.
- (f) *Parking Regulations.* A person shall not stop, stand, or park a motor vehicle on park property if the motor vehicle is located:
 - (1) On or obstructing the entrance to an access road;
 - (2) On or obstructing the entrance to a bike path, walking path, or bridle path;
 - (3) On a pathway or road during those hours when park property is not open to the public;
 - (4) Unless specifically directed by authorized department personnel or police, on any grass area;
or
 - (5) Unless specifically directed by authorized department personnel or police, where the motor vehicle will injure any form of vegetation.
- (g) *Impoundment of Vehicles.* An illegally parked or abandoned motor vehicle may be towed from park property and impounded at the owner's expense in accordance with the provisions of title 21, subtitle 2 of the Howard County Code.

(C.B. 61, 2004)

Sec. 19.207. - Regulation of recreational activities.

The following recreational activities are restricted to designated areas of park property and may be subject to additional requirements.

- (a) *Bicycling.* A person shall operate a bicycle on park property in accordance with the following requirements:
 - (1) A person may operate a bicycle on a road within park property;
 - (2) A person may operate a bicycle on a pathway or trail designated for bicycle riding;
 - (3) The maximum speed limit on a trail or pathway is ten miles per hour;
 - (4) A trail is subject to regulations set forth in title 21, subtitle 12 of the transportation article of the Annotated Code of Maryland;
 - (5) Children 16 years of age or younger shall wear an approved safety helmet when operating a bicycle on park property, as provided in title 21, subtitle 4 of the Howard County Code;
 - (6) A person operating a bicycle shall use a "bike lane" wherever available;
 - (7) Except when passing, a person operating a bicycle or a pedestrian shall keep to the right;
 - (8) A person operating a bicycle shall alert other trail users before passing;
 - (9) A person operating a bicycle shall always yield to a pedestrian; and
 - (10) A person operating a bicycle shall yield to vehicular traffic at intersecting roadways.

- (b) *Fishing*. A person may fish only in a designated area and in compliance with State and other applicable laws.
- (c) *Horseback Riding*. A person may ride a horse only in a designated area or on a designated trail.
- (d) *Picnicking*. A person may picnic only in a designated area.
- (e) *Roller Skating; In-Line Skating; Skateboarding*. A person may roller skate, in-line skate, or skateboard on a pathway or sidewalk. A person shall not roller skate, in-line skate, or skateboard on a road, parking area, or multipurpose recreational surface, including, without limitation, a basketball court, tennis court, or racquetball court.
- (f) *Swimming; Water Sports*. A person may swim or engage in other water sports only in an area designated for water activities and only during the hours specified.
- (g) *Winter Sports*. While on park property, a person shall not:
 - (1) Use a snowmobile; or
 - (2) Skate or walk on ice.

(C.B. 61, 2004)

Sec. 19.208. - Regulation of conduct.

- (a) *Depositing Refuse Generated Off-site*. A person shall not deposit refuse generated off-site onto park property.
- (b) *Domesticated Animals*. The provisions of title 17, subtitle 3 of the Howard County Code shall apply to a domesticated animal on park property. In addition, the following requirements shall apply:
 - (1) A person shall not graze, house, or leave unattended an animal on park property; and
 - (2) A domesticated animal is prohibited at all times in an area of park property that is posted to prohibit animals.
- (c) *Encroachments*. Without first obtaining a permit pursuant to section 19.205 of this subtitle, a private encroachment is prohibited on park property. An encroachment shall include, without limitation, a fence, wall, dog run, dog house, storage structure, driveway, compost pile, swimming pool, tree house, playhouse, wood pile, garden, play equipment, tv or radio reception device, or any other device, structure, refuse, or material.
- (d) *Entrance and Exit*. A person shall enter and exit park property at an officially designated entrance and exit.
- (e) *Indecent Conduct*. While on park property, a person shall not:
 - (1) Be nude or indecently expose themselves;
 - (2) Engage in a sexual act; or
 - (3) Urinate or defecate except in a designated facility.
- (f) *Interference with Duties of County Personnel*. A person shall not interfere with a County employee on park property acting in the course of their official duties.
- (g) *Interference with Other Individuals on Park Property*:
 - (1) *Interference with the public*. A person shall not obstruct, delay, or interfere with the free movements of any other individual, seek to coerce or physically disturb any other individual, or hamper or impede the conduct of any authorized business or activity on park property.
 - (2) *Use without permit*. A person that does not hold a permit to use park property which requires a permit shall vacate the property upon the arrival of the permit holder.

- (3) *Order to vacate.* A user of a park property, including a permit holder, shall immediately cease an activity and vacate the premises if so instructed by department officials for reasons of public safety or to prevent potential damage to park property or a park facility.
- (h) *Lost Objects.* A lost object found on park property shall be turned over to a department official and may be recovered by showing proper photo identification. A lost object shall be held by the Department for a period of 30 days after which time it will be turned over to the Police Department for disposition pursuant to the provisions of title 4, subtitle 3, of the Howard County Code.
- (i) *Noise.* A person shall not play an audio device or create excessive noise so as to disturb the peace.
- (j) *Vandalism.* While on park property, a person shall not:
 - (1) Interfere with, encumber, obstruct, damage, destroy, or render dangerous, any drive, path, trail, walk, dock, fence, wall, bridge, bench, play equipment, structure, improvement, or plant on park property;
 - (2) Disturb the public peace; or
 - (3) Hinder or obstruct the proper use of a restroom, concession stand, or other public structure on park property.

(C.B. 61, 2004)

Sec. 19.209. - Environmental protection.

- (a) *Mowing Open Space:*
 - (1) *Mowing an open space buffer.* Unless mowing is prohibited by the provisions of paragraph (2) below, an owner of private property whose property adjoins open space may mow the open space buffer.
 - (2) *Restrictions on mowing an open space buffer.* An adjacent property owner shall not mow the open space buffer if:
 - (i) There is a tree, shrub, or other woody vegetation on the open space buffer;
 - (ii) The open space buffer includes land which is within 75 feet of a stream, pond, stormwater management facility, river, or floodplain;
 - (iii) The open space buffer includes land which is within 25 feet of a wetland;
 - (iv) The open space buffer contains slopes of 25 percent or greater; or
 - (v) The Department has prohibited mowing in that specific location.
 - (3) *Application of chemicals.* Without first obtaining a permit pursuant to section 19-205 of this subtitle, the property owner shall not apply a herbicide, insecticide, fertilizer, fungicide, or other chemical or material to the vegetation on the open space buffer.
 - (4) *Liability of property owner.* A property owner who mows an open space buffer is deemed to have relieved the County of all liability for accidents, injuries, or property damage related to or arising from such mowing.
 - (5) *Limits on maintenance activity.* Except for mowing as set forth in this subsection and other activities permitted by the County pursuant to a written maintenance agreement, a private citizen shall not perform maintenance activity in an open space buffer.
- (b) *Detrimental to Natural Resources and Ecosystem.* A person shall not conduct an activity which is detrimental to the natural resources and ecological function of park property, interferes directly or indirectly with the use of park property, or is harmful to human, animal, plant, or aquatic life on park property.

- (c) *Grading or Disturbance.* Without first obtaining a permit pursuant to section 19.205 of this subtitle, a person shall not conduct or cause the grading, removal, or disturbance of soil, rocks, or minerals.
- (d) *Cutting or Mowing Vegetation.* Without first obtaining a permit pursuant to section 19.205 of this subtitle, a person shall not conduct or cause the cutting, mowing, removal, or disturbance of all or part of any live or dead tree, shrub, grass, or other form of vegetation.
- (e) *Contamination.* A person shall not throw, cast, lay, drop, deposit, leave, spill, pour, dump, discharge, dispose of, or otherwise place any matter, substance, thing, liquid, or solid onto or into any park property, in any storm drain, sewer, or other device which drains onto park property, or in waters within or which run into park property. This shall include the application of a herbicide, fertilizer, fungicide, insecticide, or other substance on park property without having first obtaining a permit from the Director pursuant to section 19.205 of this subtitle.
- (f) *Disturbing Vegetation within Stream or Wetland Buffer.* A person shall not mow, cut, remove, dump, deposit, or otherwise disturb vegetation within a stream or wetland buffer or a floodplain located on park property.
- (g) *Wildlife.* Without first obtaining a permit pursuant to section 19.205 of this subtitle, a person shall not:
 - (1) Hunt or trap wildlife except for scientific study, environmental education, or wildlife management purposes;
 - (2) Hunt with, carry, or possess a firearm on park property; or
 - (3) Injure, destroy, or otherwise interfere in any way with wildlife or wildlife habitat.
- (h) *Destruction; Disturbance.* A person shall not deface, destroy, damage, injure, disturb, defoul, dump upon, or in any way misuse or remove any part of park property.
- (i) *Planting on Park Property.* A person shall not plant or cause the planting, seeding, or propagation of vegetation on park property.

(C.B. 61, 2004)

Sec. 19.210. - Enforcement.

- (a) *Generally.* The Department may institute any action at law or equity, including injunction or mandamus, to enforce the provisions of this subtitle.
- (b) *Criminal Penalties.* A person who violates a provision of this subtitle that is not already prohibited by State or Federal law is guilty of a misdemeanor and upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. A person who violates a provision of this subtitle that is prohibited by State or Federal law, upon conviction, shall be subject to the fine, imprisonment, or both, as provided by State or Federal law.
- (c) *Civil Penalties.* Alternatively, and in addition to and concurrent with all other remedies at law or equity, the Department may enforce this subtitle pursuant to title 24, "civil penalties" of the Howard County Code. Violations of this subtitle shall be the class of offense set forth as follows:

Section	Title	Class Offense
19.204	Hours Of Operation	E
19.205(b)	Permits, Reserved Use of Park Property	E

19.205(c)(1)	Permits, Aircraft	A
19.205(c)(2)	Permits, Alcoholic Beverages	B
19.205(c)(3)	Permits, Businesses	C
19.205(c)(4)	Permits, Camping	D
19.205(c)(5)	Permits, Cutting or Mowing	A
19.205(c)(6)	Permits, Fires	C
19.205(c)(7)	Permits, Fireworks	B
19.205(c)(8)	Permits, Grading	A
19.205(c)(9)	Permits, Herbicides or Fertilizers	A
19.205(c)(10)	Permits, Hunting	A
19.205(c)(11)	Permits, Interference with the Use of Park Property	C
19.205(c)(12)	Permits, Metal Detectors	D
19.205(c)(13)	Permits, Models	D
19.205(c)(14)	Permits, Self-Propelled Motorized Vehicles	C
19.205(c)(15)	Permits, Signs	D
19.205(c)(16)	Permits, Soliciting	E
19.205(c)(17)	Permits, Storage	C
19.205(c)(18)	Permits, Structures	C
19.205(c)(19)	Permits, Watercraft	D
19.205(c)(20)	Permits, Weapons	A

19.206	Traffic, Vehicles, Parking	E
19.207(a)	Recreational Activities Bicycling	E
19.207(b)	Recreational Activities, Fishing	D
19.207(c)	Recreational Activities, Horseback Riding	E
19.207(d)	Recreational Activities, Picnicking	E
19.207(e)	Recreational Activities, Roller Skating, In-Line Skating, Skateboarding	E
19.207(f)	Recreational Activities, Swimming; Water Sports	D
19.207(g)(1)	Recreational Activities, Snowmobiling	B
19.207(g)(2)	Recreational Activities, Walking or Skating on Ice	D
19.208(a)	Conduct on Park Property, Depositing Refuse	A
19.208(b)	Conduct on Park Property, Domesticated Animals	C
19.208(c)	Conduct on Park Property, Encroachments	A
19.208(d)	Conduct on Park Property, Entrance and Exit	E
19.208(e)(1)	Conduct on Park Property, Indecent Conduct, Nudity	B
19.208(e)(2)	Conduct on Park Property, Indecent Conduct, Sexual Activity	B
19.208(e)(3)	Conduct on Park Property, Indecent Conduct, Urination	E
19.208(f)	Conduct on Park Property, Interference with Duties of County Personnel	B
19.208(g)	Conduct on Park Property, Interference with Other Individuals	B
19.208(h)	Conduct on Park Property, Lost Objects	E
19.208(i)	Conduct on Park Property, Noise	B

19.208(j)	Conduct on Park Property, Vandalism	A
19.209(a)	Environmental Protection, Mowing Open Space	A
19.209(b)	Environmental Protection, Activities Detrimental	A
19.209(c)	Environmental Protection, Grading or Disturbance	A
19.209(d)	Environment Protection, Cutting or Mowing	A
19.209(e)	Environmental Protection, Contamination	A
19.209(f)	Environmental Protection, Disturbing Buffers	A
19.209(g)	Environmental Protection, Wildlife	A
19.209(h)	Environmental Protection, Destruction of Property	A
19.209(i)	Environment Protection, Planting	A

(d) Each day that a violation continues is a separate violation.

(C.B. 61, 2004)

Sec. 19.211. - Restitution.

Howard County may seek a court order authorizing the County to obtain restitution from any individual for costs incurred by the County in restoring, repairing, replacing, removing an encroachment, or otherwise mitigating the loss of or damage to park property.

(C.B. 61, 2004)

SUBTITLE 4. - CAPITAL BUDGET PROJECT

Sec. 19.400. - Notice of proposed annual recreation and parks capital program.

(a) Prior to the submission of the proposed capital program for recreation and parks to the Planning Board, the Recreation and Parks Board shall hold a public hearing on the proposed program for the next succeeding fiscal year. Such hearing shall be held not later than 30 days prior to the date of submission of the program to the Planning Board.

- (b) The Department of Recreation and Parks shall set forth each project, except school-park combined sites, in the program for the next succeeding fiscal year on the latest set of State Department of Assessment tax maps, and thereby determine in a reasonable and prudent manner the identity of the owners of the land which may be affected by the proposed project. The Department of Recreation and Parks shall prepare a notice to be sent to each property owner, such notice to be sent by certified mail, and shall be mailed 15 days prior to the date of the hearing.
- (c) The notice to the property owner shall identify the proposed project and the estimated acres involved and shall indicate that the preliminary outline of the proposed project indicates that a portion of the land of the addressee may be affected by the project, and that the project will be presented by the Recreation and Parks Board at the hearing, and the time and place of the hearing shall be set forth in the notice, and that the preliminary project map may be reviewed in the Office of the Department of Recreation and Parks.
- (d) A notice shall be published for two successive weeks prior to the hearing date in two newspapers published in the County, such notice to set forth the purpose, place, date and time of the hearing.

(C.B. 52, 1972)

SUBTITLE 5. - PUBLIC RECREATION ON PRIVATE LANDS

Sec. 19.500. - Purpose.

The purpose of this subtitle is to provide for the regulation and safety of certain private lands in Howard County which are available for the common use of the public for park and recreational purposes.

(C.B. 28, 1979)

Sec. 19.501. - Definitions.

- (a) *Alcoholic beverage* means a liquid beverage containing 0.5 percent or more of alcohol by volume.
- (b) *Director* means the Director of the Howard County Department of Recreation and Parks.
- (c) *Landowner* means the owner or lessee of an open space area and the agents of the owner or lessee.
- (d) *Open space area* means either:
 - (1) Real and tangible personal property that qualified for tax credits under section 9-315 of the Tax-Property Article of the Annotated Code of Maryland; or
 - (2) Other land owned and specifically designated for the common use of the public for recreational purposes and found acceptable for public use by the Director.
- (e) *Recreational purpose* means the following, or any combination of the following: fishing, swimming, boating, camping, picnicking, hiking, nature study, athletic sporting events, live musical and nonmusical performances, film showings, horseback riding, and viewing or enjoying historic, archeological, scenic or scientific sites.

(C.B. 28, 1979; C.B. 22, 1985)

Sec. 19.502. - Request, designation and revocation of open space areas.

- (a) The Director is authorized to and shall designate an open space area upon the request for such designation by the landowner, provided that the landowner files a plat of the parcel(s) for which the

request is made, and provided the property shown thereon qualifies for tax credits under article 81, section 9C(k) of the Annotated Code of Maryland.

- (b) The Director is authorized to and may designate an open space area upon the request for such designation by the landowner, provided that the landowner files a plat of the parcel(s) for which the request is made, and provided the land owned and specifically designated for the common use of the public for recreational purposes is found acceptable for public use by the Director.
- (c) Within 15 days of receipt of a request hereunder, the Director shall cause a security survey of the property to be conducted by the Police Department, and shall communicate such survey to the landowner. If the said property is accepted for designation as an open space area, such approval shall be communicated to the landowner within 15 days of receipt of the request from landowner. If the said property is not accepted for designation as an open space, such nonacceptance shall be communicated to the landowner within 15 days of receipt of the request from the landowner and the Director shall set forth the reasons for nonacceptance in a written decision and order to the landowner. The landowner may, within ten days after receipt of the Director's decision and order of nonacceptance, enter an appeal in accordance with the Howard County Administrative Procedures Act and/or may appeal to the Board of Appeals within 30 days the decision and order of the Director in accordance with the rules of procedure of the Board of Appeals.
- (d) The Director may, for good cause, revoke an open space area designation authorized by this section by delivering to the owner written notice of revocation at least 30 days before the revocation becomes effective. The owner may, within ten days after the receipt of a notice of revocation, enter an appeal in accordance with the Howard County Administrative Procedure Act. The landowner may, within 30 days, also appeal the decision and order of the Director in accordance with the rules of procedure of the Board of Appeals.
- (e) The landowner may revoke an open space area designation by delivering written notice to the Director at least ten days before the revocation becomes effective.

(C.B. 28, 1979)

Sec. 19.503. - Effect of designation or ownership responsibilities, rights and County responsibility.

The designation of an open space area for recreational purposes shall not relieve the landowner of any responsibility in connection with ownership of the land; nor shall it prohibit the landowner from exercising dominion and control over the land; nor shall it impose upon Howard County any additional responsibility or privilege based solely upon the designation except as related to the enforcement of provisions set forth in this subtitle.

(C.B. 28, 1979)

Sec. 19.504. - Rules, regulations and prohibited activities.

The following activities are prohibited in open space areas:

- (a) Hunting.
- (b) Fortune-telling.
- (c) Possessing any firearm, rifle, shotgun, revolver, pistol, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a barrel by the action of any explosive gas, compressed air, spring or elastic. Police Officers are authorized to seize such mechanisms and deliver them to the Police Department for disposition as provided in section 19.509 of this subtitle.
- (d) Discarding of any lighted match, cigar, cigarette or other burning object on or against any structure, boat, vehicle or enclosure, or under any tree or in underbrush or grass.

- (e) Putting any substance into the water of the open space area, directly or via the storm drainage system, which pollutes or may pollute the waters.
- (f) Depositing any garbage, refuse, waste, foodstuffs, paper or other litter or obnoxious material, except in receptacles or pits provided for the purpose.
- (g) Throwing or breaking of glass or crockery.
- (h) Removing or destroying any tree, flower, fern, shrub, rock or other plant or mineral.
- (i) Camping.
- (j) Using private boats powered by hydrocarbon fuels or electric engines, except for boats used by the Police Department, the Fire Department or the landowner.
- (k) Selling, offering for sale, or leasing merchandise.
- (l) Kindling, building, maintaining or using a fire in places other than those provided or designed for that purpose. Every fire must be continuously under the care and direction of a competent person over 16 years of age. Before it is abandoned, a fire must be thoroughly extinguished. The building or starting of a fire may be prohibited by a Police Officer if a fire danger warrants such action.
- (m) Erecting and posting of advertising signs and notices.
- (n) Using musical instruments, loudspeakers, radios, stereos, and similar devices when used for the purpose of attracting attention for advertising of any type, or when the resultant noise violates the noise regulations of the State Department of Health and Mental Hygiene.
- (o) Grazing or herding of cattle, horses, sheep, goats or any other animals.
- (p) Allowing dogs to run without being under the control of a responsible person.
- (q) Using motorized vehicles, as provided in section 19.508 of this subtitle.
- (r) Possessing an alcoholic beverage in an open or previously opened container.
- (s) Using bows and arrows.

(C.B. 28, 1979; C.B. 22, 1985)

Sec. 19.505. - Special permits.

- (a) Landowners may issue a special permit for the use of open space areas, which authorize individuals or groups to conduct or participate in activities otherwise prohibited by any of the provisions of sections 19.504 and 19.506 of this subtitle. Activities which may be authorized are: possession of an alcoholic beverage in an open or previously opened container; camping; kindling, building, maintaining or using a fire; using musical instruments, loudspeakers, radios and stereos; selling, offering for sale, or leasing merchandise; erecting and posting of advertising signs and notices; using bows and arrows.
- (b) Landowners shall deliver to the Police Department copies of all special permits at least 48 hours in advance of the function for which they are issued.
- (c) A special permit must be carried by an individual who is present on the open space area for which the special permit is issued.
- (d) A special permit must be displayed to Police Officers upon demand. Failure to display a special permit upon demand shall authorize Police Officers to order the activity to cease and to order participants to leave the property and shall also authorize the police to arrest any of the participants.
- (e) When authorizing the possession of an alcoholic beverage, the landowner shall require that:
 - (1) The applicant be 21 years of age; and

- (2) The applicant agree to ensure that no one under 21 years of age will consume alcoholic beverages.
- (f) Nothing in this section shall remove from the landowner or ultimate beneficiary the requirement to obtain additional State or local permits as may be required, nor shall this section permit uses otherwise prohibited by zoning or other laws.

(C.B. 28, 1976; C.B. 22, 1985)

Editor's note— Although not specifically addressed by § 3 of C.B. 22, the inclusion of a new subsection (e) implicitly redesignated existing subsection (e) as (f).

Sec. 19.506. - Hours of operation.

- (a) Open space areas shall be open to the public from 6:00 a.m. to 10:00 p.m. each day, and they shall be closed to the public except during said time unless otherwise posted.
- (b) No person shall enter upon open space areas when they are closed to the public.

(C.B. 28, 1979)

Sec. 19.507. - Admission to events.

- (a) No person may make use of or gain admission to, or attempt to make use of or gain admission to, open space areas for the use of which a charge is made by the landowners unless the person pays the fixed charges or price of admission.
- (b) No person may make use of or gain admission to, or attempt to make use of or gain admission to open space areas for which a permit is issued to a group or organization unless the person is a member of the group or organization and complies with all other criteria established by the permits.

(C.B. 28, 1979)

Sec. 19.508. - Prohibition of motorized vehicles in open space areas.

- (a) Motorized vehicles shall not be driven or parked upon open space areas except in those areas which have been appropriately designated or in those areas which are customarily used for such purposes and at such times as allowed.
- (b) Police Officers are authorized to impound vehicles which are in violation of this section. All expenses of impoundment, storage, and preservation shall be borne by the owner of the vehicle.
- (c) This section shall apply to all motorized vehicles powered by hydrocarbon fuels or electrical motors, including, but not limited to automobiles, trucks, self-contained camping vehicles, motorcycles, motorized bicycles, and all-terrain vehicles except those owned or operated by the Police Department, the Fire Department or the landowner.

(C.B. 28, 1979; C.B. 22, 1985)

Sec. 19.509. - Disposition of firearms, etc.

The Police Department shall dispose of all firearms, rifles, air guns, air rifles and similar mechanisms seized as follows:

- (a) The Police Department may return the mechanism to the owner or may notify the owner that he/she may apply within 30 days to the Police Department for a review to determine whether the owner knew or should have known that the mechanism was within his/her possession within an open space area.
- (b) Upon timely receipt of an application, the Police Department shall hold an informal review, not subject to the Howard County Administrative Procedure Act, on the matter of whether the owner knew or should have known that the mechanism was possessed within an open space area.
- (c) If, after review, the determination of the Police Department is favorable to the owner, the mechanism shall be released to the owner, unless it is needed as evidence in a criminal case or investigation, in which event it shall be promptly returned upon the final conclusion of the case or investigation.
- (d) If, after the review, the determination of the Police Department is the owner knew or should have known that the mechanism was possessed within an open space area, the mechanism shall be deemed to be forfeited to the County. The owner shall be so notified at his/her last known address and within 30 days thereafter he/she may petition the District Court of Maryland for release of the mechanism. The County Solicitor shall represent the County in said action.
- (e) In the event that the owner is not ascertained and located pursuant to the inquiry and investigation by the Police Department, or in the event that the forfeiture determination is not contested within 30 days, the mechanism shall be forfeited to the County without further proceedings.

(C.B. 28, 1979; C.B. 22, 1985)

Sec. 19.510. - Authority of landowner to close open space areas.

The landowner is permitted to close portions of open space areas by posting a notice thereof or otherwise providing notice, and thereafter, said portion shall be closed to the public and no person shall enter upon said portions of open space areas.

(C.B. 28, 1979; C.B. 22, 1985)

Sec. 19.511. - Authority of police.

- (a) The Police Department is empowered to police the use of open space areas in accordance with the rules and regulations of this subtitle.
- (b) All persons who are present upon open space areas shall comply with lawful orders of the police governing the use of the open space areas and their conduct upon such areas.

(C.B. 28, 1979)

Sec. 19.512. - Regulatory authority of landowner.

Landowners are empowered to regulate the use of open space areas in accordance with this subtitle.

(C.B. 28, 1979; C.B. 22, 1985)

Sec. 19.513. - Discrimination prohibited in open space area:

No person shall be denied the use of a designated open space area solely because of discrimination based on race, creed, religion, disability, color, sex, national origin, age, occupation, marital status, political opinion, sexual orientation or personal appearance.

(C.B. 28, 1979; C.B. 14, 2014, § 1)

Sec. 19.514. - Posting of signs.

Landowners shall post signs on each designated open space area, which identify the area as privately owned open space designated for public use. The signs may list activities prohibited or restricted by this subtitle.

(C.B. 28, 1979; C.B. 22, 1985)

Sec. 19.515. - Penalties.

(a) *Criminal Penalties.* Any person who violates the provisions of subsections (a), (c), (h), (r), and (s) of section 19.504, "rules, regulations and prohibited activities"; section 19.505, "special permits"; section 19.506, "hours of operation"; and section 19.510, "authority of landowner to close open space areas," of this subtitle shall, upon conviction, be found guilty of a misdemeanor and may be fined up to \$500.00 or imprisoned for up to 30 days in the Howard County Detention Center, or both fined and imprisoned.

(b) *Civil Penalties:*

(1) *Enforcement.* Alternatively or in addition to and concurrent with all other remedies, the Police Department may enforce the provisions of the following sections and subsections with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. Each day that a violation continues shall be a separate offense.

Subsections (b), (d), (e), (f), (g), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), and (s) of section 19.504, "rules, regulations and prohibited activities."

Section 19.505, "special permits."

Section 19.506, "hours of operation."

Section 19.507, "admission to events."

Section 19.508, "vehicles."

Section 19.510, "authority of landowner to close open space areas."

Section 19.513, "discrimination prohibited in open space areas."

(2) *Classification of violations:*

(i) *Class B offense.* Violations of the following sections shall be Class B offenses:

Section 19.507, "admission to events."

Section 19.513, "discrimination prohibited in open space areas."

(ii) *Class C offense.* Violation of the following section shall be a Class C offense:

Subsection (l) of Section 19.504, "rules, regulations and prohibited activities."

(iii) *Class D offense.* Violation of the following sections shall be Class D offenses:

Subsection (b), (f), (k), (m), (q) or (s) of section 19.504, "rules, regulations and prohibited activities."

Section 19.505, "special permits."

Section 19.506, "hours of operation."

Section 19.508, "vehicles."

Section 19.510, "authority of landowner to close open space areas."

(iv) *Class E offense.* Violation of the following sections shall be Class E offenses:

Subsections (d), (e), (g), (i), (j), (n), (o), (p) and (r) of section 19.504, "rules, regulations and prohibited activities."

(C.B. 28, 1979; C.B. 17, 1982; C.B. 22, 1985; C.B. 32, 1985; C.B. 39, 1988)

Sec. 19.516. - Severability.

If any portion, section, subsection, sentence, clause, or phrase of this subtitle is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this subtitle, it being the intent of Howard County that this subtitle shall stand, notwithstanding the invalidity of any portion, section, subtitle, sentence, clause, hereof.

(C.B. 22, 1985)

SUBTITLE 6. - DEPARTMENT OF RECREATION AND PARKS⁴

Footnotes:

--- (4) ---

Editor's note— Subtitle 6, §§ 19.600, 19.601, was added by § 91 of C.B. 62, 1988. Section 101 declared the bill effective July 1, 1989.

Sec. 19.600. - General provisions.

General provisions applicable to this department are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 62, 1988)

Sec. 19.601. - Department of Recreation and Parks.

- (a) *Head.* The Director of Recreation and Parks shall head the Department of Recreation and Parks.
- (b) *Qualifications of Director of Recreation and Parks.* The Director of Recreation and Parks shall be thoroughly trained and experienced in theory and practice relating to public recreation and the development, operation and maintenance of recreation facilities. The Director shall have had at least ten years of increasingly responsible experience in recreation and parks administration, including a minimum of five years in a managerial position.
- (c) *Duties and Responsibilities:*
 - (1) The Department of Recreation and Parks shall be responsible for:
 - (i) The organization and conduct of recreation and parks programs;

- (ii) The development, operation and maintenance of parks and other recreational facilities; and
 - (iii) The setting of fees for programs, which may include the establishment of a procedure for payment of a reduced fee based upon a participant's financial ability to pay.
- (2) The Department of Recreation and Parks shall encourage the development of cooperative programs and joint use of facilities with the Department of Education.
 - (3) *Other duties and responsibilities.* The Department of Recreation and Parks shall perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 62, 1988; C.B. 17, 1999)

Note— Section 2 of C.B. 17, 1999, declared the bill effective July 3, 1999.

SUBTITLE 7. - RECREATION AND PARKS BOARD⁵¹

Footnotes:

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Editor's note— Subtitle 7, § 19.700, was added by § 92 of C.B. 62, 1988. Section 101 declared the bill effective July 1, 1989.

Sec. 19.700. - Recreation and Parks Board.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members:* The Recreation and Parks Board shall have eight members.
- (c) *Members Shall Include:*
 - (1) The Chair of the Planning Board, or the Chair's Designee;
 - (2) The Chair of the Board of Education, or the Chair's Designee;
 - (3) Five residents of Howard County; and
 - (4) One high school student who is a resident of Howard County.

The Planning Board member's term on the Recreation and Parks Board shall be concurrent with that member's term of the Planning Board. The Board of Education member's term shall be concurrent with that member's term on the Board of Education. In 2009, a student member shall be appointed no later than June 1, 2009. In every year thereafter, a student member shall be appointed no later than March 15. The student member's term shall run from July 1 through June 30. A student member may be reappointed for a second term. The successor student member appointee may observe the current student member for the remainder of the term.

- (d) *Executive Secretary.* The Director of Recreation and Parks or the Director's designee shall serve as Executive Secretary of the Board and shall attend all meetings of the Board.
- (e) *Duties and Responsibilities.* The Recreation and Parks Board shall carry out all duties and responsibilities assigned to it by law:

- (1) *Matters regarding public recreation.* The Board of Recreation and Parks shall make recommendations to the County Executive and to the County Council relating to plans, policies and programs for:
 - (i) Public recreation.
 - (ii) The organization of recreation councils.
 - (iii) The acquisition and development of land for public recreation and open space consistent with the general plan.
- (2) *Other matters.* At the directive of the County Executive or by resolution of the County Council, the Recreation and Parks Board shall review and make recommendations on any matter related to parks or recreation.

(C.B. 62, 1988; C.B. 64-2008, 1-5-2009, eff. 3-10-2009)

TITLE 20 - TAXES, CHARGES, AND FEES¹¹

Footnotes:

--- (1) ---

Editor's note— C.B. 38, 1998 replaced former tit. 20 of the Code in its entirety, and enacted a new tit. 20 to read as herein set out. Former tit. 20 pertained to taxation and public credit. For a detailed history of the provisions of former tit. 20, see the Code Comparative Tables.

SUBTITLE 1. - REAL PROPERTY TAX; ADMINISTRATION, CREDITS, AND ENFORCEMENT

PART I. - ADMINISTRATION

Sec. 20.100. - Discount for prompt payment.

The Director of Finance shall apply a discount of 0.5 percent to annual real property taxes paid on or before July 31 following the due date or, if annual tax bills are not released by the due date, the Director of Finance may extend the discount up to 30 days following the date of release of the bills.

(C.B. 38, 1998; C.B. 41, 2011, § 1)

State Law reference— Authority to provide discount for prompt payment, Ann. Code of Md., Tax-Property article, § 10-301.

Sec. 20.101. - Reserved.

Editor's note— C.B. 22, 2000, effective August 8, 2000, repealed former § 20.101, which pertained to real property taxes in arrears, and derived from C.B. 38, 1998.

Sec. 20.102. - Penalty and interest for taxes in arrears.

The Director of Finance shall impose a penalty of 0.83 percent per month or part of a month and interest of 0.67 percent per month or part of a month on real property taxes billed on or after July 1, 1991, which are in arrears.

(C.B. 38, 1998)

State Law reference— Penalty charge on delinquent property taxes, Ann. Code of Md., Tax-Property article, § 14-702; interest on delinquent property taxes, Ann. Code of Md., Tax-Property article, § 14-603.

Sec. 20.103. - Advance payment of real property tax.

- (a) *Payment Authorized.* A property owner may make advance payment of County real property tax in accordance with the provisions of section 10-205 of the Tax-Property Article of the Annotated Code of Maryland.
- (b) *Calculation of Payment.* The advance payment is calculated by applying the current County property tax rate to the assessment of the property owner's real property for the prior year.
- (c) *Billing.* If the advance payment is less than the County real property tax as finally determined, the County shall send a bill to the property owner for the difference.
- (d) *Overpayment.* If the real property tax paid under this section is more than the real property tax finally determined, the Director of Finance shall send a refund to the property owner.

(C.B. 16, 2014, § 1)

PART II. - STATEWIDE TAX CREDITS²¹

Footnotes:

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State Law reference— Mandatory statewide tax credits, Ann. Code of Md., Tax-Property article, § 9-101 et seq.

Sec. 20.110. - Statewide mandatory tax credits.

- (a) *Tax Credits Contained in State Law.* Statewide mandatory tax credits under title 9, subtitle 1 of the tax-property article of the Annotated Code of Maryland are in effect in Howard County without the necessity of action by the governing body of Howard County.
- (b) *Homestead Property Tax Credit Percentage.* The homestead credit percentage under section 9-105 of the tax-property article is 105 percent.

(C.B. 38, 1998)

Sec. 20.111. - Statewide optional tax credits—In general.

Statewide optional tax credits under the Tax-Property Article of the Annotated Code of Maryland are in effect in Howard County upon enactment of local implementing legislation, which is contained in this part III.

(C.B. 38, 1998)

State Law reference— Optional property tax credits, Ann. Code of Md., Tax-Property article, § 9-201 et seq.

Sec. 20.112. - Historically valuable, architecturally valuable, or architecturally compatible structures.

- (a) *Establishment of Historic Tax Credit Program for Qualified Expenses.* In accordance with section 9-204 of the Tax-Property Article, Annotated Code of Maryland, there is a Howard County Property Tax Credit in the amount of 25 percent of the qualified expenses used for the restoration and preservation of an eligible historic property.
- (b) *Definitions.* In this section the following terms have the meanings indicated:
- (1) *Certificate of eligibility* means the order issued by the Commission to the owner of an eligible property, which authorizes the Department of Finance to apply a historic tax credit to the eligible property.
 - (2) *Commission* means the Historic Preservation Commission created under sections 6.324 and 16.604 of the County Code.
 - (3) *Eligible property* means:
 - (i) A structure that is listed on the Howard County Historic Sites Inventory and is designated by the Commission as historically significant;
 - (ii) A structure eligible for inclusion in the Howard County Historic Sites Inventory, which is added to the Inventory prior to the final approval of a certificate of eligibility;
 - (iii) An existing principal structure or historic outbuilding located within a local historic district in Howard County, which is determined by the Commission to be of historic or architectural significance, or to be architecturally compatible with the historic structures in the district;
 - (iv) A landscape feature located within a local historic district or listed on the Historic Sites Inventory, which is determined by the Commission to be of historic or architectural significance; or
 - (v) A cemetery, at least 50 years old, not operated as a business, which is listed on the Howard County Cemetery Inventory under section 16.1303 of the County Code.
 - (4) *Eligible work* means:
 - (i) Work done on an eligible property:
 - a. In compliance with the rules adopted by the Commission under subsection 16.606(e) of the County Code;
 - b. After the owner receives initial approval of an application for a certificate of eligibility; and
 - c. In conformity with the application for which initial approval was given.
 - (ii) *Eligible work* includes:
 - a. The repair or replacement of exterior features of the structure;
 - b. Work that is necessary to maintain the physical integrity of the structure with regard to safety, durability, or weatherproofing;
 - c. Maintenance of the exterior of the structure, including routine maintenance as defined in section 16.601 of the County Code;
 - d. Repair or replacement of historic landscape features such as masonry walls, fences, or other site features, if determined to be of historic or architectural significance by the Commission; and

- e. Repair or maintenance of existing gravestones, walls, fencing, or other site features of an eligible property that is a historic cemetery.
- (iii) *Eligible work* does not include:
 - a. New construction;
 - b. Interior finish work that is not necessary to maintain the structural integrity of the building; or
 - c. Landscape maintenance or new landscape plantings, except as defined above for historic landscape features.
- (5) *Qualified expenses*:
 - (i) The amount of money paid by the owner of an eligible property to a licensed contractor, architect, engineer or historic preservation consultant for eligible work, or for materials used to do eligible work.
 - (ii) In order to be eligible for a tax credit under this section, qualified expenses must be \$500.00 or greater.
- (6) *Routine maintenance*. Work that qualifies as routine maintenance under section 16.601 of the County Code.
- (c) *Procedures*:
 - (1) The owner of an eligible property may apply to the Commission for a historic tax credit for qualified expenses. The application shall be in the form and accompanied by additional information that the Commission, by rule, requires.
 - (2) The Commission or the Executive Secretary shall give initial approval of a certificate of eligibility:
 - (i) If it determines the property to be an eligible property;
 - (ii) If it determines that the proposed work is eligible work; and
 - (iii) If the eligible property is within a historic district, any required certificate of approval under section 16.603 of the County Code has been issued for the work.
 - (3) Upon completion of the work, the owner shall submit to the Commission documentation that the work was done in accordance with the initial approval of the certificate of eligibility and shall document all qualified expenses.
 - (4) The Commission shall review the application, the initial approval, and the documentation.
 - (5) At a public hearing, the Commission shall give final approval of the certificate of eligibility and shall determine:
 - (i) What work is eligible work; and
 - (ii) The dollar amount of qualified expenses for the work.
 - (6) The dollar amount of qualified expenses and the amount of the tax credit shall be entered on the certificate of eligibility.
 - (7) An owner who is denied all or part of a tax credit by the Commission may appeal the denial to the Circuit Court of Howard County.
 - (8) After final approval by the Commission, the Commission shall forward the certificate of eligibility to the Department of Finance.
 - (9) (i) The Department of Finance shall grant the tax credit for the tax year immediately following the year in which the certificate of eligibility is received by the Department.

- (ii) If the amount of the tax credit under this section exceeds the amount of the Howard County Real Property Tax, any unused portion of the tax credit may be applied to any property tax on the structure for up to five subsequent tax years.
- (d) *Certificate Runs with Property.* A certificate of eligibility runs with the property, and change in ownership does not result in the lapse of a tax credit granted under this section.
- (e) *Applicability Outside Historic District:*
 - (1) For property not located in an official local historic district, the certificate of eligibility establishes tax credit eligibility.
 - (2) Work not done in accordance with initial approval of a certificate of eligibility does not qualify for a historic tax credit, but otherwise is not subject to subsection 16.606(a) of the County Code regarding commission approval or section 16.610 of the County Code regarding enforcement.

(C.B. 38, 1998; C.B. 71, 2003, § 1; C.B. 7, 2013, § 1; C.B. 36, 2013, § 1; C.B. 11, 2014, § 3; C.B. 67, 2016, § 1)

State Law reference— Tax credit for historically valuable, architecturally valuable, or architecturally compatible structures, Ann. Code of Md., Tax-Property article, § 9-204.

Sec. 20.113. - Restorations and rehabilitations of historic or heritage properties.

- (a) *Establishment of Historic Tax Credit Program for Increase in Assessed Value.* In accordance with § 9-204.1 of the Tax-Property Article, Annotated Code of Maryland, there is a Howard County Property Tax Credit for Qualified Expenses not to exceed the difference between:
 - (1) The Howard County Real Property Tax that, but for the tax credit, would be payable on the assessed value of an eligible historic property after the expenditure of qualified expenses; and
 - (2) The Howard County Real Property Tax that would be payable on the assessed value of the property if there was no expenditure of qualified expenses.
- (b) *Definitions.* In this section the following terms have the meanings indicated:
 - (1) *Certificate of eligibility* means the order issued by the Commission to the owner of an eligible property, which authorizes the Department of Finance to apply a historic tax credit to the eligible property.
 - (2) *Commission* means the Historic Preservation Commission created under section 6.324 of this Code.
 - (3) *Eligible property* means a property that has undergone significant improvements, restoration, or rehabilitation resulting in an increase in assessed value, and is:
 - (i) A structure that is listed on the Howard County Historic Sites Inventory and is designated by the Commission as historically significant;
 - (ii) A structure eligible for inclusion in the Howard County Historic Sites Inventory, which is added to the Inventory prior to the final approval of a tax credit under this section; or
 - (iii) An existing principal structure or historic outbuilding located within a local historic district in Howard County, which is determined by the Commission to be of historic or architectural significance.
 - (4) *Increased assessment* means the State Department of Assessments and Taxation assessment that results from the improvement, restoration, or rehabilitation of eligible property.

- (5) *Qualified expenses* means the amount of money paid by the owner of an eligible property to a licensed contractor for improvements, restoration, or the rehabilitation of the property or for materials used to improve, restore, or rehabilitate the property.
- (c) *Procedures:*
- (1) The owner of an eligible property may apply for a certificate of eligibility under this section if:
 - (i) Qualified expenses are \$5,000.00 or greater;
 - (ii)
 - a. Prior to the expenditure of qualified expenses, the owner obtains a pre-approval determination from the Commission that the proposed improvements, restoration, and rehabilitation are in accord with the U.S. Secretary of Interior Standards and Guidelines on Rehabilitation of Historic Structures.
 - b. In the case of an emergency application due to flood, fire, or natural disaster, the Commission may issue a pre-approval determination after the expenditure of qualified expenses if the Commission determines that the work requiring the Certification was done in accordance with Title 6, Subtitle 6 of this Code and is in accord with the U.S. Secretary of Interior Standards and Guidelines on The Rehabilitation of Historic Structures.
 - (iii) A Certificate of Approval from the Commission is obtained for all work subject to Commission approval under section 16.603 of this Code, or any other provision of this Code or the Zoning Regulations that requires a Commission determination;
 - (iv) The owner files an application with the Commission:
 - a. Within 12 months of the increased assessment:
 - b. on a form provided by the Commission and accompanied by the pre-approval determination, itemized receipts documenting the qualified expenses, and additional information that the Commission, by rule, requires;
 - (v) The owner otherwise complies with the provisions of this section.
 - (2) The Commission shall issue a certificate of eligibility stating the amount of qualified expenses:
 - (i) If it determines the property to be an eligible property;
 - (ii) If the qualified expenses are documented to the satisfaction of the Commission; and
 - (ii) If any Certificate of Approval or Commission Determination required by this Code or the Zoning Regulations has been issued for the work.
 - (3) The owner of an eligible property may apply to the Department of Finance for a tax credit under this section if:
 - (i) A certificate of eligibility meeting the requirements of this section, for work done on the property, has been given final approval by the Commission; and
 - (ii) The assessed value of the property has increased after a valuation or revaluation under § 8-104 of the Tax-Property Article of the Annotated Code of Maryland.
 - (4) The Department of Finance shall grant the Howard County Real Property Tax Credit under this section, beginning with the first tax year in which the real property tax would increase as a result of the increased assessment.
 - (5)
 - (i) A tax credit under this section is granted annually for a term of ten years, provided that work requiring the approval of the Commission is done with the Commission's approval.
 - (ii) If the property is altered without the prior approval of the Commission:
 - a. The Department of Planning and Zoning shall notify the Department of Finance; and

- b. The tax credit under this section shall lapse beginning with the tax year immediately following the year in which notification is received by the Department of Finance.

(d) *Lapse of Credit Due to Damage to Property:*

- (1) A tax credit granted under this section shall lapse if any of the improvements, restoration, or rehabilitation which were covered by qualified expenses is damaged due to fire, weather or other natural causes.
- (2) The owner of the property may, as approved by the Commission, repair the damage and apply for a tax credit under this section.

(C.B. 38, 1998; C.B. 71, 2003; C.B. 11, 2014, § 3; C.B. 6, 2017, § 1)

State Law reference— Tax credit for restorations and rehabilitations of historic or heritage properties, Ann. Code of Md., Tax-Property article, § 9-204.1.

Sec. 20.114. - Newly constructed or substantially rehabilitated dwellings that are unsold or unrented.

(a) *Definitions:*

- (1) *Rehabilitated* means that capital improvements have been replaced or added to a single dwelling unit so as to increase the assessment for that unit by a minimum of 100 percent.
- (2) *Completion* of the construction or rehabilitation means the laying of the foundation, the completion of the framing and the roof, the roughing in of the plumbing and electricity and the installation of interior wall finishing.

(b) *Establishment of Tax Credit Program.* There is a program of tax credits against local property tax for single dwelling units, ready for occupancy, which are unsold, unoccupied or unrented after their construction or rehabilitation is complete.

(c) *Eligibility.* Owners of single dwelling units which are unsold, unoccupied or unrented after completion of construction or rehabilitation may apply for tax credits against local property taxes for that unit (but not for land on which it stands). Tax credits will not be allowed on single dwelling units used as exhibit or sample homes. Each property owner is eligible for tax credits on a maximum of three single dwelling units per fiscal year.

(d) *Application.* Upon completion of any newly constructed or substantially rehabilitated single dwelling unit, the owner thereof may apply to the Office of Finance for a tax credit for the dwelling unit but not for the land on which it is located. No tax credit shall be granted unless the owner applies for the tax credit within 30 days of completion of the construction or rehabilitation.

(e) *Termination of Tax Credit.* Immediately upon the sale, transfer, occupancy or rental of the single dwelling unit, the credit period shall end. No tax credit shall be granted unless the owner notifies the Office of Finance within 30 days of the sale, transfer, rental or occupancy of the unit.

(f) *Amount of tax credit:*

- (1) The tax credit granted shall be available for one continuous period, not to exceed one year.
- (2) The Director of Finance shall calculate the credit to be issued after all taxes due are paid. The credit shall be calculated on all County taxes levied beginning with the next tax levy period after receipt of the application and ending with the date of sale, transfer, rental or occupancy.
- (3) The tax credit granted shall be equal to 75 percent of the local property taxes levied on the assessed value of the improvements.

(g) *Administration.* The Director of Finance is authorized to establish procedures to administer the tax credit described above. The Director of Finance shall approve or deny any application for the tax credit and shall notify the Applicant of his ruling. Notice shall be deemed sufficient if mailed to the

Applicant at the address set forth in the application. Any denial of a tax credit shall be appealable to the Board of Appeals.

- (h) *Exclusion of State Property Taxes.* Nothing contained in this section shall apply to State taxes.
- (i) *Notification.* The Director of Inspections, Licenses and Permits is authorized to establish procedures to notify building permit applicants of the tax credit program at the time of application.

(C.B. 38, 1998)

State Law reference— Tax credit for newly constructed or substantially rehabilitated dwellings that are unsold or unrented, Ann. Code of Md., Tax-Property article, § 9-207.

Sec. 20.115. - Credit for day care providers; credit for family day care homes or group day care centers.

(a) *Definitions.* In this section, the following terms have the meanings indicated:

- (1) *Adult* means individuals, 60 years and older, and determined by geriatric evaluation service or a physician to be unable to care for themselves; or medically handicapped adults, 18 years or older, who are unable to care for themselves as certified by a physician.
 - (2) *Child* means any individual under 16 years of age.
 - (3) *Day care provider* means any person, firm, corporation or establishment licensed, registered or accredited under the laws of the State or County who provides family or group child or adult care services on a regular basis.
 - (4) *Family day care* means the care given to a child in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the day care provider is paid, or, the care given to an adult for less than 24 hours a day, in a residence other than the adult's residence, for which the day care provider is paid, provided that the provider is not related by marriage or kinship.
 - (5) *Group day care center* means any agency, institution or establishment, that for part or all of the day, on a regular schedule, and at least twice a week, offers group day care to adults or to children who do not have the same parentage as the day care provider.
 - (6) *Improvement* means an addition to or modification of real property which adds to the assessed valuation of the property as determined by the State Department of Assessments and Taxation.
 - (7) *Exclusive use* or *used exclusively* means a design and use which is predominantly for day care use. Any other use shall only be incidental to the intended use.
 - (8) *Employer day care provider* means owner of a business having at least 25 employees and having an area set aside and dedicated exclusively for a day care center that is:
 - (i) Registered as a family day care home under title 5, subtitle 5, part V of the Family Law Article of the Annotated Code of Maryland; or
 - (ii) Licensed as a group day care center under title 5, subtitle 5, part VII of the Family Law Article of the Annotated Code of Maryland.
- (b) *Amount of Credit.* In accordance with the provisions of §§ 9-213 and 9-214 of the Tax-Property Article of the Annotated Code of Maryland, an owner of real property may receive a Property Tax Credit against the general County tax for an improvement of that real property, if the improvement is used exclusively for the purpose of providing family or group adult day care or child day care services offered by a licensed or accredited day care provider.
- (c) *Limitation on Tax Credit.* The Property Tax Credit shall not exceed the lesser of:
- (1) Three thousand dollars annually; or

- (2) The amount of the County property tax attributable to the improvement.
- (d) *Terms of Credit:*
- (1) The improvement to the premises of an adult day care provider or child day care provider must be made after July 1, 1987.
 - (2) The improvement to the premises of an employer day care provider is limited to that portion of the property that was substantially completed after July 1, 1988.
- (e) *Application for Tax Credit:*
- (1) The Director of Finance shall administer the provisions of this section and shall adopt rules and regulations for the implementation of this section.
 - (2) The applicant shall apply for the tax credit with the Department of Finance within 30 days after issuance of the tax bill reflecting the improvement.
 - (3) The applicant shall certify in writing that the day care provider is licensed, registered or accredited by the State or County.
 - (4) The applicant shall certify in writing, each year after the initial application, that the improvement is used exclusively for child or adult day care.
 - (5) For an improvement to be eligible for the credit, the Applicant shall agree in writing that the day care provider shall accept children and or adults regardless of race, color, creed, sex or national origin.

(C.B. 38, 1998)

State Law reference— Tax credit for day care providers, family day care homes or group day care centers, Ann. Code of Md., Tax-Property article, §§ 9-213, 9-214.

Sec. 20.116. - Property leased, occupied, or used by religious groups or organizations.

- (a) *Establishment of Tax Credit Program.* In accordance with the provisions of § 9-222 of the Tax-Property Article of the Annotated Code of Maryland there is a tax credit against the property tax imposed on real property in Howard County for that portion of the property that is leased, occupied and used by a religious group or organization and which meets each of the conditions required by State law set forth in subsection (b) of this section.
- (b) *Conditions:*
- (1) The religious group or organization would qualify for a property tax exemption under § 7-204 of the Tax-Property Article of the Annotated Code of Maryland.
 - (2) The portion of the property upon which the tax credit is based is used exclusively for:
 - (i) Public religious worship;
 - (ii) Educational purposes; or
 - (iii) Office space necessary to support or maintain public religious worship or educational purposes.
 - (3) The property upon which the tax credit is based is not leased, occupied or used for the purpose of making a profit.
 - (4) The religious group or organization is contractually liable to the owner for property taxes.
 - (5) The owner of the property eligible for a tax credit pursuant to this section, is contractually obligated to reduce, by the amount of the tax credit, the amount of taxes for which the religious group or organization is otherwise contractually liable.

- (c) *Amount:*
- (1) The amount of the tax credit shall be the full amount of property tax imposed pursuant to § 6-202 of the Tax-Property Article of the Annotated Code of Maryland by Howard County on that portion of real property leased by a religious group or organization which meets the conditions of subsection (b) of this section.
 - (2) The amount of the tax credit shall not exceed the amount of the tax for which the religious group or organization is contractually liable.
- (d) *Administration.* The Director of Finance is authorized to develop an application form and establish procedures to administer the tax credit established in this section.
- (e) *Application and Approval Process:*
- (1) An application for the tax credit shall be submitted to the Director of Finance and shall be signed by both the owner of the real property and the religious group or organization which is or will become the lessee. A copy of the executed lease between the property owner and the lessee shall be submitted with the application.
 - (2) Tax credits shall be available on an annual tax year basis. Applications for the tax credit shall be submitted to the Director of Finance no later than April 1 prior to the tax year for which the credit is being requested.
 - (3) The Director of Finance will submit the application to the supervisor of the Department of Assessments and Taxation in Howard County or designee to determine:
 - (i) Whether the lessee qualifies as an exempt organization under § 7-204 of the Tax-Property Article of the Annotated Code of Maryland; and
 - (ii) The amount of the assessed value attributable to the portion of the property used by the religious group or organization for purposes permitted under subsection (b) of this section.
 - (4) After receiving the determinations from the supervisor of the Department of Assessments and Taxation or designee, the Director of Finance shall notify the owner and lessee whether the lessee qualifies as an exempt organization, the amount of the assessed value upon which the tax credit will be based, and the amount of the tax credit.
- (f) *Appeal.* An owner of real property who has applied for the tax credit established in this section may appeal the following to the Howard County Property Tax Assessment Appeal Board:
- (1) A denial of the tax credit based on a determination by the supervisor of the Department of assessment and taxation in Howard County or designee that the religious group or organization would not be qualified for an exemption pursuant to § 7-204 of the Tax-Property Article of the Annotated Code of Maryland.
 - (2) The amount of the assessed value upon which the tax credit will be based.
- (g) *Termination and Repayment of Tax Credit:*
- (1) Entitlement to the tax credit shall terminate when the religious group or organization no longer occupies the property or when the use of the property no longer meets each of the conditions stated in subsection (b) of this section.
 - (2) Upon termination of the tax credit the Director of Finance shall issue a bill for the additional tax due which equals the amount of the tax credit divided by the percentage of the tax year during which the property was not eligible for the credit.
 - (3) The amount of any unearned tax credit is due and shall be paid in full within 30 days after the bill is issued.
 - (4) If the bill remains unpaid after 30 days after the bill is issued, interest and penalties shall be charged, as provided in section 20.102 of the Howard County Code and may be treated for all

purposes as other taxes imposed on real property pursuant to § 6-202 of the Tax-Property Article of the Annotated Code of Maryland.

(C.B. 38, 1998)

State Law reference— Tax credit for property leased, occupied, or used by religious groups or organizations, Ann. Code of Md., Tax-Property article, § 9-222.

Sec. 20.117. - Brownfields property tax credit.

(a) *Definitions.* The following terms have the meanings indicated:

- (1) *Brownfields Incentive Fund* means the Brownfields Revitalization Incentive Fund established under article 83A, § 3-904 of the Annotated Code of Maryland.
- (2) *Enterprise zone* has the meaning indicated in article 83A, § 5-401 of the Annotated Code of Maryland.
- (3) *Increased property tax liability* means the remaining Howard County and Maryland State real property tax liability, after first applying all other property tax credits applicable to the site, attributable to the increase in the assessment of a qualified brownfields site, including improvements added to the site within the tax credit period provided for in this section, over the assessment of the qualified brownfields site before this voluntary cleanup or corrective action plan.
- (4) *Qualified brownfields site* has the meaning indicated in article 83A, § 3-901(D) of the Annotated Code of Maryland.

(b) *Participation in Program; Tax Credit Established:*

- (1) Pursuant to article 83A, § 9-229 of the Annotated Code of Maryland, Howard County elects to participate in the Brownfields Revitalization Program and to provide tax credits as authorized under that section.
- (2) There is a Howard County Property Tax Credit against the tax on real property of a qualified brownfields site in an amount equal to 70 percent of the increased property tax liability.

(c) *Application of Credit.* The credit shall apply in each of the taxable years immediately following the first revaluation of the qualified brownfields site after completion of a voluntary cleanup or corrective action plan for:

- (1) Five taxable years; or
- (2) If the site is in an enterprise zone, eight taxable years.

(d) *Contribution to Fund.* For each year the County grants a credit under this section, the County shall contribute to the Brownfields Revitalization Incentive Fund an amount equal to thirty percent of a qualified brownfields site's increased property tax liability.

(e) *Procedures:*

- (1) The owner of a qualified brownfields site may apply to the Director of Finance, on or before April 1 prior to the taxable year in which the credit is requested to begin, for a credit under this section.
- (2) The application shall be accompanied by proof that the Applicant has qualified for financial incentives under the "Brownfields Revitalization Incentive Program" as enacted by chapters 1 and 2 of the Acts of the Maryland General Assembly of 1997, and any additional information the Director of Finance requires.
- (3) If an application under this subsection is approved, the Department of Finance shall forward the application to the supervisor of the Department of Assessments and Taxation in Howard

County and request a determination of the portion of the increase in assessed value that is due to the completion of the voluntary cleanup or corrective action plan or, in the case of an improvement made during the period the credit is in effect, a determination of the portion of the increase in assessed value that is due to the improvement.

- (4) Upon receipt of the determination by the Department of Assessments and Taxation, the Department of Finance shall calculate the amount of the credit and grant the credit in accordance with this section.
- (f) *Termination of Credit.* A tax credit under this section shall terminate if:
 - (1) A person receiving a credit under this section withdraws from the voluntary cleanup program under § 7-512(A) or (B) of the Environment Article of the Annotated Code of Maryland; or
 - (2) The Department of the Environment withdraws approval of a response action plan, or a certificate of completion under § 7-512(E) and (F) of the Environment Article.

(C.B. 54, 1999)

State Law reference— Financial incentives for qualified Brownfields sites, Ann. Code of Md., Tax-Property article, § 9-229.

Sec. 20.118. - Credit for installation of sprinkler systems in historic buildings.³¹

- (a) *Eligible Improvement* defined. In this section, *eligible improvement* means an improvement to real property that is:
 - (1) A principal structure listed on the Howard County Historic Sites Survey;
 - (2) A principal structure eligible for inclusion in the Howard County Historic Sites Survey, which is added to the survey prior to application for a credit under this section; or
 - (3) A commercial building located within a local historic district in Howard County.
- (b) *Credit Established.* In accordance with § 9-232 of the Tax-Property Article, Annotated Code of Maryland and the provisions of this section, there is a tax credit against the Howard County property tax imposed on an eligible improvement if an automatic fire protection sprinkler system is installed in the improvement.
- (c) *Amount and Duration of Credit:*
 - (1) The credit under this section is equal to ten percent of the installation cost of each sprinkler system as certified under subsection (d) of this section.
 - (2) The tax credit under this section shall apply each year for five consecutive years.
 - (3) If the Howard County property tax due is less than the credit under this subsection the excess credit does not carry over to future years.
- (d) *Certification of Costs:*
 - (1) After a fire protection sprinkler system is installed in an eligible improvement, the owner may apply to the Director of Inspections, Licenses and Permits for a certification of the installation costs.
 - (2) An application under paragraph (1) of this subsection shall be accompanied by:
 - (i) Documentation of the costs incurred in the installation;
 - (ii) A copy of the final inspection report; and
 - (iii) Any other information the Director requires.

(e) *Application for Tax Credit:*

- (1) After the owner of an eligible improvement obtains the certification under subsection (d) of this section, the owner may apply to the Department of Finance for a tax credit under this section. The application shall be in the form prescribed by the Director of Finance and shall be accompanied by the certification [under paragraph] (2) of this subsection and any additional information that the Director of Finance requires. The owner shall submit a completed application on or before April 1 of the year in which the credit is requested to begin.
- (2) If an application under paragraph (1) of this subsection is approved, the Director of Finance shall grant the tax credit beginning in the tax year immediately following the approval.

- (f) *Credit Runs with Property.* A tax credit under this section runs with the property, and change in ownership does not result in the lapse of a tax credit granted under this section.

(C.B. 10, 2000)

Footnotes:

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Editor's note— C. B. 10, 2000 set out provisions for use as § 20.117. Inasmuch as § 20.117 is an existing section pertaining to Brownfields Property Tax Credit, for purposes of clarity, and at the editor's discretion, the provisions of C.B. 10, 2000 have been included herein as § 20.118.

Sec. 20.119. - Green building energy conservation devices.

- (a) *Definition.* A qualifying energy conservation device means an energy conserving device that receives a leadership in energy and environmental design (LEED) credit, including, but not limited to, a solar energy or geothermal energy device, that is utilized by a structure certified by the U.S. Green Buildings Council as LEED certified, at any level specified in subsection (c) of this section.
- (b) *Establishment of Tax Credit; Eligibility:*
 - (1) In accordance with section 9-203 of the tax-property article, Annotated Code of Maryland, and the provisions of this section, there is a tax credit against the County real property tax imposed on a structure that is LEED-certified, at a level specified in subsection (c) of this section, for a qualifying energy conservation device used to heat or cool the structure or to provide hot water for use in the structure.
 - (2) A property owner is eligible to receive a credit under this section only if they do not qualify to receive a credit for a high performance building under section 20.129B of this Code.
- (c) *Amount of Credit:*
 - (1) The amount of tax credit may not exceed the assessed property tax on the structure.
 - (2) Eligible costs are those that are:
 - (a) Incurred within the last 36 months of the initial application for the credit; and
 - (b) Incurred for the device, including any necessary part, component or accessory equipment of the device, and any necessary labor to construct or install the device.
 - (3) The full amount of the tax credit allowed may be given each tax year for the duration of the credit. The tax credit allowed is a percentage of the eligible costs, based upon the classification of the structure, as follows:
 - (a) LEED certified - 14 percent
 - (b) LEED certified silver - 16 percent

- (c) LEED certified gold - 18 percent
- (d) LEED certified platinum level - 20 percent.
- (d) *Duration of Tax Credit.* The duration of this credit is three consecutive tax years.
- (e) *Application for Tax Credit.* An application for a tax credit under this section shall be submitted to the Director of Finance on or before April 1 of the tax year in which the credit is requested to begin. Applications shall be on forms prepared and furnished by the Director. The forms shall include, at a minimum, certification that all costs applied for a tax credit are eligible costs under this section, and verification of LEED certification of the building and LEED credit awarded for the qualifying energy conservation device. If a tax credit application is approved by the Director, the credit may be applied in compliance with this section for the duration of the credit without reapplying.

(C.B. 54, 2002, § 1; C.B. 49, 2007, § 1)

State Law reference— Tax credits for high performance buildings, Ann. Code of Md., Tax-Property article, § 9-242.

Sec. 20.119A. - Credit for disabled law enforcement officer or rescue worker or surviving spouse of fallen law enforcement officers or rescue workers.

- (a) *Definitions.* In this section the following words have the meanings indicated:
 - (1) (i) *Disabled law enforcement officer or rescue worker* means an individual who:
 - 1. Has been found to be permanently and totally disabled by an administrative body or court of competent jurisdiction authorized to make such a determination; and
 - 2. Became disabled:
 - a. As a result of or in the course of employment as a law enforcement officer or correctional officer for Howard County or a jurisdiction with reciprocity; or
 - b. While in active service of a career or volunteer fire, rescue, or emergency medical service of Howard County or a jurisdiction with reciprocity.
 - (ii) *Disabled law enforcement officer or rescue worker* does not include an individual whose disability is the result of:
 - 1. The individual's own willful misconduct or abuse of alcohol or drugs; or
 - 2. An occupational disease that did not result from an accidental injury within the meaning of those terms under the Maryland Workers Compensation Act.
 - (2) (i) *Dwelling* means real property that:
 - 1. Is the legal residence of a surviving spouse or disabled law enforcement officer or rescue worker; and
 - 2. Is occupied by not more than two families.
 - (ii) *Dwelling* includes the lot or curtilage and structures necessary to use the real property as a residence.
 - (3) *Fallen law enforcement officer or rescue worker* means an individual who dies:
 - (i) As a result of or in the course of employment as a law enforcement officer or correctional officer; or
 - (ii) While in the active service of a fire, rescue, or emergency medical service, unless the death was a result of the individual's own willful misconduct or abuse of alcohol or drugs.

- (4) *Jurisdiction with reciprocity* means a jurisdiction in the State of Maryland that offers a similar credit to a Howard County disabled law enforcement officer or rescue worker.
 - (5) *Surviving spouse* means a surviving spouse, who has not remarried, of a fallen law enforcement officer or rescue worker.
- (b) *Credit.* In accordance with section 9-210 of the Tax-Property Article of the Annotated Code of Maryland, an owner of real property may receive a property tax credit under this section against the County property tax imposed on a dwelling if the owner is a disabled law enforcement officer or rescue worker or the surviving spouse of a fallen law enforcement officer or rescue worker and:
- (1) The dwelling was owned by:
 - (i) The disabled law enforcement officer or rescue worker at the time the law enforcement officer or rescue worker was adjudged to be permanently and totally disabled; or
 - (ii) the fallen law enforcement officer or rescue worker at the time of the fallen law enforcement officer or rescue worker's death;
 - (2)
 - (i) The disabled law enforcement officer or rescue worker, fallen law enforcement officer or rescue worker or the surviving spouse was domiciled in the State as of the date of the fallen law enforcement officer or rescue worker's death or the disabled law enforcement officer or rescue worker's disability and;
 - (ii) The dwelling was acquired by the disabled law enforcement officer or rescue worker or surviving spouse within two years of the date the disabled law enforcement officer or rescue worker was adjudged to be permanently and totally disabled or the fallen law enforcement officer or rescue worker's death; or
 - (3) The dwelling was acquired after the surviving spouse or disabled law enforcement officer or rescue worker qualified for a credit for a former dwelling under item (1) or (2) of this subsection, to the extent of the previous credit.
- (c) *Amount of Credit.* The amount of the tax credit is equal to 100 percent of the County property tax imposed on the dwelling.
- (d) *Term of Credit.*
- (1) The tax credit continues until the surviving spouse remarries or until the disabled law enforcement officer or rescue worker is no longer permanently and totally disabled as determined by an administrative body or court of competent jurisdiction authorized to make such a determination. Additional applications are not required.
 - (2) An individual who received a credit based on employment or service in a jurisdiction with reciprocity is not disqualified from receiving the credit because the jurisdiction discontinues offering a similar credit to a Howard County disabled law enforcement officer or rescue worker.
- (e) *Application.* A surviving spouse or disabled law enforcement officer or rescue worker:
- (1) Is eligible for the tax credit beginning in the first taxable year after the date of the:
 - (i) Fallen law enforcement officer or rescue worker's death; or
 - (ii) Disabled law enforcement officer or rescue worker's disability; and
 - (2) Shall apply for the tax credit on or before September 30 in the taxable year for which the credit is requested to begin.
- (f) *Administration.*
- (1) The Director of Finance shall develop an application form and establish procedures to administer the tax credit established in this section.

- (2) Notwithstanding subsection (d) of this section, the Director of Finance may require an individual who receives a tax credit under this section to provide evidence of continued eligibility for the credit.
- (g) *Construction.* An individual who worked for a jurisdiction with reciprocity is eligible to receive a credit under this section only to the extent the individual would qualify for the similar tax credit in the jurisdiction with reciprocity if the individual were a resident there.

(C.B. 7, 2003, § 1; C.B. 52, 2003, § 1; C.B. 76, 2007, § 1; C.B. 52, 2009, § 1)

Editor's note— C.B. 52, 2009, § 1, adopted Nov. 3, 2009, amended § 20.119A title as herein set out. Former § 20.119A title pertained to credit for surviving spouse of fallen law enforcement officers or rescue workers. See the Code Comparative Table for complete derivation.

State Law reference— Tax credits for dwelling owed by surviving spouse of fallen law enforcement officer or rescue worker, Ann. Code of Md., Tax-Property article, § 9-210.

Sec. 20.119B. - Ellicott City Strong Tax Credit.

- (a) *Credit Established.* In accordance with section 9-211 of the Tax-Property Article of the Annotated Code of Maryland and this section, there is a Howard County Property Tax Credit against the County real property tax on residential real property, but not personal property, that qualifies under this section as residential property damaged by flood conditions.
- (b) *Eligibility.* The owner of a residential property may qualify for a tax credit under this section if the property suffered flood damage or sewage damage caused by flood conditions on July 30 or 31, 2016.
- (c) *Amount and Duration of Credit.*
 - (1) Subject to the conditions in this section, the tax credit may be granted in an amount of up to 100 percent of the cost to repair, rehabilitate, or restore the property.
 - (2) In tax years 2017 and 2018, the Department of Finance shall grant to a qualified applicant the credit authorized by this section.
 - (3) Subject to paragraph (2) of this subsection, if the credit exceeds the County property tax in the year of application, the Department of Finance shall apply the excess to future tax years for up to a total of four years.
- (d) *Application.*
 - (1) To receive the credit, a property owner shall submit an application to the Department of Finance:
 - (i) In the format that the Department of Finance requires;
 - (ii) That includes the documentation that the Department of Finance requires; and
 - (iii) During 2017, on or before the dates that the Department of Finance sets.
 - (2) Only one application for a credit under this section may be accepted for each property during a single tax year.
- (e) *Annual Limit.*
 - (1) During a fiscal year, the total of all tax credits paid to applicants under this section shall not exceed \$250,000.00.
 - (2) In a year when the qualified applications, if paid to the full amount possible for that year based on the annual County property tax bill of each qualified applicant, would exceed the limit set in

paragraph (1) of this subsection, the Department of Finance shall pay each qualified applicant proportionately based on the applicant's remaining eligible expenses.

- (3) If a credit exceeds the County property tax in the year of application, the Department of Finance shall apply the excess to future tax years for up to a total of four years.
- (f) *Publicity.* The Department of Finance shall publicize the credit authorized by this section in a way designed to inform those most likely to benefit from the credit.
- (g) *Report.* The Department of Finance shall provide a preliminary analysis to the County Council on or before June 30, 2017, on usage of the Ellicott City Strong Tax Credit that includes, but is not limited to, information about the number of applicants, the dollar amount of credits allowed, and the projected timeline to pay remaining credits. The Department of Finance shall provide an updated analysis to the County Council on or before January 15, 2018, on usage of the Ellicott City Strong Tax Credit that includes, but is not limited to, information about the number of applicants, the dollar amount of credits allowed, and the projected timeline to pay remaining credits. The reports required by this subsection shall be submitted in accordance with section 22.1000 of the County Code.
- (h) *Short Title.* The tax credit established under this section may be cited as "Ellicott City Strong Tax Credit".

(C.B. 66, 2016, § 1; C.B. 43, 2018, § 1)

PART III. - STATE-AUTHORIZED HOWARD COUNTY TAX CREDITS⁴¹

Footnotes:

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State Law reference— Authorized tax credits in Howard County, Ann. Code of Md., Tax-Property article, § 9-315.

Sec. 20.120. - In general.

Optional tax credits applicable only to Howard County under the Tax-Property Article of the Annotated Code of Maryland are in effect in Howard County upon enactment of local implementing legislation, which is contained in this part III.

(C.B. 38, 1998)

Sec. 20.121. - Community associations.

- (a) *Definitions.* As used in this section, the term *community association* shall mean any nonprofit community association or corporation organized or operated for the promotion of the common good and social welfare of any group of persons residing in Howard County.
- (b) *Amount of credit.* In accordance with § 9-315(a)(1) of the Tax-Property Article of the Annotated Code of Maryland, there is hereby granted, upon the application of any community association, a tax credit against the amount of Howard County taxes with respect to real or tangible personal property owned by community associations and used for community, civic, educational, library or park, purposes, that is not a swimming pool, tennis court, or similar recreational facility.

Such community association may charge a fee for the use of such property, but such fee may not exceed an amount sufficient to pay for the cost of the construction and maintenance of such property. For any taxable year in which the tax credits are granted or continued, the tax credits granted by this section

shall equal 100 percent of the assessed value of such real or tangible personal property multiplied by the applicable Howard County tax rate for each such taxable year, provided that this credit shall not apply to special purpose taxes, such as the ad valorem, front foot benefit charge and fire tax. Tax credits may not be granted for any swimming pools, tennis courts or similar recreational facilities.

- (c) *Term of Tax Credit.* The tax credits granted pursuant to this section shall continue from year to year so long as:
 - (i) The property for which the tax credit is granted continues to be used for community, civic, educational, library or park purposes in Howard County; and
 - (ii) The community association granted such tax credits files the annual reports required by paragraph (e) of this section.
- (d) *Application for Tax Credit.* Applications for the tax credits provided in this section shall be filed with the Director of Finance. Such application shall be submitted on forms prepared and furnished by the Director of Finance and shall contain a declaration preceding the signature of the duly authorized representative of the Applicant to the effect that such application is made under article 24, § 1-105 of the Annotated Code of Maryland. The Director of Finance shall approve or disapprove any application filed pursuant to this section within 30 days of receipt of such application and shall notify the Applicant of his decision at the address set forth in the application. Decisions of the Director of Finance relating to this section shall be appealable to the Board of Appeals within 30 days pursuant to the provisions of article V of the Howard County Charter and title 2 of this Code. Applications shall be received by the Director of Finance not later than October 1 of the taxable year for which the credit is claimed. This credit may apply only to taxes which initially accrue on or after July 1, 1977.
- (e) *Annual Reports.* Each community association granted a tax credit pursuant to this section shall file annually with the Director of Finance a report confirming that it is a community association and that the property for which the tax credit was originally granted continues to comply with the requirements of paragraph (b) of this section. Such reports shall be submitted on forms prepared and furnished by the Director of Finance and shall contain a declaration preceding the signature of the authorized representative of the Applicant that such report is made under Article 24, § 1-105 of the Annotated Code of Maryland. Such report shall be received by the Director of Finance not later than October 1 of each taxable year for which the tax credit to any community association shall be continued.

(C.B. 38, 1998)

State Law reference— Tax credit for community associations authorized, Ann. Code of Md., Tax-Property article, § 9-215(a)(1).

Sec. 20.122. - Agricultural land.

- (a) *Definitions.* In this section, *agricultural land* means real property subject to an easement or other interest that is permanently conveyed or assigned to either:
 - (1) The Maryland Agricultural Land Preservation Foundation under § 2-504 of the Agricultural Article of the Annotated Code of Maryland; or
 - (2) To Howard County, Maryland, under the provisions of subtitle 5, "Agricultural Land Preservation," of title 15, "Natural Resources," of the Howard County Code.
- (b) *Amount of Credit.* In accordance with the provisions of § 9-206 and § 9-315(a)(2) of the Tax-Property Article of the Annotated Code of Maryland, an owner of agricultural land may receive a property tax credit equaling 75 percent of any County property tax imposed on that land, not including any improvements.
- (c) *Application for Tax Credit:*
 - (1) The Director of Finance shall administer the provisions of this section.

- (2) An eligible owner of agricultural land shall apply for tax credit with the Director of Finance within 30 days of the issuance of each annual property tax bill.

(C.B. 38, 1998)

State Law reference— Tax credit real property that is subject to the county's agricultural land preservation program authorized, Ann. Code of Md., Tax-Property article, § 9-215(a)(2).

Sec. 20.123. - Commercial or industrial business.

(a) *Establishment of Tax Credit for Commercial or Industrial Business:*

- (1) In accordance with § 9-315(a)(3) of the Tax-Property Article, Annotated Code of Maryland, there is a Howard County Property Tax Credit against the tax on real property owned or occupied by a commercial or industrial business that qualifies under this section.
- (2) The Department of Finance shall administer the credit.

(b) *Definitions.* In this section the following terms have the meanings indicated:

(1) *Commercial or industrial business:*

- (i) Means an enterprise engaged in an activity identified in the Howard County Economic Development Strategic Plan as a target for the County's business attraction and retention efforts; and
- (ii) Shall include businesses located in an office, research and development businesses, technology-based businesses, manufacturing facilities, distribution facilities, retail stores, restaurants, hotels, motels, or recreational facilities.

(2) *Substantial investment* means:

- (i) The acquisition of a building, land, or equipment that totals at least \$2,000,000.00; or
- (ii) The creation of ten positions with salaries greater than the current average annual wage in Howard County.

(c) *Conditions.* A commercial or industrial business qualifies for a tax credit under this section if the business:

- (1) Applies for the credit under the procedures in this section;
- (2) (i) Owns real property in Howard County that is new construction, or an improvement to an existing facility; or
(ii) Subject to the provisions of subsection (f)(2) of this section, rents or leases real property in Howard County that is new construction or an improvement to an existing facility;
- (3) Is currently or will be doing business in Howard County;
- (4) Will employ at least 12 additional full-time local employees by the second year in which the credit is allowed, not including an employee filling a job created when a job function is shifted from an existing location in the State to Howard County;
- (5) Makes a substantial investment in Howard County;
- (6) Is approved by the economic development authority and the County Executive under subsection (e)(3) of this section; and
- (7) Enters into an agreement with the County under subsection (f) of this section.

(d) *Amount and Duration of Credit:*

- (1) Subject to paragraph (3) of this subsection, and except as provided in subsection (g) of this section, the tax credit under this section shall be granted annually for a term not to exceed ten years beginning with the first tax year in which the real property tax would increase as a result of an increase in assessment due to new construction or an improvement to an existing facility.
 - (2) As part of the procedure under subsection (e)(3) of this section, the County Executive shall establish the tax credit in an amount expressed as a percent of the additional County tax imposed on real property that is a result of an increase in assessment due to the new construction or improvement, according to the following schedule:
 - (i) Up to 100 percent for years one and two that the credit is granted;
 - (ii) Up to 80 percent for years three and four that the credit is granted;
 - (iii) Up to 60 percent for years five and six that the credit is granted;
 - (iv) Up to 40 percent for years seven and eight that the credit is granted; and
 - (v) Up to 20 percent for years nine and ten that the credit is granted.
 - (3) Notwithstanding any other provision of this section, the tax credit under this section may not exceed the amount of County property tax imposed on the property that is a result of an increase in assessment due to the new construction or improvement.
- (e) *Procedures:*
- (1) The economic development authority and the Department of Finance shall develop an application form and establish procedures to administer the tax credit under this section.
 - (2) A business may apply for the credit to the economic development authority. For tax years beginning July 1, 1997 and thereafter, applications for the credit shall be submitted no later than April 1 prior to the first tax year for which the credit is being requested.
 - (3) The economic development authority and the County Executive shall evaluate the application under criteria established by the Authority, and may deny or approve the application, subject to any terms and conditions as required under the criteria.
 - (4) If an application is approved it shall be forwarded to the Director of Finance. The Director of Finance shall forward the approved application to the supervisor of the Department of Assessments and Taxation in Howard County, who shall determine what portion of the increase in assessed value is due to the new construction or improvement.
 - (5) After the determination by the Department of Assessments and Taxation, the Department of Finance shall grant the Howard County Real Property Tax Credit under this section beginning with the first tax year in which the real property tax would increase as a result of an increase in assessment due to the new construction or improvement.
- (f) *Agreement to Implement Credit:*
- (1) The recipient of a tax credit under this section who is the owner of the real property subject to the credit shall enter into a contract with the County, which specifies reporting requirements and conditions under which the credit may be suspended or revoked.
 - (2) The recipient of a tax credit under this section who is the lessee of the real property subject to the credit, and the lessor of the property shall enter into a contract with the County. A contract under this paragraph shall specify:
 - (i) The reporting requirements and conditions under which the credit may be suspended or revoked;
 - (ii) That the amount of the tax credit granted under this section shall pass through to the commercial or industrial business that conducts the activity that qualifies for the credit; and
 - (iii) That the term of the tax credit may not exceed the term of the lease and may not, in any event, exceed ten years.

- (g) *Alteration of Credit by County.* If it is determined to be in the best interest of the County, the governing body of the County may approve a credit for an individual business that is of a different amount or duration than is specified under subsection (d) of this section.
- (h) *Annual Report:*
- (1) Subject to section 22.1000 of the County Code, the Economic Development Authority shall report annually to the County Executive and the County Council concerning the implementation of the tax credit under this section.
 - (2) The report under this subsection shall:
 - (i) Be submitted no later than September first of each year; and
 - (ii) Include, for each recipient of a credit under this section during the previous fiscal year:
 - a. The name of the recipient;
 - b. The number of jobs created and currently occupied as a result of the activity that qualified the recipient for the credit and the salary for each such job; and
 - c. The amount of the credit granted.

(C.B. 38, 1998; C.B. 54, 2009, § 1; C.B. 43, 2018, § 1)

State Law reference— Tax credit for community associations authorized, Ann. Code of Md., Tax-Property article, § 9-215(a)(3).

Sec. 20.124. - Therapeutic riding facility property tax credit.

- (a) In accordance with the Tax-Property Article § 9-315(A)(4) of the Annotated Code of Maryland, the owner of the real property that is used as a therapeutic riding facility may receive a property tax credit equal to 100 percent of the County real property tax imposed, provided that the owner:
- (1) Is a nonprofit organization that is exempt from taxation under § 501(C)(3) of the Internal Revenue Code;
 - (2) Furnishes services to disabled individuals; and
 - (3) Has at least 85 percent of its clients who are disabled individuals.
- (b) The tax credit granted under this section continues as long as the property continues to be used as a therapeutic riding facility and the owner meets the requirements of subsection (a) of this section.
- (c) The Department of Finance shall develop an application form and establish procedures to administer the credit established by this section.
- (d) In order to receive a credit, a property owner shall:
- (1) Submit an application to the Department of Finance on or before April 1 prior to the taxable year for which the credit is requested; and
 - (2) Provide any information required to demonstrate that the owner is entitled to the credit.
- (e) If the owner meets the criteria for the credit, the Department of Finance shall grant the credit in accordance with this section.

(C.B. 55, 1999; C.B. 15, 2002, § 1)

Editor's note— Pursuant to § 2 of C.B. 15, 2002, § 20.124(a) "shall be construed to apply to all tax years beginning after June 30, 2002".

State Law reference— Tax credit for therapeutic riding facilities authorized, Ann. Code of Md., Tax-Property article, § 9-215(a)(4).

Sec. 20.125. - Real property tax deferral for elderly or disabled homeowners.

(a) *Definitions:*

- (1) The following terms have the meanings indicated:
- (2) *Combined income* means the combined gross income of all individuals who actually reside in a dwelling except an individual who:
 - (i) Is a dependent of the homeowner under § 152 of the Internal Revenue Code; or
 - (ii) Pays a reasonable amount for rent or room and board.
- (3) *Dwelling* means a house that is:
 - (i) Used as the principal residence of a homeowner and the lot or curtilage on which the house is erected;
 - (ii) Occupied by not more than two families; and
 - (iii) Actually occupied or expected to be actually occupied by the homeowner for more than six months of a 12-month period that includes July 1 of the taxable year for which the deferral under this section is sought.
- (4) *Homeowner* means an individual who, on July 1 of the taxable year for which the deferral is sought:
 - (i) Actually resides in a dwelling in which the individual has a legal interest; or
 - (ii) Under a court order or separation agreement, permits a spouse, a former spouse, or a child of the individual's family to reside without payment of rent in a dwelling in which the individual has a legal interest.

(b) *Deferral Authorized.* A homeowner who meets the requirements of this section may defer payment of County property taxes in accordance with this section.

(c) *Qualifications:*

- (1) To be eligible for a deferral under this section, a homeowner must meet the requirements of this subsection.
- (2) The homeowner must have resided in the dwelling for at least five consecutive years.
- (3) The homeowner must live in a dwelling where the combined income does not exceed \$75,000.00 a year.
- (4) The homeowner must be at least 65 years old or permanently and totally disabled.
- (5) An individual is considered to be permanently and totally disabled if found to be by the County Health Officer or if so qualified under the Social Security Act, the Railroad Retirement Act, a Federal act for members of the Armed Forces of the United States, or a Federal retirement system.

(d) *Amount of Deferral:*

- (1) A homeowner may defer the amount that the County property taxes due exceed the amount of County property taxes paid by the homeowner in the preceding taxable year.
- (2) Deferring taxes under this section does not affect any taxes that are not deferred.

(e) *Interest.* Interest accrues on deferred taxes at a rate of 0.0 percent.

- (f) *Limit on Accumulation.* The accumulation of deferred taxes and accrued interest may not exceed 50 percent of the assessed value of the property.
- (g) *Penalty for Nonpayment.* A penalty may not be charged on the portion of the taxes deferred under this section.
- (h) *Lien and Liability.* Until extinguished by operation of law or paid, real property taxes deferred and interest accrued are:
 - (1) A lien on the property with the same priority as real property taxes; and
 - (2) A personal liability of the homeowner who obtained the deferral.
- (i) *When Deferred Taxes Due.* The total amount of real property taxes deferred and interest accrued are due and payable when:
 - (1) The homeowner ceases to own the property;
 - (2) The homeowner ceases to occupy the property as the principal place of residence;
 - (3) The property becomes subject to a tax sale; or
 - (4) The homeowner fails to submit a timely application for deferral or fails to qualify for a credit under section 20.129 of this subtitle.
- (j) *Application:*
 - (1) In accordance with the requirements of the Director of Finance, a homeowner shall file an application for deferral on the form that the Director of Finance Provides.
 - (2) The Director of Finance shall design the application form to collect the information needed to evaluate an applicant's eligibility and may require the Applicant to verify the application under oath.
 - (3) After receiving an application, the Director shall notify the Applicant whether the application has been approved.
 - (4) If the application is approved, the Applicant and the Director of Finance shall execute a written agreement of deferral that provides for repayment and includes a notice of lien.
 - (5) After executing the agreement, the Director of Finance shall notify the mortgagees or beneficiaries under a deed of trust that are listed in the application.
 - (6) The agreement shall be recorded in the land records of the County at the homeowner's expense.
- (k) *Authority of Taxpayer to End Deferral.* A homeowner may end a deferral at any time by giving written notice to the Director of Finance and paying the deferred taxes and accrued interest.
- (l) *Publicity:*
 - (1) The Director of Finance shall develop and carry out a plan to publicize the deferral authorized by this section.
 - (2) The plan shall be designed to reach those taxpayers most likely to be eligible for the deferral.
- (m) *Report.* Subject to section 22.1000 of the County Code, each year, the Director of Finance shall submit a report to the County Council that includes:
 - (1) The number of deferrals, the aggregate taxes deferred, and the aggregate interest accrued; and
 - (2) A summary of the efforts taken to publicize the deferral.
- (n) *Fraud Prohibited.* A person who knowingly provides false or fraudulent information on a document required under this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding five months or a fine not exceeding \$500.00.

(C.B. 19, 2005; C.B. 68, 2006; C.B. 43, 2018, § 1)

State Law reference— Real property tax deferral for elderly or disabled homeowners authorized, Ann. Code of Md., Tax-Property article, § 10-204.

Sec. 20.126. - Homeowners property tax credit.

- (a) *Definitions.* The following words have the meanings indicated in § 9-104 of the tax-property article of the Maryland Code:
- (1) *Combined income* ;
 - (2) *Dwelling* ; and
 - (3) *Homeowner* .
- (b) *Credit Established:*
- (1) There is a local supplement to the homeowners property tax credit program established by § 9-104 of the tax-property article of the Maryland Code and authorized under section 9-215 of the tax-property article of the Maryland Code.
 - (2) The property tax to which this section applies is the product of the sum of all property tax rates on real property for the taxable year on a dwelling multiplied by the lesser of the assessed value of the dwelling or \$150,000.00 and then reduced by any property tax credit granted under section 9-105 of the tax-property article of the Maryland Code.
- (c) *Amount:*
- (1) The County supplemental property tax credit is the total real property tax on a dwelling less:
 - (i) The percentage of the combined income of the homeowner calculated under paragraph (2) of this subsection; and
 - (ii) The property tax credit granted under section 9-104 of the tax-property article of the Maryland Code.
 - (2) The allowable percentage of gross income is:
 - (i) Zero percent of the first \$8,000.00;
 - (ii) One percent of the next \$4,000.00;
 - (iii) Four and one-half percent of the next \$4,000.00;
 - (iv) Six and one-half percent of the next \$8,000.00;
 - (v) Eight percent of the next \$8,000.00;
 - (vi) Eight and one-half percent of the next \$8,000.00; and
 - (vii) Nine percent of any combined income over \$40,000.00.
 - (3) The property tax credit under this section shall be proportionately reduced for a homeowner who is not required to pay the tax for the full tax year.
- (d) *Administration.* This section shall be administered by the Director of Finance and the State Department of Assessments and Taxation as provided in sections 9-104 and 9-215 of the tax property article of the Maryland Code.
- (e) *Regulations.* The County Executive may adopt regulations to carry out this section.
- (f) *Publicity:*
- (1) The Director of Finance shall develop and carry out a plan to publicize the credit authorized by this section.

- (2) The plan shall be designed to reach those taxpayers most likely to be eligible for the credit.
- (g) *Report.* Subject to section 22.1000 of the County Code, each year, the Director of Finance shall submit a report to the County Council that:
 - (1) Describes program participation in the current tax year and includes the income of taxpayers and the number and cost of the credits allowed; and
 - (2) Includes a summary of the efforts taken to publicize the credit.
- (h) *Fraud.* A person who knowingly provides false or fraudulent information on a document required under this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding five months or a fine not exceeding \$500.00.

(C.B. 18, 2005; C.B. 43, 2018, § 1)

State Law reference— Tax credit for disabled veterans, Ann. Code of Md., Tax-Property article, §§ 9-104, 9-215.

Sec. 20.127. - Amateur sport athletic fields.

- (a) Subject to the requirements of this section, there is a tax credit against the property tax imposed on real property in Howard County for an athletic field.
- (b) In accordance with § 9-235 of the Tax-Property Article of the Annotated Code of Maryland, the owner of real property may receive a property tax credit equal to 100 percent of the County property tax imposed on the real property if:
 - (1) The property is used as an athletic field exclusively for amateur sports; and
 - (2) The owner is a nonprofit organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.
- (c) The tax credit authorized by this section continues as long as the owner and property remain qualified under subsection (b) of this section.
- (d) To receive the credit, a property owner shall submit an annual application to the Department of Finance:
 - (1) On the form that the Department of Finance requires;
 - (2) That demonstrates that the owner is entitled to the credit; and
 - (3) On or before April 1 prior to the taxable year for which the credit is sought.

(C.B. 59, 2005)

Editor's note— C.B. 59 of 2005 amended the Code by adding provisions designated as section 20.125. In order to avoid conflicts in section numbering the editor has redesignated this section as 20.127.

State Law reference— Tax credit for amateur sport athletic fields authorized, Ann. Code of Md., Tax-Property article, § 9-235.

Sec. 20.128. - Property tax credit for conservation land.

- (a) In this section, the following words have the meanings indicated:

- (1) *Conservation land* has the meaning stated in § 9-220 of the tax-property article of the Annotated Code of Maryland.
 - (2) *Land trust* has the meaning stated in § 9-220 of the tax-property article of the Annotated Code of Maryland.
- (b) In accordance with § 9-220 of the tax-property article of the Annotated Code of Maryland, the owner of real property may receive a property tax credit equal to 100 percent of the County property tax imposed on the real property if:
- (1) The property is conservation land; or
 - (2) The property owner is a land trust and the property is used:
 - (i) To assist in the preservation of a natural area;
 - (ii) For the environmental education of the public;
 - (iii) Generally to promote conservation;
 - (iv) For the maintenance of:
 1. A natural area for public use; or
 2. A sanctuary for wildlife; or
 - (v) To conserve agricultural land and to promote continued agricultural use of the land.
- (c) For a land trust to qualify for the credit, the land trust must:
- (1) Be certified by the Maryland Environmental trust to be a land trust in good standing and to have a cooperative agreement in effect; and
 - (2) Obtain a periodic written certification as scheduled by the Maryland Environmental trust.
- (d) The tax credit authorized by this section continues as long as the owner and property remain qualified under subsections (b) and (c) of this section.
- (e) To receive the credit, a property owner shall submit an application to the Department of Finance:
- (1) On the form that the Department of Finance requires;
 - (2) That demonstrates that the owner is entitled to the credit; and
 - (3) On or before the date that the Department of Finance sets.

(C.B. 51, 2006, § 1)

State Law reference— Tax credit for conservation land authorized, Ann. Code of Md., Tax-Property article, § 9-220.

Sec. 20.128A. - Qualifying energy conservation devices.

(a) *Definitions:*

- (1) In this section, the following terms have the meanings indicated:
- (2) *Solar energy device* means an energy conserving device that:
 - (i) Uses solar energy to heat or cool a structure, to provide hot water for use in the structure or to generate electricity to be used in the structure; and
 - (ii) Meets national safety and performance standards set by a nationally recognized testing laboratory for that kind of device.
- (3) *Geothermal energy device* means an energy conserving device that:

- (i) Uses geothermal energy to heat or cool a structure, to provide hot water for use in the structure or to generate electricity to be used in the structure; and
 - (ii) Meets national safety and performance standards set by a nationally recognized testing laboratory for that kind of device.
- (b) *Credit Authorized.* In accordance with section 9-203 of the tax-property article of the Annotated Code of Maryland and the provisions of this section, the owner of real property may receive a property tax credit against the County property tax imposed on a residential structure that utilizes a solar energy device or geothermal energy device.
- (c) *Amount of Credit.* The tax credit allowed under this section is the lesser of:
 - (1) Fifty percent of the eligible costs; or
 - (2) Five thousand dollars for a heating system or \$1,500.00 for a hot water supply system.
- (d) *Eligible Costs.* Eligible costs are those that are incurred:
 - (1) Within the 12 months before the initial application for the credit; and
 - (2) For the solar energy device or geothermal energy device, including any part, component, or accessory equipment necessary to operate the device, and reasonable costs associated with installing the device.
- (e) *Annual Limit on Amount of Credits Granted:*
 - (1) During a fiscal year, the total of all tax credits granted under this section shall not exceed \$500,000.00.
 - (2) Credits shall be granted in the order in which the Department of Finance receives the complete applications under subsection (f) of this section.
 - (3) A complete application that, if granted, would cause the limit set forth in paragraph (1) of this subsection to be exceeded, shall be granted in the next fiscal year or years and in the order received.
- (f) *Application of the Credit:*
 - (1) The amount of the credit applied in a tax year may not exceed the amount of the County property tax imposed on the property in that tax year.
 - (2) Any amount of the credit not taken in the tax year in which the application is granted may be carried over for an additional two years.
 - (3) When a tax credit is carried over under this subsection, the full amount of the tax credit shall be deducted from the total annual limit set forth in subsection (e) of this section in the year in which the application is granted.
- (g) *Application for the Credit:*
 - (1) An applicant for a tax credit under this section shall submit an application to the Director of Finance on or before the date that the Director sets.
 - (2) An application shall:
 - (i) Be on the form that the Director requires;
 - (ii) Demonstrate that the taxpayer is entitled to the credit; and
 - (iii) Include a certification from the Department of Inspections, Licenses and Permits stating that the device for which the credit is sought:
 - 1. Is a solar energy device or a geothermal energy device; and
 - 2. Has been properly installed.

- (h) *Effective Date.* The credit authorized by this section applies to tax years beginning after June 30, 2007.

(Ord. No. 67, 2006, § 1; C.B. 9, 2007, § 1; C.B. 21, 2011, § 1)

Editor's note— Section 2 of C.B. 21-2011 set out uncodified provisions that state that the credit authorized by section 20.128A shall not be granted for applications received after May 25, 2011 unless the property owner: (1) On or before May 25, 2011, enters into a contract for eligible costs, as that term is defined in section 20.128A; (2) Applies for the credit on or before April 1, 2012; and (3) Is determined by the Department of Finance to be eligible to receive the credit. At the request of the County the provisions of C.B 67, 2006 have been renumbered from section 20.128 to 20.128A to avoid conflicts in section numbering.

State Law reference— Tax credit qualifying energy devices authorized, Ann. Code of Md., Tax-Property article, § 9-203.

Sec. 20.129. - Property tax credit for senior citizens.

(a) *Definitions:*

- (1) In this section, the following terms have the meanings indicated:
- (2) *Combined income* means the combined gross income of all individuals who actually reside in a dwelling except an individual who:
 - (i) Is a dependent of the homeowner under § 152 of the Internal Revenue Code; or
 - (ii) Pays a reasonable amount for rent or room and board.
- (3) *Net worth* means, after deducting outstanding liabilities, the sum of the current market value of all assets:
 - (i) Including real property, cash, savings accounts, stocks, bonds, and other investments; but
 - (ii) Not including the dwelling for which a property tax credit is sought under this section, the cash value of any life insurance policies on the life of the homeowner, and tangible personal property.

(b) *Credit Established:*

- (1) In accordance with section 9-245 of the Tax-Property Article of the Annotated Code of Maryland, the owner of real property may receive a property tax credit against the County property tax imposed on the property if the property is owned, wholly or partly, by an individual:
 - (i) Who is at least 65 years old;
 - (ii) Who uses the property as the individual's principal residence for at least the period that would be required to qualify for the credit under section 9-104 of the Tax-Property Article of the Maryland Annotated Code;
 - (iii) Who lives in a household with a combined income that does not exceed 500 percent of the most recent poverty guidelines for a household of two individuals updated periodically in the Federal Register by the United States Department of Health and Human Services under 42 U.S.C. 9902(2); and
 - (iv) Who lives in a household with a combined net worth that does not exceed \$500,000.00.

- (2) The amount of the credit shall equal 25 percent of the County property tax due in the current year after applying the homestead credit authorized under section 9-105 of the Tax-Property Article of the Annotated Code of Maryland.
 - (3) The amount of the credit shall be calculated after all other credits granted for that property under this subtitle or the Tax-Property Article of the Annotated Code of Maryland have been applied so that the credit granted under this section makes up any difference between (i) the sum of all the other property tax credits and (ii) the amount that this credit would be if there were no other credits.
 - (4) Property taxes attributable to an increase in the value of the property because of substantial improvements to the property shall be excluded from the calculation described in paragraph (2) of this subsection.
- (c) *Duration of Credit.* The tax credit authorized by this section continues as long as an owner and the property remain qualified under subsection (b) of this section.
- (d) *Application.* To receive the credit, a property owner shall apply for all other credits that may be available for that property and submit an application to the Department of Finance:
- (1) On the form that the Department of Finance Requires;
 - (2) That demonstrates that the owner is entitled to the credit; and
 - (3) On or before the date that the Department of Finance sets.
- (e) *Administration.* The Department of Finance may adopt guidelines and procedures to administer this section.
- (f) *Publicity:*
- (1) The Director of Finance shall develop and carry out a plan to publicize the credit authorized by this section. The plan shall be designed to reach those taxpayers most likely to be eligible for the credit.
 - (2) The Office of Aging and Independence, or another appropriate unit of County Government that the County Executive selects, shall develop and carry out a plan to educate senior citizens about the credit authorized by this section.
- (g) *Effective Date.* The credit authorized by this section applies to tax years beginning after June 30, 2007.
- (h) *Report.* Subject to section 22.1000 of the County Code, on or before September 30 of each year, the Department of Finance shall submit a report to the County Council and the County Executive that includes the number of applications and amounts of credits granted under this section.

(C.B. 68, 2006, § 1; C.B. 10, 2007, § 1; C.B. 12, 2016, § 1; C.B. 74, 2016, § 1; C.B. 43, 2018, § 1)

State Law reference— Property tax credits for individuals at least 70 years old authorized, Ann. Code of Md. Tax-Property article, § 9-245.

Sec. 20.129A. - Real property jointly owned by an individual and the Housing Commission.

- (a) *Definitions.* In this section, "Housing Commission" shall mean the Howard County Housing Commission as established in section 13.1304 Of this Code.
- (b) *Credit Established.* In accordance with subsection 9-315(a)(5) of the tax-property article of the Annotated Code of Maryland, if an individual occupies residential real property and owns the property jointly with the Housing Commission, the individual may receive a credit against the County property tax imposed on the property.

- (c) *Amount of Credit.* The amount of the tax credit is calculated by multiplying the total property tax due on the property by the percentage of the Housing Commission's ownership interest in the property.
- (d) *Duration of Credit.* The tax credit continues as long as the property remains qualified under subsection (b) of this section.
- (e) *Application.* To receive the tax credit, a property owner shall submit an application to the Department of Finance:
 - (1) On the form that the Department of Finance requires;
 - (2) That is accompanied by proof that the property is occupied by an individual who owns the property jointly with the Housing Commission; and
 - (3) On or before the date that the Department of Finance sets.
- (f) *Administration.* The Department of Finance may adopt guidelines and procedures to administer this section.
- (g) *Effective Date.* The tax credit authorized by this section applies to tax years beginning after June 30, 2007.

(C.B. 32, 2007, § 1)

Editor's note— C.B. 32 of 2007 added provisions designated as § 20-130. In order to avoid conflicts in section numbering the editor has redesignated the provisions added by C.B. 32 of 2007 as § 20.129A.

State Law reference— Property tax credits for real property jointly owned by an individual and the Housing Commission, Ann. Code of Md. Tax-Property article, § 9-315(a)(5).

Sec. 20.129B. - Property tax credit for high performance buildings.

- (a) *Definitions.* In this section, the following terms have the meanings indicated:
 - (1) High performance building means a building that:
 - (i) Achieves at least a silver rating according to the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) rating system;
 - (ii) Is a residential building that achieves at least a silver certification level of the National Green Building Standard ICC-700;
 - (iii) Achieves at least a comparable rating according to design standards that the Director of the Department of Inspections, Licenses and Permits may adopt by regulation as equivalent to a silver rating in the LEED rating system; or
 - (iv) Meets comparable green building guidelines or standards approved by the State.
 - (2) LEED rating system shall have the meaning set forth in section 3.1002 of this Code.
 - (3) R-2 or R-3 building has the meaning ascribed to that term under the Howard County Building Code.
- (b) *Credit Established.* In accordance with section 9-242 of the tax-property article of the Annotated Code of Maryland, the owner of a high performance building or an R-2 or R-3 building that qualifies under subsection (d) of this section may receive a property tax credit against County property taxes imposed on the high performance building.
- (c) *Amount and Duration of Credit for Certification in LEED Core and Shell or New Construction Rating Systems.* For a high performance building that is certified in the LEED 2009 rating system for core

and shell or a comparable rating system that the Director of Inspections, Licenses and Permits may adopt by regulation:

- (1) The amount of the tax credit is a percentage of the total County property tax assessed on the high performance building as follows:
 - (i) LEED certified silver—25 percent;
 - (ii) LEED certified gold—50 percent;
 - (iii) LEED certified platinum—75 percent; and
 - (2) The tax credit authorized by this subsection continues for five years.
- (d) *Amount and duration of credit for high performance R-2 and R-3 buildings.*
- (1) This subsection applies to an R-2 or R-3 building that:
 - (i) Achieves at least a silver rating under the LEED for Homes Rating System or a comparable rating system that the Director of Inspections, Licenses and Permits may adopt by regulation; and
 - (ii) Is a high performance building.
 - (2) The tax credit under this subsection for a building that has a LEED platinum or equivalent rating is a percentage of the total County Property Tax Credit assessed on the building as follows:
 - (i) First year: 100 percent;
 - (ii) Second year: 75 percent;
 - (iii) Third year: 50 percent; and
 - (iv) Fourth year: 25 percent.
 - (3) The tax credit under this subsection for a building that has a LEED gold or equivalent rating is a percentage of the total County property tax credit assessed on the building as follows:
 - (i) First year: 90 percent;
 - (ii) Second year: 68 percent;
 - (iii) Third year: 45 percent; and
 - (iv) Fourth year: 23 percent.
 - (4) The tax credit under this subsection for a building that has a LEED silver or equivalent rating is a percentage of the total County property tax credit assessed on the building as follows:
 - (i) First year: 75 percent;
 - (ii) Second year: 56 percent;
 - (iii) Third year: 38 percent; and
 - (iv) Fourth year: 19 percent.
 - (5)
 - (i) In one fiscal year, the tax credit under this subsection may not exceed \$5,000.00 per building; provided, however, that each owner occupied unit is allowed a credit not to exceed \$5,000.00.
 - (ii) Excess credits shall not be carried over to future years.
- (e) *Amount and Duration of Credit for Certification in Existing Building Rating System.* For a high performance building that is certified in the LEED 2009 rating system for existing buildings or a comparable rating system that the Director of Inspections, Licenses and Permits may adopt by regulation:

- (1) The amount of the tax credit is a percentage of the total County property tax assessed on the high performance building as follows:
 - (i) LEED certified silver—Ten percent;
 - (ii) LEED certified gold—25 percent;
 - (iii) LEED certified platinum—50 percent; and
- (2) The tax credit authorized by this subsection continues for three years.
- (f) *Prohibition.* A property owner who is granted a credit under one subsection of this section may not be granted a credit under any other subsection of this section for the same property during the same fiscal year.
- (g) *Credit Runs with the Property.* A tax credit granted under this section runs with the property and a change in ownership does not result in the lapse of the tax credit.
- (h) *Application.* To receive the tax credit, a property owner shall submit an application to the Department of Finance:
 - (1) On the form that the Department of Finance requires;
 - (2) That is accompanied by proof that the property meets the definition of a "high performance building"; and
 - (3) On or before the date that the Department of Finance sets.
- (i) *Report.* Subject to section 22.1000 of the County Code, on or before October 31 of each year, the Director of Finance shall submit a report to the County Council and the County Executive on tax credits granted under this section in the prior fiscal year that includes:
 - (1) A list of all credits granted and the monetary amount of each credit granted under this section;
 - (2) The levels of certification obtained by recipients of the credit; and
 - (3) An estimated total fiscal impact for the current fiscal year and for nine ensuing fiscal years.
- (j) *Administration.* The Department of Finance may adopt guidelines, regulations, or procedures to administer this section.
- (k) *Effective Date.* The tax credit authorized by subsection (d) of this section applies to tax years beginning after June 30, 2012, and shall terminate and be of no effect after June 30, 2023, provided that:
 - (1) A property owner shall receive the full four years of the credit if:
 - (i) The property meets the eligibility requirements of this section; and
 - (ii) The property owner applies for the credit on or before April 1, 2022; and
 - (2) The last credit issued shall be issued no later than in the fiscal year ending June 30, 2026.

(C.B. 49, 2007, § 2; C.B. 47, 2009, § 2; C.B. 55, 2011, § 1; C.B. 5, 2016, § 1; C.B. 34, 2017, § 1; C.B. 43, 2018, § 1)

Editor's note— Council bill 49 of 2007 amended the Code by adding provisions designated as § 20.130. In order to avoid conflicts in section numbering the editor has redesignated the provisions of this Council bill as § 20-129B.

State Law reference— Tax credits for high performance buildings, Ann. Code of Md., Tax-Property article, § 9-242.

Sec. 20.129C. - Property tax credit for accessibility features.

- (a) *"Feature" defined.* In this section, "feature" means a permanent modification to a residence that results in:
- (1) A no-step front door entrance with a threshold that does not exceed ½ inch in depth with tapered advance and return surfaces or, if a no-step front entrance is not feasible, a no-step entrance to another part of the residence that provides access to the main living space of the residence;
 - (2) An installed ramp creating a no-step entrance;
 - (3) An interior doorway that provides a 32-inch wide or wider clear opening;
 - (4) An exterior doorway that provides a 36-inch wide or wider clear opening but only if accompanied by exterior lighting that is either controlled from inside the residence, automatically controlled, or continuously on;
 - (5) Walls around a toilet, tub, or shower reinforced to allow for the proper installation of grab bars with grab bars installed in accordance with the ADA Standards for Accessible Design;
 - (6) Maneuvering space of at least 30 inches by 48 inches in a bathroom or kitchen so that a person using a mobility aid may enter the room, open and close the door, and operate each fixture or appliance;
 - (7) An exterior or interior elevator or lift or stair glide unit;
 - (8) An accessibility-enhanced bathroom including a walk-in or roll-in shower or tub, built-in shower seats, and lowered seats; or
 - (9) Alarms, appliances, and controls structurally integrated into the unit designed to assist an individual with a sensory disability;
 - (10) An accessible path between parking and the home that meets standards set forth in the Americans with Disabilities Act;
 - (11) A "no-step" access to any entrance on an accessible route;
 - (12) Railings for hallways or interior or exterior steps or the improvement of stair design;
 - (13) Hallways that are at least 36-inches wide;
 - (14) A master bedroom and master bathroom on the first floor;
 - (15) Smooth transitions between rooms and, for purposes of this section, "smooth transition" shall mean a vertical threshold of two inches or less;
 - (16) Slip-resistant flooring;
 - (17) Lever handles on kitchen and bathroom sinks or showers and interior and exterior doors;
 - (18) The relocation of:
 - (i) Switches, doorbells, thermostats, and breaker boxes so that they are no more than 48 inches above the floor; or
 - (ii) Electrical receptacles so that they are at least 15 inches above the floor;
 - (19) Closet renovations for accessibility including, without limitation, closet rods that adjust from three feet to five feet, six inches;
 - (20) Anti-scald devices; or
 - (21) Any feature that the County requires particularly for age-restricted adult housing.
- (b) *Credit Established.* In accordance with section 9-250 of the Tax-Property Article of the Annotated Code of Maryland, the owner of real property may receive a property tax credit against the County

property tax for a feature that is installed on an existing residence that is the owner's principal residence when the feature is installed.

(c) *Amount of Credit.*

- (1) The tax credit allowed under this section is the lesser of:
 - (i) The amount of the eligible costs; or
 - (ii) Two thousand five hundred dollars.
- (2) If this credit exceeds the County property tax, the Department of Finance shall apply the excess to future tax years until the property owner receives the full amount of the credit.

(d) *Eligible Costs.*

- (1) Eligible costs are those that:
 - (i) Are incurred within 12 months before the application for the credit;
 - (ii) Are for a feature authorized under this section, including reasonable costs to install the feature;
 - (iii) Were paid by the applicant and were not, and will not be, reimbursed by any entity; and
 - (iv) Exceed a total of \$500.00.
- (2) Eligible costs include an age-friendly assessment done by a certified aging in place specialist, not exceeding \$100.00.

(e) *Annual Limit.*

- (1) During a fiscal year, the total of all tax credits granted under this section shall not exceed \$100,000.00.
- (2) Credits shall be granted in the order in which the Department of Finance receives the complete application under subsection (f) of this section.
- (3) A complete application that, if granted, would cause the limit set forth in paragraph (1) of this subsection to be exceeded, shall be granted in the next fiscal year or years and in the order received.

(f) *Application.*

- (1) To receive the credit, a property owner shall submit an application to the Department of Finance:
 - (i) In the format that the Department of Finance requires;
 - (ii) That, for a feature listed in subsection (a)(1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (12), (13), (14), (18), (20), (21) of this section, includes a copy of the appropriate permit issued under title 3 of the Howard County Code;
 - (iii) That includes the documentation that the Department of Finance requires; and
 - (iv) On or before the date that the Department of Finance sets.
- (2) Only one application for a credit under this section may be accepted for each property during a single tax year.

(g) *Administration.* The Department of Finance may adopt guidelines and procedures to administer this section. Subject to section 22.1000 of the County Code, the Department of Finance shall submit a written report to the County Council by October 1 of every year for the preceding fiscal year that shall include the following:

- (1) Number of applicants;
- (2) Number of applications approved;

- (3) Income range of applicants;
 - (4) Modification made by the applicant;
 - (5) Reason for the modification;
 - (6) Other sources from which the applicant received funds or applied for assistance for the modification;
 - (7) Efforts to advertise the credit;
 - (8) Any program recommendations, including recommendations to increase the use of the credit;
 - (9) The number of denials and the reason for each denial; and
 - (10) The total amount of credits approved for the preceding fiscal year.
- (h) *Publicity.* The Department of Finance and the Office of Aging and Independence shall publicize the credit authorized by this section in a way designed to inform those most likely to benefit from the credit.
- (i) *Short Title.* The tax credit established under this section may be cited as "Livable Homes Tax Credit".

(C.B. 28, 2012, § 1; C.B. 12, 2016, § 1; C.B. 7, 2017, § 1; C.B. 43, 2018, § 1)

Sec. 20.129D. - Renovated, upgraded, or rehabilitated property adjacent to Route 1.

(a) *Establishment of Tax Credit for Renovated, Upgraded, or Rehabilitated Property:*

- (1) In accordance with § 9-315(d) of the Tax-Property Article of the Annotated Code of Maryland, there is a Howard County Property Tax Credit against the County real property tax on commercial or industrial property that qualifies under this section.
- (2) The Department of Finance shall administer the credit.

(b) *Definitions.* In this section the following terms have the meanings indicated:

- (1) *Certificate of eligibility* means an order issued by the County to the owner of an eligible property, which authorizes the Department of Finance to apply a credit to the eligible property.
- (2) *Eligible property* means commercial or industrial real property that is less than ten acres, includes no residential component, and:
 - (i) Directly fronts Route 1; or
 - (ii) Is readily visible from the nearest road edge on Route 1 and adjoins a parcel that fronts Route 1.
- (3) *Eligible work* :
 - (i) Means work done:
 - a. On an eligible property;
 - b. In compliance with the Route 1 Design Manual; and
 - c. Is readily visible from the nearest road edge of Route 1.
 - (ii) Includes:
 - a. The renovation, upgrade or rehabilitation of a property, which shall include the repair, replacement, expansion, or enhancement of the property; and
 - b. Work that is necessary to maintain the physical integrity of the property with regard to safety, durability, or weatherproofing.

- (iii) Does not include:
 - a. Interior finish work that is not necessary to maintain the structural integrity of the building; or
 - b. Routine landscape or property maintenance.
- (4) *Verified expenses* means the amount of money paid:
 - (i) By the owner of an eligible property to a licensed contractor, architect, or consultant for:
 - a. Eligible work; or
 - b. Materials used to do eligible work;
 - (ii) Verified expenses shall be incurred within 12 months prior to the application for a tax credit under this section.
- (c) *Eligibility*. The owner of commercial or industrial property may qualify for a tax credit under this section for eligible work done on eligible property.
- (d) *Approval by Agencies*. A request for a tax credit under this section must be approved by the County Executive, upon the advice of the Economic Development Authority, the Department of Planning and Zoning, and the Department of Finance.
- (e) *Amount of Credit*. The tax credit shall be granted in an amount of 125 percent of the verified expenses but for no more than \$100,000.00.
- (f) *Procedures*:
 - (1) The Economic Development Authority, Department of Planning and Zoning, and Department of Finance shall develop an application form.
 - (2) The County, through the Economic Development Authority, Department of Planning and Zoning, and Department of Finance shall give initial approval of a certificate of eligibility:
 - (i) If it determines the property to be an eligible property; and
 - (ii) If it determines that the proposed work is eligible work;
 - (3) The owner of an eligible property shall apply to the Department of Finance for a credit based on verified expenses.
 - (4) Upon completion of the work:
 - (i) The owner shall submit documentation to the Department of Finance:
 - a. No later than April 1 prior to the first tax year for which the credit is being requested;
 - b. That shows the work was done in accordance with the initial approval of the certificate of eligibility; and
 - c. That shall include all verified expenses;
 - (ii) The County, through the Economic Development Authority, Department of Planning and Zoning, and Department of Finance, shall:
 - a. Review the application, the initial approval, and the documentation; and
 - b. Give final approval of the certificate of eligibility based on a consideration of consistency with:
 - i. The Route 1 Manual; and
 - ii. Any subarea plans;
 - c. Determine:
 - i. What work is eligible work; and

- ii. The dollar amount of qualified expenses for the work; and
 - (iii) The owner shall enter into an agreement in accordance with subsection (j) of this section.
- (5) The dollar amount of qualified expenses and the amount of the tax credit shall be entered on the certificate of eligibility.
- (g) *Year Granted.* The Department of Finance shall grant the tax credit for the tax year immediately following the year in which the certificate of eligibility receives final approval.
- (h) *Exceeding the Amount of Tax.* A property owner may receive a tax credit in more than one fiscal year:
 - (1) If the amount of the tax credit under this section exceeds the amount of the Howard County real property tax, any unused portion of the tax credit shall be carried forward for up to four tax years; or
 - (2) If required by the amount of the credit or limitations set forth in the annual Budget and Appropriation Ordinance, a property owner may receive parts of the credit in more than one fiscal year.
- (i) *Certificate Runs with Property.* A certificate of eligibility runs with the property and a change in ownership does not result in the lapse of a tax credit granted under this section.
- (j) *Agreement to Implement Credit.* The recipient of a tax credit under this section shall enter into a contract with the County that may include, without limitation, conditions regarding maintenance of the property.
- (k) *Annual Report:*
 - (1) Subject to section 22.1000 of the County Code, the Economic Development Authority, Department of Planning and Zoning, and Department of Finance shall report annually to the County Executive and the County Council concerning the implementation of the tax credit under this section.
 - (2) The report under this subsection shall:
 - (i) Be submitted no later than September first of each year;
 - (ii) Include, for each recipient of a credit under this section during the previous fiscal year:
 - a. The name of the recipient; and
 - b. The amount of the credit granted;
 - (iii) Include an evaluation of the program and any recommended changes; and
 - (iv) Be presented in a public meeting with the Council.
- (l) *Annual Limit.*
 - (1) During a fiscal year, the total of all tax credits budgeted for under this section shall not exceed \$500,000.00.
 - (2) A complete application that, if granted, would cause the limit set forth in paragraph (1) of this subsection to be exceeded, shall be granted in the next fiscal year or years and in the order received.

(C.B. 9, 2014, § 1; C.B. 43, 2018, § 1)

Editor's note— Bill No. 9-2014, § 6, adopted April 9, 2014, enacted a sunset clause that states the following: "Tax credits authorized by this Act shall remain effective for a period of 48 months [from the effective date of June 9, 2014] and, at the end of that period, with no further

action required by the County Council, this Act shall be abrogated and of no further force and effect."

Sec. 20.129E. - Property tax credit for seniors and retired military personnel.

- (a) *Definitions.* In this section, the following terms have the meanings indicated:
- (1) *Armed Forces of the United States* shall mean the Army, Navy, Air Force, Marines, and Coast Guard.
 - (2) *Dwelling* has the meaning set forth in section 9-105 of the Tax-Property Article of the Annotated Code of Maryland.
 - (3) *Eligible County tax* means the amount of County tax on the lesser of \$500,000.00 or the assessed value of the dwelling reduced by the amount of any assessment on which a property tax credit is granted under section 9-105 of the Tax-Property Article of the Annotated Code of Maryland.
- (b) *Credit Established and Eligibility.* In accordance with section 9-258 of the Tax-Property Article of the Annotated Code of Maryland, the owner of a dwelling may receive a property tax credit against the County property tax imposed on the property containing the dwelling if the property is owned by an individual:
- (1) Who is at least 65 years old and has lived in the same dwelling for at least the preceding 40 years;
 - (2) Who is at least 65 years old and is a retired member of the Armed Forces of the United States; or
 - (3) A surviving spouse, who has not remarried, of an individual described in paragraph (2) of this subsection.
- (c) *Amount of Credit.* An individual who meets the qualifications of subsection (b) of this section is eligible for a property tax credit equal to 20 percent of the eligible County tax.
- (d) *Duration of Credit.* The credit may be granted for a period of up to five years and as long as the property owner remains qualified under subsection (b) of this section.
- (e) *Prohibition.* A property owner who is granted a credit under this section may not be granted a credit under section 20-129 of this Code during the same fiscal year.
- (f) *Application.* To receive the tax credit, a property owner shall submit an application to the Department of Finance:
- (1) On the form that the Department of Finance requires;
 - (2) That demonstrates that the owner is entitled to the credit; and
 - (3) On or before the date that the Department of Finance sets.
- (g) *Administration.* The Department of Finance may adopt guidelines, regulations, or procedures to administer this section.
- (h) *Publicity.*
- (1) The Director of Finance shall develop and carry out a plan to publicize the credit authorized by this section. The plan shall be designed to reach those taxpayers most likely to be eligible for the credit.
 - (2) The Office on Aging and Independence, or another appropriate unit of County Government that the County Executive selects, shall develop and carry out a plan to educate senior citizens about the credit authorized by this section.

- (i) *Effective Date.* The tax credit authorized by subsection (b) of this section applies to tax years beginning after June 30, 2017.

(C.B. 75, 2016, § 1; C.B. 41, 2018, § 1)

Sec. 20.129F. - Property tax credit for real property owned by certain Public Safety Officers.

- (a) *Definitions.* In this section, the following terms have the meanings indicated:

- (1) *Dwelling* has the meaning set forth in Section 9-105 of the Tax-Property Article of the Annotated Code of Maryland.
- (2) *Public Safety Officer* has the meaning set forth in Section 9-260 of the Tax-Property Article of the Annotated Code of Maryland.

- (b) *Creation.* In accordance with Section 9-260 of the Tax-Property Article of the Annotated Code of Maryland, there is a Howard County Property Tax Credit against the tax on real property that qualifies under this section.

- (c) *Eligibility—Generally.* A Public Safety Officer is eligible for a tax credit under this section if the Public Safety Officer:

- (1) Is employed full-time by:
 - (i) The Howard County Department of Fire and Rescue Services as a firefighter or emergency medical technician;
 - (ii) The Howard County Department of Police as a police officer;
 - (iii) The Howard County Department of Corrections as a correctional officer; or
 - (iv) The Howard County Sheriff's Office as a deputy sheriff;
- (2) Does not receive a tax credit pursuant to section 20.129 or 20.129E of this Code for the same real property; and
- (3) Has completed the employment probationary period.

- (d) *Eligibility—Volunteer Firefighter .* A Public Safety Officer who is a Howard County volunteer firefighter is eligible for a tax credit under this section if the Public Safety Officer:

- (1) Is a member of a volunteer fire corporation listed in section 17.103(a) of this Code;
- (2) Meets the operational standard for volunteer personnel as established by General Order of the Department of Fire and Rescue Services;
- (3) Does not receive a tax credit pursuant to section 20.129 or 20.129E of this Code for the same real property;
- (4) Has maintained an active service standard under section 17.103 of this Code for the preceding calendar year; and
- (5) Has maintained an active service standard under section 17.103 of this Code as a volunteer firefighter for at least five years continuously.

- (e) *Amount of Credit:*

- (1) Subject to the conditions in this section, the tax credit may be granted in an amount of up to \$2,500.00 per dwelling, but not to exceed the amount of the tax on the property.
- (2) The public safety officer shall receive:
 - (i) For the taxable year beginning July 1, 2018 and ending June 30, 2019, 50 percent of the tax credit authorized by this section; and
 - (ii) For each taxable year thereafter, 100 percent of the tax credit authorized by this section.

- (f) *Termination of Credit* . The tax credit created by this section shall terminate and the Public Safety Officer will not be eligible if any of the following occurs:
 - (1) The Public Safety Officer is no longer employed full time by the Public Safety Agency, or no longer eligible under subsection (d) for volunteer firefighters and:
 - (i) If the Public Safety Officer was separated from employment "for cause" as set forth in section 1.115 of this Code, the former Public Safety Officer shall be liable for:
 - a. All of the property taxes that the officer would have been liable for in the taxable year of the separation of employment, as if the tax credit had not been granted under this section; and
 - b. All interest and penalties on those taxes computed in the manner set forth in section 20.203 of this title; or
 - (ii) If the Public Safety Officer separated from employment for reasons other than "for cause" as set forth in section 1.115 of this Code, the tax credit shall be applied only to the portion of the taxable year for which the officer was eligible for the tax credit and the former Public Safety Officer shall be liable for all remaining property taxes.
 - (2) The Public Safety Officer no longer resides in or owns the dwelling for which the credit was granted.
- (g) *Application and Annual Verification*. On or before the date that the Department sets, an individual seeking a credit under this section must submit to the Department of Finance:
 - (1) An application in the form that the Department requires; and
 - (2) During each subsequent year, the verification that the Department requires to show that the individual and the property remain qualified for the credit.
- (h) *Publicity*. The Department of Finance shall publicize the credit authorized by this section in a way designed to inform those most likely to benefit from the credit.
- (i) *Report* . Within 30 days after the end of tax year 2024, the County Executive shall submit to the County Council a report on the effectiveness of the tax credit as a live-where-you-work incentive. The report shall include annual data for each public safety agency or company on:
 - (1) The utilization of the tax credit; and
 - (2) The percentage of Public Safety Officers who live in the County.

(C.B. 7, 2018, § 1; C.B. 15, 2018)

Sec. 20.129G. - Property tax credit for real property owned by certain 9-1-1 Public Safety Telecommunicators.

- (a) *Definitions*. In this section, the following terms have the meanings indicated:
 - (1) *Dwelling* has the meaning set forth in section 9-105 of the Tax-Property Article of the Annotated Code of Maryland.
 - (2) *9-1-1 Public Safety Telecommunicator* has the meaning set forth in section 9-261 of the Tax-Property Article of the Annotated Code of Maryland.
- (b) *Creation*. In accordance with section 9-261 of the Tax-Property Article of the Annotated Code of Maryland, there is a Howard County property tax credit against the tax on real property that qualifies under this section.
- (c) *Eligibility—Generally*. A 9-1-1 Public Safety Telecommunicator is eligible for a tax credit under this section if the 9-1-1 Public Safety Telecommunicator:

- (1) Is employed full time by the Howard County Department of Police as an Emergency Communications Operator, Dispatcher, Dispatcher First Class, Senior Dispatcher, or Emergency Communications Supervisor; and
 - (2) Does not receive a tax credit pursuant to section 20.129 or 20.129E of this Code for the same real property; and
 - (3) Has completed the employment probationary period.
- (d) *Amount of Credit.*
- (1) Subject to the conditions in this section, the tax credit may not exceed \$2,500.00 or the amount of property tax imposed on the dwelling.
 - (2) The property owner shall receive:
 - (i) For the taxable year beginning July 1, 2018 and ending June 30, 2019, 50 percent of the tax credit authorized by this section; and
 - (ii) For each taxable year thereafter, 100 percent of the tax credit authorized by this section.
- (e) *Termination of credit .* The tax credit created by this section shall terminate and the 9-1-1 Public Safety Telecommunicator will not be eligible if any of the following occurs:
- (1) The 9-1-1 Public Safety Telecommunicator is no longer employed by the Howard County Police Department for a reason other than a service related disability, and:
 - (i) If the 9-1-1 Public Safety Telecommunicator was separated from employment "for cause" as set forth in section 1.115 of this Code, the former 9-1-1 Public Safety Telecommunicator shall be liable for:
 - a. All of the property taxes that the 9-1-1 Public Safety Telecommunicator would have been liable for in the taxable year of the separation of employment, as if the tax credit had not been granted under this section; and
 - b. All interest and penalties on those taxes computed in the manner set forth in section 20.203 of this title; or
 - (ii) If the 9-1-1 Public Safety Telecommunicator separated from employment for reasons other than "for cause" as set forth in section 1.115 of this Code, the tax credit shall be applied only to the portion of the taxable year for which the 9-1-1 Public Safety Telecommunicator was eligible for the tax credit and the former 9-1-1 Public Safety Telecommunicator shall be liable for all remaining property taxes.
 - (2) The 9-1-1 Public Safety Telecommunicator no longer resides in or owns the dwelling for which the credit was granted.
- (f) *Application and annual verification .* On or before the date that the Department sets, an individual seeking a credit under this section must submit to the Department of Finance:
- (1) An application in the form that the Department requires; and
 - (2) During each subsequent year, the verification that the Department requires to show that the individual and the property remain qualified for the credit.
- (g) *Publicity.* The Department of Finance shall publicize the credit authorized by this section in a way designed to inform those most likely to benefit from the credit.
- (h) *Report .* In conjunction with the report required by section 20.129F of this subtitle, within 30 days after the end of tax year 2024, subject to section 22.1000 of the County Code, the County Executive shall submit to the County Council a report on the effectiveness of the tax credit as a live-where-you-work incentive. The report shall include annual data for each 9-1-1 Public Safety Telecommunicator on:
- (1) The utilization of the tax credit; and

(2) The percentage of 9-1-1 Public Safety Telecommunicators who live in the County.

(C.B. 42, 2018, § 1)

PART IV. - REAL PROPERTY TAX EXEMPTIONS

Sec. 20.130. - Statewide mandatory tax exemptions.

Statewide mandatory property tax exemptions under title 7, subtitle 2 of the tax-property article of the Annotated Code of Maryland are in effect in Howard County without the necessity of action by the governing body of Howard County.

(C.B. 38, 1998)

State Law reference— Property tax exemptions, Ann. Code of Md., Tax-Property article, § 7-101 et seq.

PART V. - ENFORCEMENT

Sec. 20.140. - Tax sales.

In order to collect property taxes in arrears, the Director of Finance shall conduct a tax sale in accordance with the provisions of the tax-property article of the Annotated Code of Maryland. The tax sale shall be held no earlier than the third Wednesday of April, and no later than the last Wednesday of August of each year.

(C.B. 38, 1998; C.B. 22, 2000)

State Law reference— Tax sales, Ann. Code of Md., Tax-Property article, § 14-808.

Sec. 20.141. - Redemption of property sold at tax sale; interest rate.

In accordance with subsection 14-820(b) of the tax-property article of the Annotated Code of Maryland, the interest rate paid on the redemption of property sold at tax sale is 18 percent per year.

(C.B. 38, 1998)

State Law reference— Rate of redemption, Ann. Code of Md., Tax-Property article, § 14-820(b)(13).

PART VI. - PUBLIC SCHOOL FACILITIES SURCHARGE

Sec. 20.142. - [Surcharge enacted.]

- (a) (1) In this section the following words have the meanings indicated:
- (2) *Applicant* means the individual, partnership, corporation, or other legal entity whose signature appears on the building permit application.
- (3) (i) *Building* means a structure with exterior walls which combine to form an occupiable structure.

- (ii) *Building* does not include a temporary structure, as defined in the Howard County Building Code.
- (4) (i) *New construction* means construction of a building which requires a Howard County building permit.
- (ii) *New construction* does not include, if the building replaces an existing building, replacement of a building due to casualty or loss within three years of that casualty or loss, or replacement of a mobile home on a site, except to the extent the gross square footage of the replacement building or replacement mobile home exceeds the gross square footage of the building or mobile home being replaced.
- (5) *Occupiable* means space that is:
 - (i) Designed for human occupancy in which individuals may live, work, or congregate for amusement; and
 - (ii) Equipped with means of egress, light, and ventilation.
- (6) (i) *Residential* means a building that contains one or more dwelling units and includes a boarding house.
- (ii) *Residential* includes all areas that are contained within a residential building, including an attached garage or area for home occupations.
- (iii) *Residential* does not include:
 1. Transient accommodations, including a hotel, country inn, or bed and breakfast inn;
 2. Nonresidential uses in a mixed-use structure; or
 3. Detached accessory buildings, including a detached garage or shed that does not contain living quarters.
- (b) The County Council by ordinance shall impose a school facilities surcharge on residential new construction for which a building permit is issued on or after July 1, 2004.
- (c) (1) (i) Subject to paragraph (2) of this subsection, for fiscal year 2020 and each succeeding fiscal year, a school facilities surcharge imposed on residential new construction shall be in an amount:
 1. Equal to or greater than the amount imposed by the County Council on June 30, 2019, per square foot of occupiable area in the residential new construction; and
 2. Equal to the amount imposed by the County Council on June 30, 2019, per square foot of occupiable area in the residential new construction that is classified as senior housing under 42 U.S.C. § 3607(b).
- (ii) The County Council may not impose a school facilities surcharge on residential new construction that is classified as senior housing and an affordable housing unit, as defined in § 28.116 of the County Code.
- (2) The County Council may enact a local law that provides for an annual adjustment in the amount of the school facilities surcharge under paragraph (1)(i) of this subsection in the following manner:
 - (i) Subject to paragraph (3) of this subsection, an increase or decrease in the amount of the school facilities surcharge under paragraph (1)(i)1 of this subsection;
 - (ii) A decrease in the amount of the school facilities surcharge under paragraph (1)(i)2 of this subsection; or
 - (iii) Establishment of a grandfathering process for residential new construction based on the status in the development process.

- (3) The County Council may not impose a school facilities surcharge on residential new construction under paragraph (1)(i)1 of this subsection in an amount that is less than the amount imposed by the County Council on June 30, 2019.
- (4) Before enacting a local law to adjust the amount of the school facilities surcharge under this subsection, the County Council shall consider the following issues when determining the amount:
 - (i) The capital costs for the construction of new public schools and additions to existing public schools;
 - (ii) The anticipated amount of the state contribution for school construction funding;
 - (iii) The average percentage of student enrollments that will be generated by the residential new construction;
 - (iv) The impact of school redistricting by the Howard County Board of Education;
 - (v) The potential for charging different amounts for differently sized residential new construction units;
 - (vi) The effect on affordable housing units; and
 - (vii) Sources of tax and fee revenue for the County, including the transfer tax.
- (d)
 - (1) The school facilities surcharge shall be paid by the applicant at the time a building permit is issued for the residential new construction.
 - (2) The school facilities surcharge may not be construed to be a settlement cost.
- (e)
 - (1) The County shall rebate to the applicant the school facilities surcharge imposed on residential new construction under this section if, on the initial sale of the property, the property is sold for a fair market value that is less than \$200,000.00.
 - (2) If, on completion, the residential new construction is not sold but the property is occupied by the applicant or the immediate family of the applicant, the County shall rebate to the applicant the school facilities surcharge imposed under this section if the initial assessment value assigned to the property by the State Department of Assessments and Taxation for purposes of the County real property tax equates to a market value that is less than \$200,000.00.
 - (3) For fiscal year 2006 and each succeeding fiscal year, the value of the property that is entitled to a rebate under this subsection shall be adjusted for inflation in accordance with the Consumer Price Index for All Urban Consumers published by the United States Department of Labor, for the fiscal year preceding the year for which the value is being calculated.
 - (4) Within 30 days after the start of each fiscal year, the Howard County Office of Finance shall calculate and publish in a newspaper of general circulation in the County the value of the property that is entitled to the rebate specified under this subsection.
- (f) Payment of the school facilities surcharge does not eliminate any authority to apply any test concerning the adequacy of school facilities under the County's adequate public school facility ordinance.
- (g) Revenue collected under the school facilities surcharge shall be deposited in a separate account and may only be used to pay for:
 - (1) Additional or expanded public school facilities such as renovations to existing school buildings or other systemic changes; or
 - (2) Debt service on bonds issued for additional or expanded public school facilities or new school construction.
- (h) Revenue collected under the school facilities surcharge is intended to supplement funding for public school facilities and may not supplant other County or State funding for school construction.

- (i) (1) The County Executive of Howard County shall prepare an annual report on the school facilities surcharge on or before August 31 of each year for the County Council of Howard County, the Howard County Senate Delegation, and the Howard County House Delegation, to include:
 - (i) Detailed information regarding the school facilities surcharge, and the amount and kind of residential development and the change in school population in the County over the previous five years;
 - (ii) A detailed description of how fees were expended;
 - (iii) The amount of fees collected; and
 - (iv) Recommendations regarding how the County should proceed in its calculation of the school facilities surcharge for the next five years.
- (k) In a year that the County Council enacts a local law to provide for an annual increase in the school facilities surcharge in accordance with subsection (c)(2) of this section, the County executive shall include in the report required under paragraph (1) of this subsection a description of the County Council's consideration of the issues under subsection (c)(4) of this section.

(2004, ch. 420; C.B. 43, 2018, § 1; 2019, ch. 744)

Editor's note— Section 20.142 derives from 2004 Laws of Maryland, ch. 420. The catchline of this section has been provided by the editor.

Sec. 20.143. - Surcharge imposed.

- (a) House bill 1445 of the Acts of the General Assembly of 2004, to be codified as section 20.142 of the Howard County Code, requires that the County Council impose a school facilities surcharge on residential new construction for which a building permit is issued on or after July 1, 2004, with the revenue from the surcharge to be used to pay for additional or expanded public school facilities such as renovations to existing school buildings or other systemic changes, debt service on bonds issued for additional or expanded public school facilities, or new school construction.
- (b) In accordance with House bill 1445, there is a public school facilities surcharge imposed on residential new construction for which a building permit is issued on or after July 1, 2004.
- (c) The amount and terms of the surcharge, and the use of the revenue collected under the surcharge, shall be as required by section 20.142 of the Howard County Code, as enacted by House bill 1445.

(C.B. 15, 2004)

SUBTITLE 2. - PERSONAL PROPERTY TAX

Sec. 20.200. - Personal property tax in general; mandatory exemptions.

- (a) *Personal Property Tax.* In accordance with section 6-101 of the tax-property article of the Annotated Code of Maryland, and except as otherwise provided in that article or in the Howard County Code, all tangible personal property located in Howard County is subject to assessment and property tax and is taxable to the owner of the property.
- (b) *Tax Exemptions Contained in State Law.* Statewide mandatory tax exemptions under title 7, subtitle 2 of the tax-property article of the Annotated Code of Maryland are in effect in Howard County without the necessity of action by the governing body of Howard County.

(C.B. 38, 1998)

Sec. 20.201. - Discount for prompt payment.

The Director of Finance shall apply a discount of 0.5 percent to annual personal property taxes paid on or before July 31 following the due date.

(C.B. 38, 1998)

State Law reference— Authority to provide discount for prompt payment, Ann. Code of Md., Tax-Property article, § 10-301.

Sec. 20.202. - Taxes in arrears.

Annual Personal Property Taxes. Annual personal property taxes are overdue and in arrears if unpaid as of October 1 following the due date, or if unpaid more than 30 days after mailing of the tax bill, whichever is later.

(C.B. 38, 1998)

State Law reference— Similar provisions, Ann. Code of Md., Tax-Property article, § 10-102(b).

Sec. 20.203. - Penalty and interest for taxes in arrears.

The Director of Finance shall impose a penalty of 0.83 percent per month or part of a month and interest of 0.67 percent per month or part of a month on personal property taxes billed on or after July 1, 1991, which are in arrears.

(C.B. 38, 1998)

State Law reference— Penalty charge on delinquent property taxes, Ann. Code of Md., Tax-Property article, § 14-702; interest on delinquent property taxes, Ann. Code of Md., Tax-Property article, § 14-603.

Sec. 20.204. - Special payment of estimated tax.

- (a) *Payment Authorized.* If on or before September 1 of a taxable year the Department of Assessments and Taxation has not notified the County of any particular personal property assessment, the Director of Finance may send a bill for the payment of estimated property tax under subsection (b) of this section.
- (b) *Calculation of Payment:*
 - (1) The estimated property tax may not exceed the amount calculated by applying the applicable current property tax rate to the most recent assessment of the personal property.
 - (2) Payment is due 30 days after the tax bill is received or reasonably should have been received or available and if unpaid is subject to interest and penalties as provided in section 20.202 of this subtitle.
- (c) *Underpayment.* If the property tax on personal property paid under this section is less than the tax finally determined, the Director of Finance shall send a bill to the taxpayer for the difference.

- (d) *Overpayment.* If the property tax on personal property paid under this section is more than the tax finally determined, the Director of Finance shall send a refund to the taxpayer for the difference plus interest at the rate of interest authorized to be charged in section 20.202 of this subtitle.

(C.B. 38, 1998)

State Law reference— Special payment of estimated tax, Ann. Code of Md., Tax-Property article, § 10-210.

Sec. 20.205. - Personal property tax; exemption for research and development property.

- (a) *Authority.* This act is authorized under section 7-237 of the tax-property article, Annotated Code of Maryland, which authorizes a County to grant a partial exemption, which exceeds the exemption granted under that section, from the County property tax imposed on certain research and development property.
- (b) *Definitions.* The following terms have the meanings indicated:
- (1) (i) *Research and development* means:
- a. Basic and applied research in the sciences and engineering; and
 - b. The design, development, and governmentally-required premarket testing of prototypes, products and processes.
- (ii) *Research and development* does not include:
- a. Market research;
 - b. Research in the social sciences or psychology or other nontechnical activities;
 - c. Routine product testing;
 - d. Sales services;
 - e. Technical and nontechnical services; or
 - f. Research and development of a public utility.
- (2) *Director* means the Director of the Howard County Department of Finance or the Director's designee.
- (c) *Partial Exemption from Property Tax:*
- (1) The exemption granted under this section shall take the place of the partial exemption granted under section 7-237 of the tax-property article of the Annotated Code of Maryland.
 - (2) All machinery, equipment, materials, and supplies that are consumed in or used primarily in research and development are subject to a partial exemption from the County's personal property tax.
- (d) *Amount of Exemption.* The partial exemption granted under this section is equal to the assessment of the property in excess of 25 percent of the original cost of the property.
- (e) *Applicability.* The exemption applies to eligible personal property acquired or transferred into the County after December 31, 1994.
- (f) *Administration.* Applications for the tax credit shall be filed with the State Department of Assessments and Taxation, under regulations adopted by that department.

(C.B. 38, 1998)

Sec. 20.206. - Abatement of taxes due by Howard County.

The Director of Finance may abate Howard County personal property taxes for which Howard County is liable because of a contractual obligation or otherwise.

(C.B. 38, 1998)

Sec. 20.207. - Personal property tax; exemption for personal property of business located in a historic district.

- (a) *Authority.* This act is authorized under section 7-521 of the Tax-Property Article, Annotated Code of Maryland, which authorizes a County to grant an exemption from the County personal property tax imposed on certain businesses located in local historic districts or a National Register District.
- (b) *Definitions.* The following terms have the meanings indicated:
 - (1) *Local historic district* means a district that the governing body of Howard County has designated under local law.
- (c) *Exemption from property tax:* All machinery, equipment, materials, and supplies that is owned or leased by a business entity is subject to an exemption from the County's personal property tax if the business entity is located in a local historic district or National Register District.
- (d) *Administration.* Applications for the exemption shall be filed with the State Department of Assessments and Taxation, under regulations adopted by that department.

(C.B. 70, 2017, § 1)

SUBTITLE 3. - TRANSFER TAX^[5]

Footnotes:

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Editor's note— Subtitle 3, §§ 20.300—20.305, is derived, as indicated in the legislative history lines which follow each section, from Public Local Laws passed by the Maryland General Assembly. The headings were added editorially for ease of reading and were not part of the legislation as passed. C.B. 38, 1998, passed by the Howard County Council, renumbered the contents of this subtitle as subtitle 3 rather than subtitle 4.

State Law reference— County transfer tax, Ann. Code of Md. Tax-Property article, § 13-401 et seq.

Sec. 20.300. - Imposition of tax.

- (a) Except as provided in subsection (b) of this section, a tax is hereby imposed upon every instrument of writing conveying title to real or leasehold property offered for a record and recorded in Howard County with the Clerk of the Circuit Court, for all or only that portion of such property described in such instrument which is actually located in Howard County, provided that conveyances to the State or to any agency or instrumentality thereof, or any political subdivision of the State, or any nonprofit hospital or religious or charitable organization, association or corporation, shall not be subject to the tax imposed by this section. The term "instrument of writing," as used in this section shall be deemed to include any deed, lease, assignment of leasehold property or any other device the purpose of which is to convey title to real property, but shall not include any mortgage, deed of trust, conditional

sales contract or any other device the purpose of which is to afford a security in real property rather than to convey title thereto.

- (b)(1) (i) In this subsection the following words have the meanings indicated.
- (ii) "Fire and rescue services member" means a Howard County fire and rescue services member.
 - (iii) "Law enforcement officer" means a Howard County police officer or Howard County deputy sheriff.
 - (iv) "Teacher" means a certificated professional teacher who is employed by the Howard County Board of Education.
- (2) Subject to the provisions of paragraphs (3) and (4) of this subsection, for a sale of residential real property in Howard County to a teacher, law enforcement officer, or fire and rescue services member:
- (i) The transfer tax imposed under subsection (a) of this section does not apply to the teacher's, law enforcement officer's, or fire and rescue services member's first purchase of residential real property in Howard County; and
 - (ii) The rate of the transfer tax imposed under subsection (a) of this section may not exceed 0.7 percent when applied to the teacher's, law enforcement officer's, or fire and rescue services member's second or subsequent purchase of residential real property in Howard County.
- (3) To qualify for an exemption or rate reduction under this subsection, at least one grantee, other than a co-maker or guarantor, must:
- (i) Occupy the residence as a principal place of residence; and
 - (ii) Be employed as a teacher, law enforcement officer, or fire and rescue services member for a minimum of three years following the purchase of the residential real property.
- (4) If a teacher, law enforcement officer, or fire and rescue services member who received a transfer tax exemption or rate reduction under this subsection subsequently fails to satisfy the requirements of paragraph (3) of this subsection, the teacher, law enforcement officer, or fire and rescue services member shall pay the balance of the transfer tax that would have been otherwise payable.

(1966, Ch. 609; 2017, Ch. 148; 2018, Ch. 138)

Sec. 20.301. - Rate of tax.

The tax imposed by this section shall be levied at the rate of one percent of the actual consideration paid or to be paid for the conveyance of title and shall be collected by the clerk of the circuit court prior to his accepting any such instrument for recordation.

(1965, Ch. 515; 1968, Ch. 256)

Sec. 20.302. - Application to certain leases.

This tax shall also be imposed upon every lease for a term of years above seven, not perpetually renewable, offered for record and recorded, and the tax rate of one percent shall be applied based upon the capitalization at ten percent of the average annual rental on the entire term of the lease, including any renewal term, plus the actual consideration, other than rent, paid or to be paid. Where the average annual rental cannot be determined, the tax shall be based upon a figure arrived at by multiplying the assessed value of the property covered by the lease by 166 percent.

(1968, Ch. 256)

Sec. 20.303. - Evidence of payment of tax.

Payment of the tax imposed by this subtitle shall be evidenced by the affixing to or stamping on the instrument of writing offered for recordation a legend stating that such tax has been paid and the amount of payment and containing the signature of the clerk or an authorized facsimile thereof. Any instrument so executed shall be prima facie evidence that the tax imposed by this subtitle has been paid.

(1965, Ch. 515; 1968, Ch. 256)

Sec. 20.304. - Duties of Clerk of Court.

The Clerk of the Circuit Court shall pay over to the Director of Finance from time to time, under such procedures as the Director of Finance may specify, the proceeds of this tax. The Director of Finance shall hold such proceeds in the following manner: 25 percent in a special fund known as "The School Site Acquisition and Construction Fund," and disbursements from this fund shall be made only for the purposes set forth in section 9.102 of the Howard County Code; 25 percent in a special fund known as "The Park Land Watershed Facilities Fund," and disbursements from this fund shall be made only for the purposes set forth in section 19.100 of the Howard County Code; and the remainder in the general fund of the County, with the stipulation that the County Council shall budget this remainder as follows: 50 percent plus the interest thereon for the Howard County Agricultural Land Preservation Fund; 25 percent for community improvement and housing programs primarily serving low income individuals and families and the homeless and for urban renewal; and 25 percent for the acquisition or leasing of land for new fire house sites and training facilities and the construction and maintenance of fire house and training facilities, the acquisition and maintenance of fire equipment, and supplementation of financial needs of fire companies.

(1965, Ch. 515; 1968, Ch. 256; 1978, Ch. 496; 1984, Ch. 367; 1988, Ch. 630)

Sec. 20.305. - Penalty.

Any person who:

- (a) Willfully offers for recordation or records any instrument of writing subject to the tax imposed by this subtitle knowing that such tax has not been paid; or
- (b) Willfully misrepresents the amount of the actual consideration paid or to be paid in connection with any instrument of writing which is subject to the tax imposed by this subtitle; or
- (c) Forges or counterfeits any official legend or the signature of the clerk, or any authorized facsimile thereof, to any instrument of writing which is subject to the provisions of this subtitle;

shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500.00 or imprisoned for not more than six months, or both in the discretion of the court, for each such offense.

(1965, Ch. 515; 1968, Ch. 256)

SUBTITLE 4. - ROOM RENTAL TAX

Sec. 20.400. - State enabling law.

- (a) Howard County may impose, by law, and collect a sales or use tax on room rentals in the county for sleeping accommodations for transients.

- (b) (1) The rate of the tax authorized under this section may not exceed seven percent.
- (2) Subject to the annual County budget and appropriation process, the County shall distribute any revenue attributable to a tax rate greater than five percent imposed by the County under this subsection as follows:
 - (i) Two-thirds to the Howard County Tourism Council; and
 - (ii) One-third to the Howard County Economic Development Authority.
- (c) Howard County may adopt, by law, any procedural or enforcement provision that the County Council considers to be necessary or appropriate for administration or collection of the tax authorized under this section, including, without limitation:
 - (1) Requiring hotels in the County to:
 - (i) Collect the tax from patrons;
 - (ii) Hold the tax in trust for the County;
 - (iii) Pay the tax collected and file periodic returns with the County; and
 - (iv) File a bond or other security for payment of the tax in an amount that the County Council considers to be necessary;
 - (2) Providing a tax exemption for classes of hotels;
 - (3) Imposing interest and penalties for late payment of the tax;
 - (4) Making unpaid tax a lien against the real and personal property of the person owing the tax; and
 - (5) Providing for collection of the tax by distraint.
- (d) The room rental tax authorized under this section does not apply to the sale of a right to occupy a room or lodgings as a transient guest at a dormitory or other lodging facility that:
 - (1) Is operated solely in support of the headquarters, a training facility, a conference facility, an awards facility, or the campus of a corporation or other organization;
 - (2) Provides lodging solely for employees, contractors, vendors, and other invitees of the corporation that owns the dormitory or lodging facility; and
 - (3) Does not offer lodging services to the general public.
- (e) (1) (i) In this subsection the following words have the meanings indicated.
 - (ii) 1. *Room rental fee* means a fee charged by a room rental intermediary to a transient for facilitating the rental of a room.
 - 2. *Room rental fee* does not include a commission paid by a hotelkeeper to a person after facilitating the rental of a room.
 - (iii) 1. *Room rental intermediary* means a person, other than a hotelkeeper, who facilitates the rental of a room and charges a transient for the rental of a room.
 - 2. For purposes of this subparagraph, a person shall be considered to facilitate the rental of a room if the person brokers, coordinates, or in any other way arranges for the rental of a room by a transient.
- (2) The room rental tax authorized under this section applies to the total charge for the room rental of a room, including any room rental fee but not including any tax.

(C.B. 38, 1998; 2011, ch. 139, § 1; 2013, ch. 510 § 1; 2016, ch. 1 § 1)

Editor's note— Code section 20.400 was enacted by Chapter 286 of the 1992 General Assembly Session and later amended by Chapter 227 of the 1994 General Assembly Session. Subsequently, subsection (b) of this section was amended by Chapter 139 of the 2011 General Assembly.

Sec. 20.401. - Establishment of room rental tax; rate of tax set by County Council.

There is a tax in Howard County on hotel room rental charges to visitors. The rate of the room rental tax shall be seven percent of the room rental charge.

(C.B. 38, 1998; C.B. 20, 2011, § 1)

Sec. 20.402. - Definitions.

Words and phrases used in this subtitle shall have their usual meaning, unless specifically defined in this section.

- (a) *Director of Finance* or *Director* means the Director of Finance of Howard County.
- (b) *Exemption certificate* means an annual certificate issued by the Director of Finance to an organization regularly providing emergency housing to citizens of Howard County.
- (c) *Hotel* means an establishment which offers sleeping accommodations to the public for compensation and has five or more rooms for rent. *Hotel* does not include a hospital, medical clinic, convalescent home, or home for the aged.
- (d) *Hotelkeeper* means the owner of the hotel or the owner's designee.
- (e) *Person* means an individual, corporation, company, association, firm, partnership, or any group of individuals acting as a unit.
- (f) *Room rental charge* means the hotel's charge for sleeping accommodations.
- (g) *Visitor* means a person, other than the holder of an exemption certificate, who rents sleeping accommodations at a hotel for 30 or fewer consecutive days.

(C.B. 38, 1998)

Editor's note— Code section 20.402 was originally enacted by Council Bill 53-1992 and later amended by Council Bills 67-1992 and 73-1995.

Sec. 20.403. - Requirement to pay room rental tax.

A visitor shall pay the room rental tax at the same time the room rental charge is paid.

(C.B. 38, 1998)

Editor's note— Code section 20.403 was originally enacted by Council Bill 53-1992 and later amended by Council Bill 73-1995.

Sec. 20.404. - Tax collection by hotel; hotel required to post security.

- (a) *When Collected.* A hotelkeeper shall collect the room rental tax from a visitor when the visitor pays the room rental charge.

- (b) *Itemization of Bill.* A hotel's bill shall identify the room rental charge and the room rental tax as separate items from any other charge on the bill.
- (c) *Tax Held in Trust.* A hotelkeeper shall hold the room rental taxes he or she has collected in trust for the County until the hotelkeeper remits the collected taxes to the County.
- (d) *Security Required.* The Director of Finance may require a hotelkeeper to file a bond or other security acceptable to the Director of Finance to guarantee remittance of the taxes, plus penalties and interest.

(C.B. 38, 1998)

Editor's note— Code section 20.404 was originally enacted by Council Bill 53-1992.

Sec. 20.405. - Remittance of room rental taxes to County.

- (a) *Routine Remittance.* On or before the last day of each month, the hotelkeeper shall pay the Director of Finance the room rental taxes collected during the prior month.
- (b) *Remittance upon Closing or Transfer of Hotel.* Within five calendar days after the closing or transfer of ownership of a hotel, the hotelkeeper shall pay the Director of Finance the room rental taxes collected up to the date of closing or transfer.
- (c) If a hotelkeeper fails to charge and collect the taxes required by this subtitle, the hotelkeeper shall pay the Director of Finance the amount that should have been charged and collected.

(C.B. 38, 1998; C.B. 9, 2005)

Editor's note— Code section 20.405 was originally enacted by Council Bill 53-1992.

Sec. 20.406. - Recordkeeping.

- (a) *Required Information.* The Director of Finance shall provide each hotel with a list of information the Director requires in order to determine whether the room rental tax has been correctly collected and timely remitted to the Director.
- (b) *Information Provided with Remittance of Taxes.* Each month, when the hotelkeeper pays the room rental taxes to the Director of Finance, the hotelkeeper shall also send the information required by the Director, pursuant to the Director's list and in a format acceptable to the Director.
- (c) *Duty to Maintain Records.* For a period of two years the hotelkeeper shall keep the records which the hotelkeeper used to compile the information required by the Director's list.
- (d) *Authority to Inspect Records.* The Director of Finance shall have the right, during regular business hours, to inspect the records which the hotelkeeper used to compile the information required by the Director's list.

(C.B. 38, 1998)

Editor's note— Code section 20.406 was originally enacted by Council Bill 53-1992.

Sec. 20.407. - Enforcement.

- (a) *Failure to Collect the Tax.* In addition to the provisions set forth in subsection (d) of this section, failure to collect the room rental tax shall be enforced with civil penalties pursuant to title 24, "Civil

Penalties," of the Howard County Code. A violation shall be a Class A offense. Each day that the violation continues shall be a separate offense.

- (b) *Failure to Provide Required Information and/or Maintain Records.* Failure to provide required information or to maintain records sufficient to support the room rental charges and the amount of taxes collected and make them available for inspection shall be enforced with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation shall be a Class B offense. Each day that the violation continues shall be a separate offense.
- (c) *Late Remittance of Collected Taxes.* The hotelkeeper shall pay the following penalty and interest on taxes unpaid to the Director of Finance after the dates set out in section 20.405 of this subtitle:
 - (1) Interest at the rate of one percent per month for each month or portion of a month that the remittance is late; and
 - (2) A penalty of ten percent of the amount of tax due on taxes still unpaid one month after the due date.
- (d) *Failure to Remit Taxes.* If the required room rental taxes have not been paid to the Director of Finance within three months after the dates set out in section 20.405 of this subtitle, the Director shall collect the taxes, plus penalty and interest under subsection (c) of this section by:
 - (1) Proceeding against the bond or other posted security to pay the required amount; and
 - (2) Placing a lien against the real and personal property of the owner of the hotel, if the bond or other posted security is insufficient to pay the whole amount owed; or
 - (3) By distraint.

(C.B. 38, 1998)

Editor's note— Code section 20.407 was originally enacted by Council Bill 53-1992.

SUBTITLE 5. - BUILDING EXCISE TAX

Sec. 20.500. - Authority.

- (a)
 - (1) Subject to paragraph (3) of this subsection, the County may impose, by ordinance, a building excise tax for financing additional or expanded public road facilities that are included in the County's capital budget. Public road facilities include bridges, intersection improvements, and new road construction and road improvements.
 - (2) The County ordinance shall specify the type of construction subject to the building excise tax.
 - (3) The County may impose a building excise tax only after the County adopts an adequate facilities plan.
- (b)
 - (1) The County Director of Finance shall deposit building excise taxes in an account known as the "development road improvement fund."
 - (2) Money in the development road improvement fund may be used only to pay for capital projects or indebtedness incurred for capital projects for additional or expanded public road facilities.
- (c)
 - (1) Subject to paragraph (2) of this subsection, the County Council may increase the building excise tax.
 - (2) The percentage of the increase in the building excise tax since the month and year when the building excise tax is first enacted may not exceed the percentage of the increase in the ENR construction cost index for the Baltimore Region, based on 1913 U.S. average equals 100, as reported in ENR, Engineering News Record, since the base month and year when the building excise tax is first enacted.

(C.B. 38, 1998)

Sec. 20.501. - Establishment of tax.

In accordance with Chapter 285, Acts of the Maryland General Assembly of 1992, there is a building excise tax on all new construction and addition construction in Howard County, which tax will finance capital projects for additional or expanded public road facilities in Howard County. Where this tax will be used to finance capital projects, which include funding for State highway projects, it shall serve only as a supplement to enhance the State-funded level of highway construction in the County and not as a replacement of current State obligations.

(C.B. 38, 1998)

Sec. 20.502. - Definitions.

Words and phrases used in this subtitle shall have their usual meaning, unless otherwise defined in this section.

- (a) *Addition construction* means construction of an addition to a building where the work requires a Howard County building permit and where the addition either:
 - (1) Increases the number of gross square feet of occupiable nonresidential structure on the property; or
 - (2) Increases the number of gross square feet of occupiable residential structure on the property by more than 100 square feet.
- (b) *Applicant* means the individual, partnership, corporation or other legal entity whose signature appears on the building permit application.
- (c) *Building* means a structure with exterior walls which combine to form an occupiable structure. *Building* does not include a temporary structure, as defined in the building code.
- (d) *Capital projects for additional or expanded road facilities* means all capital projects for roads, bridges and intersection improvements in the Howard County capital budget.
- (e) *Construction costs* means the costs of construction, based on 1913 U.S. Average Equals 100, reported in "ENR, Engineering News Record" Construction Cost Index for the Baltimore Region.
- (f) *Distribution and manufacturing* refers to the use of a building for warehousing, distribution, packaging, processing, manufacturing, storage of construction equipment or supplies, and similar uses.
- (g) *Institutional and other:*
 - (1) Religious activities.
 - (2) Nonprofit clubs, lodges or community halls.
 - (3) Day care centers, nursery schools and private academic schools.
 - (4) Hospitals, nursing homes and group care facilities.
 - (5) Recreational facilities or retreat centers operated by nonprofit organizations.
 - (6) Funeral homes and mausoleums.
 - (7) Public utility substations and similar uses.
 - (8) Other noncommercial uses similar to those listed in this definition or which do not meet the definitions for residential, office and retail, or distribution and manufacturing uses.

- (h) *New construction* means construction of a building which requires a Howard County building permit. Where the building replaces an existing building, *new construction* does not include replacement of a building due to casualty or loss within three years of that casualty or loss, or replacement of a mobile home on a site, except to the extent that the gross square footage of the replacement building or replacement mobile home exceeds the gross square footage of the building or mobile home being replaced.
- (i) *Occupiable* means designed for human occupancy in which individuals may live, work, or congregate for amusement, educational or similar purposes and which is equipped with means of egress, light and ventilation facilities.
- (j) *Office and retail* refers to the use of a building, other than as an accessory use to a residence, for:
 - (1) Business or professional offices.
 - (2) The sale or rental of merchandise, materials or services, including stores, personal service establishments, service agencies, commercial recreation facilities, hotels and conference centers, restaurants, theaters, banks and other financial institutions, trade schools and similar commercially operated schools, motor vehicle or appliance repair facilities and similar uses.
 - (3) Research laboratories.
- (k) *Residential* refers to a building which contains one or more dwelling units, including boarding houses but not including transient accommodations such as hotels, country inns or bed and breakfast inns. *Residential* includes all areas that are contained within a residential building such as attached garages or home occupations, but does not include nonresidential uses in mixed use structures. *Residential* does not include detached accessory buildings such as detached garages or sheds which do not contain any living quarters.

(C.B. 38, 1998)

Sec. 20.503. - Schedule of rates for tax.

- (a) *Adopted by County Council.* The County Council shall adopt by resolution a schedule of rates for the building excise tax in dollars per gross square foot of new construction. The schedule shall specify rates per gross square foot of:
 - (1) Residential addition construction;
 - (2) Residential new construction;
 - (3) Office and retail addition construction and new construction;
 - (4) Distribution and manufacturing addition construction and new construction; and
 - (5) Institutional and other addition construction and new construction.
- (b) *Adjustment to Rates.* The schedule of rates for the building excise tax may be adjusted annually by the County Council. However, the percentage of increase in the tax since the month and year when it was first adopted may not exceed the percentage of the increase in construction costs since the base month and year when the tax was first adopted.

(C.B. 38, 1998; C.B. 20, 2010, § 1)

Sec. 20.504. - Amount of tax.

- (a) *Calculation of Amount.* The amount of building excise tax to be paid by an applicant shall be determined by the Director of Inspections, Licenses and Permits from the building excise tax schedule.

- (b) *Phase-In of Building Excise Tax.* The building excise tax shall be phased in. In calendar 1992 applicants shall pay 50 percent of the amount otherwise due. In calendar 1993 applicants shall pay 75 percent of the amount otherwise due. In calendar 1994 and later years applicants shall pay 100 percent of the amount due.
- (c) *Appeal of Amount.* An applicant aggrieved by a decision of the Director of Inspections, Licenses and Permits regarding the calculation of the amount of building excise tax may appeal the decision to the Board of Appeals within 30 days of the Director's decision, provided that either:
 - (1) Processing of the building permit is delayed pending the decision of the Board of Appeals; or
 - (2) The Applicant pays the building excise tax prior to filing the appeal.

(C.B. 38, 1998)

Sec. 20.505. - Payment of tax.

- (a) *Building Excise Tax Paid When Paying for Building Permit.* An Applicant for a building permit for addition construction or new construction shall pay the building excise tax to the Director of Finance of Howard County at the same time the Applicant pays for the building permit.
- (b) *Refunds:*
 - (1) The Director of Finance shall refund to the Applicant the building excise tax paid if the building permit is canceled or expires.
 - (2) If, upon appeal by an applicant who has paid the building excise tax, the Board of Appeals determines that the Director of Inspections, Licenses and Permits has erred in calculating the building excise tax, the Director of Finance shall refund to the Applicant the difference between the amount of building excise tax paid by the Applicant and the correct amount.

(C.B. 38, 1998)

Sec. 20.506. - Development road improvement fund.

- (a) *Establishment of Fund.* The Director of Finance shall establish an account to be known as the development road improvement fund. All receipts from building excise taxes shall be deposited in the development road improvement fund. Interest earned by money in the development road improvement fund shall remain in the development road improvement fund.
- (b) *Use of Development Road Improvement Fund.* Funds from the development road improvement fund shall be expended only for capital projects or indebtedness incurred for capital projects for additional or expanded public road facilities. These funds may be appropriated for capital projects which fund State highway projects only if the capital improvement master plan for transportation indicates that the State's delay in the funding of a proposed State highway project will have a significant adverse impact on the local road network in Howard County. The funds may not be substituted for current State appropriations identified in the Maryland Consolidated Transportation Program or for the cost of any portion of a project for which funds have not been appropriated and which meets the criteria for eligibility for Federal aid within the completion schedule of the project.

(C.B. 38, 1998)

Sec. 20.507. - Annual reports.

Subject to section 22.1000 of the County Code, the Director of Finance shall prepare and submit an annual report on or before July 31 of each year to the County Executive and the County Council which shall include the following information:

- (a) Total amount of building excise taxes collected.
- (b) Amount of funds appropriated from the development road improvement fund.
- (c) Amount of funds expended from the development road improvement fund.
- (d) Amount of funds from County sources appropriated for capital projects for roads, bridges and intersection improvements in the Howard County capital budget.
- (e) Funds remaining in the development road improvement fund.

(C.B. 38, 1998; C.B. 43, 2018, § 1)

SUBTITLE 6. - UTILITY CHARGES AND ASSESSMENTS

Sec. 20.600. - Definitions.

For the purposes of this subtitle, the following words and phrases have the meanings indicated:

- (a) *Biochemical oxygen demand (BOD)* means for sewage, the quantity of oxygen used in the biochemical oxidation of organic matter during incubation at 20 degrees Celsius for five days. This is expressed in milligrams of oxygen per liter of sewage. The procedures used in the measurement of BOD are those set forth in "Standard Methods for the Examination of Water and Wastewater."
- (b) *Director of Finance* means the Director of the Department of Finance or the Director's designee.
- (c) *Director of Public Works* means the Director of the Department of Public Works or the Director's designee.
- (d) *Industrial sewage* means wastes excluding sanitary sewage resulting from any process or operation of industry, manufacturing, trade, or business discharged to the public sewer system.
- (e) *Loading* means the amount of a sewage parameter contained in the sewage influent to a sewage treatment plant.
- (f) *Metering facilities* means all structures, equipment, and devices necessary to monitor the:
 - (1) Volume, flow variations, and pollutant concentrations of sewage discharged to the public sewer system, including access points for sewage sampling; and
 - (2) The volume and flow variations of water distributed through the public water system.
- (g) *Methods for chemical analysis of water and wastes* means the laboratory procedures set forth in the latest edition of the "Standard Methods for the Examination of Water and wastewater."
- (h) *Metropolitan district* means the water and sewer service district of Howard County as described in section 18.101 of subtitle 1, "public utilities," of title 18, public works," of this Code.
- (i) *Nonresidential public sewer system user* means except for a single-family residence, multifamily residence, or apartment building, or a waste hauler, any owner of a property or structure that discharges sewage to the public sewer system.
- (j) *Operation and maintenance costs* means all costs of operation and maintenance of the public water, reclaimed water, or sewer system as defined by the United States Environmental Protection Agency or the Department of Public Works. Included are costs for obtaining and installing equipment necessary to maintain design capacity and performance of the water, reclaimed water, or sewer system. Also included are costs for administering the provisions of this subtitle and the costs for operating and administering a program to regulate sewer system discharges pursuant to section 18.122A, "regulation of discharges to the public sewerage system" of this Code.
- (k) *Owner* means any individual, business, partnership, joint stock company, firm, company, corporation, society, group, association, trust or other legal entity that owns property or an

improvement in Howard County, or that owns a vehicle used to haul sewage for disposal to the public sewerage system in Howard County.

- (l) *Public sewerage system* means the system of sewers, pumping stations, treatment plants, and other appurtenant structures owned and operated by Howard County, Baltimore County, Baltimore City, or other political subdivisions for the purpose of collecting and treating sewage, sometimes referred to as *the sewer system* .
- (m) *Public water system* means the system of waterlines, storage tanks, pumping stations, and other appurtenant structures owned and operated by Howard County for the purpose of distributing water. Sometimes referred to as *the water system* .
- (n) *Reclaimed water* means treated wastewater treatment plant effluent that is recycled for nonpotable uses.
- (o) *Reclaimed water system* means the system of waterlines, storage tanks, pumping stations, and other appurtenant structures owned and operated by Howard County for the purpose of distributing reclaimed water.
- (p) *Sanitary sewage* means wastes discharged from the sanitary conveniences of dwellings, business establishments, and institutions to the public sewer system.
- (q) *Sewage* means any combination of sanitary and industrial sewage discharged to the public sewer system, including sludge, septage, and other wastes discharged to the public sewer system by waste haulers. Sometimes referred to as *waste water* .
- (r) *Sewage parameter* means a constituent or property of sewage including but not limited to BOD, TSS, TP, flow rate, and flow volume.
- (s) *Sewage treatment plant* means any combination of structures and devices for treating sewage discharged to the public sewer system owned and operated by Howard County, Baltimore County, Baltimore City, or other political subdivisions. Sometimes referred to as *treatment plant* .
- (t) *Sewer system user* means the owner of a property or improvement that discharges sewage to the public sewer system.
- (u) *Total phosphorus (TP)* means the concentration of phosphorus expressed in mg/l contained in sewage and that can be quantified in accordance with procedures given in "Methods for Chemical Analysis of Water and Wastes."
- (v) *Total suspended solids (TSS)* means the dry weight expressed in mg/l of solids that either float on the surface or are in suspension and can be quantified from sewage in accordance with procedures given in "Methods for Chemical Analysis of Water and Wastes."
- (w) *Waste hauler* means the owner of a vehicle used to haul sewage for disposal to the public sewerage system in Howard County.
- (x) *Water system user* means the owner of a property or improvement which takes water from the public water system.

(C.B. 38, 1998; C.B. 1, 2006, § 1; C.B. 27, 2007, §§ 1, 2)

Sec. 20.601. - Utility charges and assessments; purpose.

- (1) *Water, Reclaimed Water, and Sewer Service Charges; Sewer Use Surcharge.* The water service charge, reclaimed water service charge, sewer service charge, and sewer use surcharge as authorized by this subtitle are the sources of revenue designated to cover the cost to Howard County of operation and maintenance of the public water system, reclaimed water system, and the public sewer system.
- (2) *Annual Front-Foot Benefit Assessment Charge.* The annual front-foot benefit assessment charge as authorized by this subtitle shall be a source of revenue designated to cover the cost to Howard

County of paying the interest and principal on bonds issued by the County or by the former Metropolitan Commission to provide for the construction, purchase or establishment of the public water supply and public sewerage system within the Metropolitan District of Howard County.

- (3) *In-Aid-of-Construction Charge*. The in-aid-of-construction charge as authorized by this subtitle shall be a source of revenue designated to cover the partial cost to Howard County of construction or purchase of facilities in the public water and sewer system which serve or will serve all properties connected to the system, including but not limited to sewerage treatment plants, disposal fields, lagoons, pumping stations, force mains, and interceptor sewers, water storage facilities, water treatment facilities, water pumping stations and transmission mains whether or not such facilities are located within Howard County.
- (4) *Third Addition to Little Patuxent Water Quality Management Center Supplemental In-Aid-of-Construction Charge*. Repealed by C.B. 53, 1984.
- (5) *Middle Patuxent Drainage Area Supplemental in-Aid-of-Construction Charge*. The Middle Patuxent Drainage Area supplemental in-aid-of-construction charge as authorized by this subtitle was the source of revenue designated to cover a portion of 87.5 percent of the construction costs, bond retirement costs, interest charges, and all other expenses (exclusive of land acquisition and right-of-way expenses) of the Middle Patuxent Interceptor projects. As of July 1, 2006, the Middle Patuxent Drainage Area supplemental in-aid-of-construction charge was discontinued.
- (6) *Ad Valorem Charge*. The ad valorem charge as authorized by this subtitle shall be a source of revenue designated to cover the cost to Howard County of retiring bonds issued by the County and of paying the interest thereon, the payment of salaries and other expenses of the Department of Public Works related to water and sewerage systems, and/or as a funding source for water and sewer capital projects.
- (7) *Middle Patuxent Drainage Area Supplemental Ad Valorem Charge*. The Middle Patuxent Drainage Area supplemental ad valorem charge as authorized by this subtitle was the source of revenue designated to cover the cost to Howard County of that portion of 87.5 percent of construction, bond retirement, interest and all other costs (not including land acquisition and right-of-way expenses) of the Middle Patuxent Interceptors not covered by the Middle Patuxent Drainage Area supplemental in-aid-of-construction charge or other available and authorized revenue sources. As of July 1, 2006, the Middle Patuxent Drainage Area supplemental ad valorem charge was discontinued.

(C.B. 38, 1998; C.B. 41, 2006, § 2; C.B. 27, 2007, § 2; C.B. 69, 2016, § 1)

Sec. 20.602. - Requirement to pay utility charges and assessments; liens.

- (1) *Liability for Utility Charges Generally*. All owners of real estate, including Howard County, the State of Maryland, the U.S. Government and other municipalities and political subdivisions who have connected or who shall hereafter connect to the water, reclaimed water, or sewer facilities of such real estate to the facilities of the County, or where such real estate is benefited by the water, reclaimed water, or sewer system of the County, shall pay the applicable charges, surcharges, levies and assessments as provided in this subtitle. All waste haulers who discharge sewage to the public sewer system shall pay the applicable charges and surcharges as provided in this subtitle.
- (2) *Property Owner Responsible*. Waste haulers and owners of property have the responsibility for the payment of all charges, levies and assessments. The County does not recognize a third-party liability for water, reclaimed water, and sewer charges.
- (3) *Limited Liability for Water Service Charges, Reclaimed Water Service Charges, Sewer Service Charges, and Sewer Use Surcharges*. In the event the County underbills the property owner or waste hauler for water, reclaimed water, and sewer service charges and surcharges as defined, in sections 20.605 and 20.606 of this subtitle, the property owner or waste hauler shall be liable for the additional amount represented by those charges and surcharges. The County shall rebill the property owner or waste hauler within one year of discovering the error. If the County does not re-bill the

owner or waste hauler within one year of discovering the error, the property owner or waste hauler is not liable for the additional amount.

- (4) *Liens.* All charges, levies and assessments provided in this subtitle shall be a lien or charge against the real estate served or benefited and shall be levied, collected and enforced and shall have the same priority, and right, bear the same interest and penalties, and in every respect be treated as County real estate taxes.
- (5) *Surety by Waste Hauler.* Prior to discharging sewage to the public sewerage system, each waste hauler shall provide the Director of Public Works with surety in the form of a cash deposit, a bond, a letter of credit, a pledge of real property situated in Howard County, or other surety acceptable to the Director. The amount of the surety shall be determined by the Director and shall equal the estimated average quarterly service charges and sewer use surcharges payable by a waste hauler who regularly discharges sewage to the public sewerage system. The surety shall be used to recover unpaid charges and penalties in accordance with section 20.615 of this subtitle.

(C.B. 38, 1998; C.B. 17, 2003, § 4; C.B. 27, 2007, § 2)

Sec. 20.603. - Regulations.

The Director of Public Works is authorized to adopt rules and regulations necessary or proper for the administration and enforcement of this subtitle.

(C.B. 38, 1998)

Sec. 20.604. - Appeals.

Any property owner in the metropolitan district or waste hauler aggrieved by any determination, decision or order relating to water, reclaimed water, or sewer charges or assessments made by the Director of Public Works or the Director of Finance (except where other appeal procedures are authorized in this subtitle) may appeal such determination, decision or order to the Board of Appeals within 30 days after such determination, decision or order is made. After notice and hearing, the Board of Appeals shall review the case consistent with its duly adopted rules of procedures. The Board of Appeals may not waive, set aside or change any specific provision(s) of this subtitle.

(C.B. 38, 1998; C.B. 27, 2007, § 2)

Sec. 20.605. - Utility service charges.

- (1) *Establishment of Utility Service Charges:*
 - (a) *Water service charge established.* There is a water service charge for the volume of metered water taken from the public water system by a water system user. The water service charge is composed of an account user charge and seasonal volumetric charges.
 - (b) *Reclaimed water service charge established.* There is a reclaimed water service charge for the volume of metered reclaimed water taken from the reclaimed water system by a reclaimed water system user.
 - (c) *Sewer service charge established.* There is a sewer service charge for the volume of sewage discharged to the public sewer system by a sewer system user. The sewer service charge is composed of an account user charge and volumetric charges. See section 20.607 for measurement of sewer system usage.
- (2) *Basis of Recommendations for Utility Service Charge Rates:*

- (a) *Water service charge rate.* The water service charge recommended by the County Executive at the time of submission of the annual budget to the County Council shall be calculated to result in revenue equal to the total projected operation and maintenance costs of the public water system for the upcoming fiscal year, plus or minus any water service charge revenue surplus or deficit which the Director of Public Works projects for the current fiscal year.
 - (b) *Reclaimed Water Service Charge Rate.* The reclaimed water service charge shall be calculated to result in revenue equal to the total projected operation and maintenance costs of the reclaimed water system for the upcoming fiscal year, plus or minus any reclaimed water service charge revenue surplus or deficit which the Director of Public Works projects for the current fiscal year. The rate may account for credits that the County receives from the State for nitrogen discharge.
 - (c) *Sewer service charge rate.* The sewer service charge recommended by the County Executive at the time of submission of the annual budget to the County Council shall be calculated to result in revenue equal to the total projected operation and maintenance costs of the public sewer system for the upcoming fiscal year, plus or minus any sewer service charge revenue surplus or deficit which the Director of Public Works projects for the current fiscal year.
- (3) *Adoption of Rate Schedule Annually:*
- (a) *Council adoption of rate schedule.* At the time of adoption of the annual budget and appropriation ordinance, the County Council shall adopt by resolution a service charge rate schedule and a special charge schedule for the upcoming fiscal year. With the exception of the sewer use surcharge rates, the rates adopted in the schedules shall be uniform throughout the metropolitan district. The service charge rates shall be equal to or greater than the base charge rates consistent with the approval of the operation and maintenance budget by the County Council.
 - (b) *Duration of rate schedule.* The service charge rate schedule and special charge schedule shall remain in effect until the effective date of any new rate schedule adopted by the County Council.
- (4) *Computation and Billing of Service Charges:*
- (a) *Computation of water service charge:*
 - (i) The water service charge shall be computed by multiplying the seasonal volumetric component of the water service charge rate by the volume of metered water taken from the public water system by a water system user during a specified billing period, and adding the product to the account user charge. An alternative method authorized and approved by the Director of Public Works may be used in the case of industrial and commercial users and waste haulers where the aforementioned method is not applicable.
 - (ii) Where a single-family residential user is not metered, the water service charge shall be a special charge as provided for in subsections (3)(a) and (b) above.
 - (b) *Computation of reclaimed water service charge.* The reclaimed water service charge shall be computed by multiplying the reclaimed water service charge rate by the volume of metered reclaimed water taken from the reclaimed water system by a reclaimed water system user during a specified billing period.
 - (c) *Computation of sewer service charge.*
 - (i) The sewer service charge shall be computed by multiplying the volumetric component of the sewer service charge rate by the metered volume of water taken from the public water system by a sewer system user during a specified billing period and adding the product to the account user charge. An alternative method authorized and approved by the Director of Public Works may be used in the case of industrial and commercial users and waste haulers where the aforementioned method is not applicable.

(ii) Where a single-family residential user of the public sewer system obtains water from sources other than the public water system, the sewer service charge shall be a special charge as provided for in subsections (3)(a) and (b) above.

(d) *Billing*.

(1) The water, reclaimed water, and sewer service charges shall be billed by the Department of Finance and shall be billed quarterly unless otherwise stipulated by the Director of Finance. Penalties for late payment of such charges shall be made in accordance with section 20.316 of this subtitle. If only a portion of the service charge revenues are used to cover operation and maintenance costs of the water system, reclaimed water system, or public sewer system, the amount of the service charge dedicated to operation and maintenance costs shall be indicated on each bill.

(2) The Department of Finance shall include on each bill a checkbox that, when checked by the bill payer, adds a \$3.00 contribution for the Citizens' Election Fund. The Department of Finance shall deposit the money collected because of the check-off into the Citizens' Election Fund required by section 907 of the Howard County Charter.

(5) *Help to Others (H20) Round-Up Program:*

For the purpose of assisting residential customers who are facing financial hardships and the possibility of utility service disconnections, there is a help to others (H20) round-up program to be administered as follows:

(a) For purposes of this subsection, "rounded amount" shall mean the difference between the amount billed under subsection (4)(d) of this section and the nearest dollar that is higher than the amount billed.

(b) On a residential customer's utility service bill, the Department of Finance may allow the residential customer to:

(1) Pay the rounded amount of the customer's utility service charge; or

(2) Make a one-time contribution.

(c) Rounded amounts and one-time contributions shall be placed into an account held by the County to assist residential customers facing financial hardship and possible utility service disconnections.

(d) The County may enter into a grant agreement with a private entity to administer the help to others (H20) round-up program, and

(e) If a customer fails to pay the rounded amount or one-time contribution, the unpaid rounded amount or contribution may not serve as the basis for a late fee or penalty.

(f) If a customer fails to pay the rounded amount or one-time contribution, the unpaid rounded amount or contribution may not serve as the basis for a lien or charge against the real estate served or benefited by the utilities.

(C.B. 38, 1998; C.B. 13, 2000; C.B. 27, 2007, § 2; C.B. 50, 2014, § 1; C.B. 30, 2017, § 1)

Sec. 20.606. - Sewer use surcharge.

There is a sewer use surcharge which shall be paid by nonresidential public sewer system users and waste haulers discharging sewage to the public sewer system with average daily pollutant concentrations exceeding one or more of the following limits:

Biochemical oxygen demand (BOD) 300 mg/l

Total suspended solids (TSS) 300 mg/l

Total phosphorus (TP) 12 mg/l

- (1) *Computation of sewer use surcharge.* The sewer use surcharge shall be computed using the formula:

Sewer use surcharge (S) =

$$V \times 8.34 \times [F_b (A_b - 300) + F_s (A_s - 300) + F_p (A_p - 12)]$$

Where:

V is the volume of sewage in millions of gallons discharged by a public sewer system user during the billing period.

F_b is the sewer use surcharge rate for BOD expressed in dollars/pound.

F_s is the sewer use surcharge rate for TSS expressed in dollars/pound.

F_p is the sewer use surcharge rate for TP expressed in dollars/pound.

A_b is the average daily concentration of BOD constituents in the sewage discharged expressed in mg/l.

A_s is the average daily concentration of TSS in the sewage discharged expressed in mg/l.

A_p is the average daily concentration of TP in the sewage discharged expressed in mg/l.

300 BOD or TSS in the sewage discharged for which a sewer use surcharge is not required for that sewage parameter.

12 is the maximum average daily concentration (mg/l) of TP in the sewage discharged for which a sewer use surcharge payment is not required for that sewage parameter.

Of the three terms $F_b (A_b - 300)$, $F_s (A_s - 300)$ and $F_p (A_p - 12)$ in the above formula, only those terms having positive values for the sewage discharged shall be used in the computation of the sewer use surcharge.

- (2) *Establishing sewer use surcharge rates.* Sewer use surcharge rates for BOD, TSS and TP shall be determined by the Director of Public Works prior to the beginning of each fiscal year for each sewage treatment plant to which sewage generated in Howard County is discharged. Surcharge rates shall be computed using a method specified in regulations promulgated by the Director and approved by the U.S. Environmental Protection Agency. The method of surcharge rate computation shall be based upon:

(a) Projected operation and maintenance costs for the upcoming fiscal year for treating sewage at treatment plants to which sewage generated in Howard County is discharged.

(b) Projected loadings of BOD, TSS and TP for the upcoming fiscal year at treatment plants to which sewage generated in Howard County is discharged.

Sewer use surcharge rates shall be included in the special charge schedule adopted by the County Council.

- (3) *Apportionment of sewer use surcharge revenue.* Sewer use surcharge revenue collected by Howard County from public sewer system users shall be apportioned and distributed annually between Howard County and other political subdivisions to which sewage generated in Howard County is discharged. Collected revenue shall be apportioned by the Director of Public Works as specified in regulations promulgated by the Director and approved by the U.S. Environmental Protection Agency. The method of apportionment shall be based upon the quantity and quality of sewage discharged by nonresidential public sewer system users and waste haulers paying

sewer use surcharges to Howard County. Collected surcharge revenue retained by Howard County shall be applied to the operation and maintenance costs of the public sewer system.

- (4) *Billing.* The sewer use surcharge shall be billed quarterly by the Office of Finance.

(C.B. 38, 1998)

Sec. 20.607. - Measurement of sewer system usage.

- (1) *Property Which Uses All Public Water—Discharges All Water Used to Public Sewer System.* Where a public sewer system user takes all water from the public water system and discharges all water used to the public sewer system, the metered volume of water used shall be a measure of the volume of sewage discharged.
- (2) *Property Which Uses All Public Water—Discharges Portion of Water Used to Public Sewer System.* Where a public sewer system user takes all water used from the public water system and discharges a portion of it to the public sewer system, discharge may be metered separately before entering the sewer system. The user shall provide at his own expense metering facilities to indicate accurately to the satisfaction of the Director of Public Works the volume of water claimed as a credit, or the volume of discharge to the sewer system. The Director shall determine what method of metering is acceptable. If metering facilities are not installed, then metered volume of water used shall be a measure of the volume of sewage discharged.
- (3) *Property Which Uses No Public Water—Discharges Sewage to Public Sewer System.* Where a user of the public sewer system, other than a single-family residential user, obtains water from sources other than the public water system, the measure of sewage discharged to the sewer system shall be based upon either:
 - (a) Metered use of water from sources which result in discharge to the sewer system; or
 - (b) Metered discharge entering the sewer system.

The user shall provide at own expense metering facilities as required to indicate accurately to the satisfaction of the Director of Public Works the volume of discharge to the public sewer. The Director shall determine what method of metering is acceptable.

- (4) *Single-Family Residential—Property Which Uses No Public Water—Discharges Sewage to Public Sewer System.* Where a single-family residential user of the public sewer system obtains water from sources other than the public water system, the sewer service charge shall be set as a special charge in the special charge schedule adopted pursuant to this subtitle.
- (5) *Waste Hauler-Discharges Sewage to Public Sewer System.* Where a waste hauler discharges sewage to the public sewer system, the volume of sewage discharged shall be based upon either:
 - (a) The actual volume of sewage discharged as determined by a method acceptable to the Director of Public Works; or
 - (b) The carrying capacity of the waste hauler's vehicle, if the actual volume of sewage discharged cannot be determined by a method acceptable to the Director of Public Works.
- (6) *Requirement to Furnish Sewage Data.* Users of the public sewer system shall, at the request of the Director of Public Works, furnish data covering the source, flow properties, quantity, quality and discharge location of sewage discharged or proposed for discharge to the public sewerage system. Data shall be submitted in a format and content acceptable to the Director and within a reasonable period of time as specified by the Director. Data approved by the Director shall be used in the computation of sewer service charges and sewer use surcharges.
- (7) *Other Measurements.* In cases where:
 - (a) The Director determines that the installation and use of metering facilities by a public sewer system user is not feasible or warranted; or

- (b) The Director determines that a user's water usage and/or sewage discharge situation is not adequately provided for in this subtitle; or
 - (c) The user is unable or unwilling, for reasons acceptable to the Director, to furnish water or sewage data obtained through the use of metering facilities or other methods; then sewer discharges and other data shall be metered, computed or determined using a method approved by the Director. Where applicable, computed or determined discharges and flow data shall be based on historical records for sewer system users having similar water usage and discharge characteristics.
- (8) *Charges and Determinations.* In all cases where the volume of discharge to the public sewer system, the quality of discharge, the water use charge, the sewer use charge or the sewer use surcharge cannot be reasonably agreed upon between a public water or sewer system user and the Director of Public Works, the Director shall have the power and authority to determine the volume or quality of discharge and any charge or surcharge amounts.

(C.B. 38, 1998)

Sec. 20.608. - Utility connection charges.

- (1) *Establishment of Water and Sewer Connection Charges.* There are connection charges for each connection made to the County water and sewer system. The connection charges shall be paid before any connection is made. The payment shall be made in a lump sum; however, if the connection is to an existing dwelling, it may be paid plus interest and service charges in installments over a period not to exceed five years. Potential public water and sewer system users shall comply with all other applicable provisions of this subtitle prior to connection to the water or sewer system.
- (2) *Basis of Recommendations for Water and Sewer Connection Charges.* The basis for water and sewer connection charges is as follows:
 - (a) For connections applied for by a property owner after August 13, 2007 in accordance with subsection 18.104(b) of this Code, the charges shall be based on administrative costs and the cost of inspecting;
 - (b) The charges shall be based on the average cost of making connections during the fiscal year, plus an amount for anticipated increased costs of making connections in subsequent fiscal years for water and sewer connections applied for by a property owner:
 - (i) After August 13, 2007 and constructed under a Howard County capital project; and
 - (ii) On or before August 13, 2007 in accordance with subsection 18.104(c) of this Code; and
 - (c) For mandatory water and sewer connections as required by section 18.104A, the charges shall be based on administrative costs and the cost of inspection and, if the connection is made by the Department, the charge shall include subcontractor costs for construction and inspection.
- (3) *Annual Adoption of Water and Sewer Connection Charges:*
 - (a) At the time of submission of the annual budget and appropriation ordinance to the County Council, the County Executive shall recommend water and sewer connection charges.
 - (b) At the time of adoption of the annual budget and appropriation ordinance, the County Council shall adopt, by resolution, water connection charge rates and sewer connection charge rates for the upcoming fiscal year. These charges shall be established at such a rate as to raise sufficient revenue to cover the annual costs of making all water and sewer connections. The charges shall be uniform throughout the metropolitan district.
- (4) The Director may charge a fee for connecting to the reclaimed water system that shall be adopted by the County Council in the same manner as water and sewer connection charges.

(C.B. 38, 1998; C.B. 26, 2007, § 2; C.B. 27, § 2)

Sec. 20.609. - Private fire protection systems, charges.

- (1) *Establishment of Private Fire Protection System Charges.* There is an annual charge for unmetered water connections provided for private fire protection systems. No charge shall be made for water actually used to extinguish a fire.
- (2) *Use of Water from the Unmetered Connection.* The County Executive shall enter into written agreements with each unmetered private fire protection system user governing such use. The Director of Public Works may determine the conditions and terms for the use of water from the unmetered connection. Water from the unmetered connection shall not be used for purposes other than firefighting. If the Director of Public Works finds that unmetered private fire protection water is being or has been used for purposes other than fire protection, he shall deny further unmetered services to such premises.
- (3) *Adoption of Annual Private Fire Protection System Charges.* At the time of the adoption of the annual budget and appropriation ordinance, the County Council shall adopt, by resolution, the unmetered water connection charge rates for the upcoming fiscal year. The charges shall be uniform throughout the Metropolitan District.

(C.B. 38, 1998)

Sec. 20.610. - Annual front-foot benefit assessment charges.

- (1) *Purpose of Annual Front-Foot Benefit Assessment Charges.* The annual front-foot benefit assessment charge shall be a source of revenue designated to cover the cost to Howard County of paying the interest and principal on bonds issued by the County for the construction, purchase or establishment of the public water supply and sewerage system within the metropolitan district of Howard County.
- (2) *Levying and Fixing of Charges by County Council.* At the time of adoption of the annual budget and appropriation ordinance, the County Council shall, by resolution, levy and fix the annual front-foot benefit assessment charge for each class or subclass of property within the metropolitan district. The charges shall be as nearly uniform as is practical for each class or subclass of property throughout the district.
- (3) *Properties Paying Annual Front-Foot Benefit Assessment Charges.* All properties, improved or unimproved, binding upon a street, road, lane, alley, or right-of-way in which a water main or sewer main has been built or purchased and such properties not abutting upon a water main or sewer which have connected to the public water or sewer system with the permission of the Director of Public Works, shall pay an annual front-foot benefit assessment charge for water or sewer provided that such water main or sewer shall have been financed by the issuance of Howard County bonds and:
 - (a) The developer received a rebate from the County pursuant to section 18.112 of the Howard County Code; or
 - (b) The capital project under which the water main or sewer main was constructed was fully or partially funded by appropriations in fiscal year 2004 or prior.
- (4) *Period of Payment; Decrease Permitted; Increase Not Permitted:*
 - (a) The front-foot benefit assessment charge shall be paid annually by all properties described in subsection (3) above for a period not to exceed 30 years.
 - (b) If the Director of Finance determines that costs and conditions warrant a reduction in the front foot benefit assessment, the Director may reduce the front-foot benefit assessment charge for each class of property.

- (c) Once levied, a front-foot benefit assessment charge shall not be increased.
- (5) *Basis of Charges.* Charges are based upon intensity of use of the property, its classification and the number of front feet of property abutting upon a water main or sewer main.
- (a) *Classification of property.* The Director of Finance shall divide all properties, improved or unimproved, binding upon a street, road, lane, alley, or right-of-way in which a water main or sewer is to be laid, and also such properties not abutting a water main or sewer main which have connected to the public water or sewerage system with the permission of the Director of Public Works, into various classes. The classes include but are not limited to agricultural, small acreage, industrial/business and subdivision/residential. If the Director of Finance determines it to be in the public interest, the Director may subdivide the classes into subclasses. The Director of Finance shall change the classification of property from time to time as the use of the property changes.
 - (b) *Front-foot basis.* Charges for each class (or subclass) of property shall be based upon the number of front feet abutting upon the street, lane, road, alley, or right-of-way in which the water main or sewer main is placed. A property owner shall pay charges for the entire front footage, even though a water main or sewer may not extend along the full length of the property. The Director of Finance shall determine a reasonable and fair amount of footage upon which to base charges for the property for:
 - (i) Irregularly shaped property which abuts at any point upon a water main or sewer;
 - (ii) Corner property;
 - (iii) Property which abuts upon two streets with water mains or sewers; or
 - (iv) Property that does not abut upon a water main or sewer, but which has connected to the water or sewer system with the permission of the Director of Public Works.
 - (c) *Agricultural land.* Land classified as agricultural is not charged a front-foot benefit assessment charge until such time as a water or sewer connection is made. Upon connection, agricultural land shall become liable for a front-foot benefit assessment charge not exceeding 300 feet for each connection.
- (6) *Initial Charge; Notification of Charge and Classification; Review and Appeal:*
- (a) *Notification of charge and classification.* Upon billing the initial front-foot benefit assessment charge, the Director of Finance shall notify the property owner in writing of the amount of the charge and the class (or subclass) of the property. This notice shall be mailed to the last-known address of the owner; or, if the address is unknown, it may be served in person upon any adult occupying the premises or posted upon vacant or unimproved property.
 - (b) *Board of Appeals hearing.* At the time that notification of front-foot benefit assessment charge and property class is first given, the Director of Finance shall notify the property owner of appeal rights to the Board of Appeals. The property owner may appeal the classification of the property and the assessment charge to the Board of Appeals. An appeal shall be conducted pursuant to title 2, subtitle 2 of the Howard County Code, the rules of procedure before the Board of Appeals. The Board of Appeals shall have the power to change or adjust the assessment charge or the property classification only where an error as to any factual matter has been made in the original assessment charge or property classification.
- (7) *Exemption for Land with Religious Uses.* Any land owned by a church which serves as the location of the church or its parsonage, and is used exclusively for public worship or other religious or customary purposes of a church or parsonage, and not for investment or other secular purposes, shall be exempt from the front-foot benefits assessment charge provided for by this section in respect of a frontage not exceeding 150 feet.
- (8) *Billing.* The Director of Finance of Howard County shall include all front-foot benefit assessment charges on the County tax bills.

- (9) *Metropolitan Account.* The Director of Finance shall credit all receipt from the front-foot benefit assessment charges to a separate fund to be known as the metropolitan account.

(C.B. 38, 1998; C.B. 67, 2004)

Sec. 20.611. - In-aid-of-construction charge.

- (1) *Purpose.* The in-aid-of-construction charge shall be a source of revenue designated to cover the partial cost to Howard County of construction or purchase of facilities in the water and sewer system which serve or will serve all properties connected to the system, including but not limited to sewerage treatment plants, disposal fields, lagoons, pumping stations, force mains and interceptor sewers, water storage facilities, water treatment facilities, water pumping stations and water transmission mains, whether or not such facilities are located within Howard County.

(2) *Levying and Fixing in-Aid-of-Construction Charge:*

- (a) At the time of submission of the annual budget and appropriation ordinance to the County Council, the County Executive shall recommend a water and a sewer in-aid-of-construction charge.
- (b) At the time of the adoption of the annual budget and appropriation ordinance, the County Council shall, by resolution, levy and fix a water and a sewer in-aid-of-construction charge for the upcoming fiscal year.
- (c) The charge may be uniform for all properties in the metropolitan district or may be variable based on the maximum hourly intensity or volume of use of the public water/sewerage system anticipated for each property based on the maximum flow rate for continuous operation for the size of a customer meter installed by the Department of Public Works. The following ratings shall be applied to the meter:
- (1) For displacement type meters, up to two-inch, American Water Works Association (AWWA) Standard Specification C 700-09, "Table 1, Recommended Maximum Rate for Continuous Operations", shall apply; and
- (2) For compound type meter sizes three inches and larger, AWWA Standard C702-10 "Table 1, Class 1, Maximum Flow Rate for Continuous Duty", shall apply.
- (d) The in-aid-of-construction charges adopted shall remain in effect until the effective date of any new in-aid-of-construction charges adopted by the County Council.

(3) *Payment:*

- (a) *At time of permit.* All owners in the metropolitan district shall pay the water and the sewer in-aid-of-construction charge prior to being issued a permit from the Department of Inspections, Licenses and Permits. An in-aid-of-construction charge shall be imposed only once with respect to each property except where intensity of use or volume of consumption generated is increased as set forth in subsection (b) below. The Director of Public Works shall determine the charge for each property on the basis of one consumption unit or any multiple thereof depending upon intensity or volume of use or the flow capacity of each of the customer meter(s), exclusive of "fire protection only", installed by the Department of Public Works as set forth in subsection 20.611(2)(c). Each water meter supplied to a property by the Department of Public Works is subject to the applicable in-aid-of-construction charge.
- (b) *Review of actual water use patterns; meter size adjustment; and adjustments to in-aid-of-construction.* The Department of Public Works may review patterns of water use to determine whether a meter is of appropriate type and capacity. A review may include temporary on-site metering studies to assess short-term patterns of use within the day. A review may also be conducted when an owner submits an application for a permit for an alteration, enlargement, renovation, or addition. If a review indicates that actual or projected use is significantly greater than that which was previously used for the calculation of the in-aid-of-construction charge, the

owner will be charged an additional fee based on the difference between the in-aid-of-construction fee established for the size of the replacement meter and the fee already paid based on the previous meter size.

- (c) If an owner fails to pay the in-aid-of-construction charge, the Department of Inspections, Licenses and Permits may withhold a permit including a permit for an alteration, enlargement, renovation, or addition. An owner who fails to pay the assessed in-aid-of-construction charge is also subject to possible suspension of water or sewer service.
- (4) *Special Account; Use of Receipts.* The Director of Finance shall credit all receipts from in-aid-of-construction charges to a special account. The receipts shall be used only for payments for the development of facilities in the water and sewerage system as described in subsection (1) above, or to liquidate bonds issued by the County or by the former Metropolitan Commission, for such development, to the end that the front-foot benefit assessment charges and ad valorem charges may be reduced.

(C.B. 38, 1998; C.B. 1, 2006, § 2; C.B. 22, 2011, § 1)

Sec. 20.612. - Middle Patuxent Drainage Area supplemental in-aid-of-construction charge.

The Middle Patuxent Drainage Area supplemental in-aid-of-construction charge was a source of revenue to cover a portion of 87½ percent of the construction costs, bond retirement costs, interest charges and all other expenses (exclusive of land acquisition and right-of-way expenses) of the Middle Patuxent interceptor projects. As of July 1, 2006, the Middle Patuxent Drainage Area supplemental in-aid-of-construction charge was discontinued.

(C.B. 38, 1998; C.B. 41, 2006, §§ 1, 2)

Sec. 20.613. - Ad valorem charge.

- (1) *Purpose.* The ad valorem charge shall be a source of revenue designated to cover the cost to Howard County of retiring bonds issued by the County and of paying the interest thereon. The charge may also be used for the payment of salaries and other expenses of the Department of Public Works related to water and sewerage systems or as a funding source for water and sewer capital projects, or both.
- (2) *Basis of Charge.* Subject to section 22.1000 of the County Code, the Director of Public Works shall provide to the County Council at the time of submission of the annual budget and appropriation ordinance an estimate of the total funds necessary to cover the expenses set forth in subsection (1) above. He shall also prepare an estimate of sources of income to cover those expenses, including receipts from the front-foot benefit assessment charge as authorized in this subtitle.
- (3) *Levying and Fixing of Charge by County Council.* At the time of adoption of the annual budget and appropriation ordinance, the County Council shall, by resolution, levy and fix for the upcoming fiscal year an ad valorem charge against all properties within the metropolitan district except as otherwise be provided by law. The amount of the ad valorem charge shall be sufficient to provide such sums as the County Council deems necessary to meet the expenses of the utility after considering all other available sources. The charge adopted by the County Council shall be expressed in terms of a rate per \$100.00 of assessed valuation of property. The charge shall remain in effect until the effective date of any new charge.
- (4) *Properties Paying Ad Valorem Charge.* Owners of all property in the metropolitan district except as otherwise provided by law shall pay the ad valorem charge. Owners of property in the metropolitan district, who have been adjudged by the Veteran's Administration to have a permanent service-connected 100 percent disability, and their surviving spouses who have not remarried and who continue to own and reside on the property, shall be exempt from paying the ad valorem charge.

- (5) *Billing.* The Director of Finance shall collect the ad valorem charge.
- (6) *Special Account; Use of Receipts.* The Director of Finance shall credit all receipts from the ad valorem charge to a special account to the credit of the metropolitan district. From these receipts and from the amount in hand in the front-foot benefit assessment charge account, the Director shall first pay all interest and principal on metropolitan district bonds as they become due. The Director may then pay the salaries and expenses of the Department of Public Works (related to water and sewer systems) or the costs related to water and sewer capital projects, or both. The Director shall then deposit the residue of the receipts in some bank to the credit of the metropolitan district. The Director is authorized to pay the interest on any bonds that may be issued out of the proceeds of the sale of such bonds, but not more than one-year's interest may be so expended.

(C.B. 38, 1998; C.B. 69, 2016, § 1; C.B. 43, 2018, § 1)

Sec. 20.614. - Middle Patuxent Drainage Area supplemental ad valorem charge.

The Middle Patuxent Drainage Area supplemental ad valorem charge was a source of revenue to cover that portion of 87½ percent of the construction costs, bond retirement costs, interest charges and all other expenses (exclusive of land acquisition and right-of-way expenses) of the Middle Patuxent interceptor projects not covered by the Middle Patuxent Drainage Area supplemental in-aid-of-construction charge of other available and authorized revenue source. As of July 1, 2006, the Middle Patuxent Supplemental ad valorem charge was discontinued.

(C.B. 38, 1998; C.B. 41, 2006, §§ 1, 2)

Sec. 20.615. - Penalties.

(1) *Late Payment of Charges:*

(a) *Water, reclaimed water, and sewer use charges, surcharges and special charges:*

- (i) The Director of Finance shall send written notification to the owner of any property or waste hauler whose bill for water use charges, reclaimed water service charges, sewer use charges, sewer use surcharges or special charges remains unpaid after 30 days of the billed date. The Director of Finance shall charge a penalty premium payment of ten percent of the unpaid charges.
- (ii) In the event of failure to pay a water, reclaimed water, or sewer service charge or sewer use surcharge billing within 30 days, the Director of Public Works shall, after written notice left upon the premises or mailed to the last-known address of the owner, turn off the water to the property in question, and the water shall not be turned on again until said billing has been paid including any monetary penalties.

In the event of a waste hauler's failure to pay a sewer service charge or sewer use surcharge billing within 30 days, the Director of Public Works shall, after written notice mailed to the last-known address of the waste hauler, deny access to the public sewerage system by the waste hauler for the purpose of discharging sewage. Access to the sewer system shall not be restored until the billing has been paid including any monetary penalties.

- (iii) If any bill still remains unpaid, it shall be collectible from the owner of the property in the same manner and subject to the same interest as taxes on the property; and the charge and all penalties shall be a first lien against the property.

If a waste hauler's bill remains unpaid 60 days after issuance, the bill shall be collectible from the surety provided by the waste hauler as required by subsection 20.602(5) of this subtitle. In addition, the waste hauler's discharge permit issued pursuant to section

18.122A "regulation of discharges to the public sewerage system" may be revoked. The Director may also authorize the office of law to institute the appropriate action at law against the waste hauler to collect any unpaid charges and fees.

- (b) *In-aid-of-construction charges.* Unless the owner has paid all required supplemental and regular in-aid-of-construction charges, no property will be permitted to connect to the public water and/or sewer system.
 - (c) *Front-foot benefit assessment charges; ad valorem charges.* If the front-foot benefit assessment charges and the regular and supplemental ad valorem charges are not paid within 30 days after becoming due, they shall be collectible in the same manner and subject to the same interest as taxes on the property. The charge(s) and all penalties shall be a first lien against the property.
- (2) *Falsification or Evasion.* Any water, reclaimed water, or sewerage system user who knowingly participates or aids in the falsification of data or in the evasion of water service charges, reclaimed water service charges, sewer service charges or sewer use surcharges shall be guilty of a misdemeanor and, upon conviction thereof by any court of competent jurisdiction, shall be subject to a fine of not more than \$500.00 or imprisonment not exceeding six months or both, for each offense. Each day's continuance of falsification or evasion shall be considered a separate offense.
 - (3) *Violation of Provisions of Subtitle.* Any violator of any provision of this subtitle (including rules and regulations adopted hereto) shall be notified of such violation by written notification of the Director of Public Works. The violator shall be ordered to cease the violation and shall be given a reasonable time in which to do so. Continuation of the violation beyond the time limit established shall result in termination of public water or reclaimed water service, disconnection from the public sewer system, or denial of access to the public sewerage system, whichever action is deemed appropriate by the Director. Service or access shall be restored when the violation is corrected.

(C.B. 38, 1998; C.B. 17, 2003, § 4; C.B. 27, 2007, § 2)

Sec. 20.616. - Charges for property outside of the metropolitan district connected to public water or sewer by Health Officer order.

- (a) *Purpose.* The purpose of this section is to provide for payment of the costs associated with the provision of public water or sewer to parcels outside of the metropolitan district which are connected to the public water or sewerage system by order of the Health Officer under section 12.105 of the County Code.
- (b) *Definitions:*
 - (1) *Front foot system benefit charge* means a charge to cover the cost of interest and principal on bonds for construction, purchase or establishment of the public water supply and sewerage system, calculated in the same manner as the annual front foot benefit charges required by section 20.610 of this subtitle. The front foot system benefit charge shall be paid for a period not to exceed 30 years.
 - (2) *General system benefit charge* means a charge to pay for costs associated with the provision of water and sewer which are not covered by other fees and charges. The general system benefit charge shall be determined annually by County Council resolution and shall be calculated in the same manner as the ad valorem rate assessed on property located in the metropolitan district.
 - (3) *Middle Patuxent Drainage Area system benefit charge* means a charge to pay for costs associated with the construction of the Middle Patuxent Drainage Area interceptor projects that are not covered by the Middle Patuxent Drainage Area supplemental in-aid-of-construction charge. This charge was paid by owners of parcels located outside of the planned service area which the Health Officer orders to be connected to the public sewerage system and which drain

into the Middle Patuxent Drainage Area of the metropolitan district. This charge was determined annually by Council resolution and calculated in the same manner as the supplemental ad valorem rate assessed on property within the Middle Patuxent Drainage Area subdistrict. As of July 1, 2006, the Middle Patuxent Drainage Area system benefit charge was discontinued.

- (c) *Charges and Fees.* The following charges and fees shall be paid by the owners of parcels outside of the metropolitan district which receive public water or sewer:
- (1) Water and/or sewer service charges, as defined in section 20.605 of this subtitle;
 - (2) Water and/or sewer service connection charges, as defined in section 20.608 of this subtitle;
 - (3) Front foot system benefit charge, as defined in this section;
 - (4) In-aid-of-construction charges, as defined in section 20.611 of this subtitle;
 - (5) General system benefit charge, as defined in this section; and
 - (6) Water and/or sewer special charges, as defined in subsection 20.605(3) of this subtitle.
- (d) *Billing; Penalties:*
- (1) The Director of Finance shall bill the property owner for the charges and fees required to be paid under this section, on an annual, semi-annual, or quarterly basis, as appropriate.
 - (2) Late payment of the charges and fees required to be paid under this section may be subject to interest and penalties as provided in this subtitle.

(C.B. 32, 2002, § 1; C.B. 41, 2006, § 2)

Sec. 20.617. - Repayment of outstanding connection charges, in-aid-of-construction charges and supplemental in-aid-of-construction charges.

- (a) The property owner may pay off any outstanding connection charges, in-aid-of-construction charges and supplemental in-aid-of-construction charges at any time before the end of the five-year repayment period; and interest on the charges shall be only for the period up to the date of early payment.
- (b) If the property owner sells or transfers property on which he/she is paying connection, in-aid-of-construction or supplemental in-aid-of-construction charges in installments, the total remaining amount of the charges shall become due and payable as of the date of transfer of the property with interest due and payable up to the same date.

(C.B. 38, 1998)

SUBTITLE 7. - WATER/SEWER CONNECTION FINANCING PROGRAM

Sec. 20.700. - Water/sewer connection financing program established; purpose; applicability.

- (a) There is a program to provide loans to finance all or part of the costs of connecting existing buildings to the public sewerage system or the public water and sewerage systems. The program may not be used to finance the costs of only connecting to the public water system.
- (b) The purpose of this program is to encourage as many property owners as possible to connect to the public sewerage system in order to reduce the number of septic systems in the planned service area.
- (c) This subtitle shall only apply to a property owner who seeks to connect to:
 - (1) The public sewerage system; or
 - (2) Both the public water and sewerage systems.

(C.B. 38, 1998; C.B. 22, 2013, § 1)

Editor's note— C.B. 22, 2013, § 1, amended § 20.700 title to read as herein set out. Former § 20.700 title pertained to water/sewer connection financing program established.

Sec. 20.701. - Eligibility.

The owner of property located in the planned service area of the Howard County Master Plan for water and sewerage system is eligible for a loan under the water/sewer connection financing program under this subtitle if:

- (a) The property is located within the metropolitan district;
- (b) The property owner has submitted a petition to the Director of Public Works to incorporate the property into the metropolitan district; or
- (c) The Health Department has ordered the property to be connected to the public water and/or sewerage system under section 12.105 of this Code.

(C.B. 38, 1998; C.B. 32, 2002, § 1; C.B. 22, 2013, § 1)

Sec. 20.702. - Costs which may be financed.

The following County charges and plumbing charges may be financed with a loan under the water/sewer connection financing program:

- (1) Water and/or sewer house connection charges;
- (2) Water and/or sewer in-aid-of construction charges and supplemental sewer in-aid-of construction charges, if applicable;
- (3) Plumbing permit fee;
- (4) Costs to physically connect the existing building to the public sewerage system or the public water and sewerage systems; and
- (5) Costs to disconnect and seal all existing connections to wells and/or septic systems.

(C.B. 38, 1998; C.B. 22, 2013, § 1)

Sec. 20.703. - Application form.

(a) *Application for Participation.* The owner of property that meets the requirements of section 20.701 of this subtitle may apply for a loan under the water/sewer connection financing program by filing an application with the Director of Public Works.

(b) *Application:*

- (1) The application for a loan under the water/sewer connection financing program shall be signed by all owners of record of the property. The application form shall include:
 - (i) The names and addresses of all owners of record of the property;
 - (ii) The address and tax account number of the property that is to be connected;
 - (iii) An estimate of the costs for which the property owner is requesting assistance;
 - (iv) A statement acknowledging that the property owner is responsible for the selection of the contractor and for the performance of all work needed to connect to the public sewerage

system or the public water and sewerage systems and that the County does not warrant the work performed by the contractor;

- (v) A statement granting the Department of Public Works authority to enter the property, if necessary, to do work associated with the connection and/or in case of emergency, to perform the work;
 - (vi) A statement that the property owner will repay the County for the full amount financed, plus interest, in installments over a period not to exceed ten years;
 - (vii) If applicable, a copy of the Health Department's order to connect the property to the public water and/or sewerage system;
 - (viii) A statement from the Director of Public Works that the public water and/or sewer service is available to the property;
 - (ix) A statement that financing under this subtitle is subject to the availability of funds; and
 - (x) A statement acknowledging that each person required to sign the application shall, as a condition of acceptance into the program, execute all documents the County deems necessary to secure repayment of the loan.
- (c) *Approval of Application.* After review of all documentation under subsection (b) of this section, the Director of Public Works shall approve or disapprove an application.

(C.B. 38, 1998; C.B. 22, 2013, § 1)

Sec. 20.704. - Administration.

- (a) *Notice to Department of Finance.* After approving an application under section 20.703 of this subtitle, the Director of Public Works shall notify the owner of the property and the Director of Finance that the property will be connected to the public sewerage system or the public water and sewerage systems under the water/sewer connection financing program.
- (b) *Department of Public Works to Contact Owner.* After approving an application under section 20.703 of this subtitle, the Director of Public Works shall notify the owner of the property of the approval and shall arrange for an accounting of the cost of the work to connect the property to the public sewerage system or the public water and sewerage systems.
- (c) *Account of Costs.* Upon completion of the connection work, including a satisfactory inspection of the plumbing work by the Department of Inspections, Licenses and Permits, the property owner shall provide the Director of Public Works with a detailed account of the costs of connection, including copies of all invoices, bills, or other evidence of the costs.

(C.B. 38, 1998; C.B. 22, 2013, § 1)

Sec. 20.705. - Financing; terms.

- (a) *Interest Rate.* The interest rate on a loan under the water/sewer connection financing program shall be established by the Director of Finance.
- (b) *Documentation.* In order to secure repayment of a loan under the water/sewer connection financing program, the recipient of the loan shall execute a promissory note, deed of trust, and any other documents the County deems necessary.
- (c) *Early Repayment Authorized.* The property owner may make early repayment of a loan under the water/sewer connection financing program at any time. Interest on the loan shall be charged only for the period up to the date of early repayment.

- (d) *Balance Payable upon Transfer of Property.* If the property for which a loan under the water/sewer connection financing program was made is sold or transferred, the total remaining amount of the loan shall become due and payable as of the date of transfer of the property, with interest due and payable up to the same date.

(C.B. 38, 1998)

Sec. 20.706. - Transitional provisions.

The terms and conditions of loans for mandatory water/sewer connections made prior to January 1, 1998, which were made under previously existing provisions of subsection 18.104(b) "water and sewer connections" or subtitle 9 "financing mandatory water and/or sewerage connections made by the Department of Public Works" of the Howard County Code shall continue in effect until the loans are repaid.

(C.B. 38, 1998)

SUBTITLE 8. - SHARED SEWAGE DISPOSAL FACILITIES CHARGES AND ASSESSMENTS⁶¹

Footnotes:

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Editor's note— Section 2 of C.B. 16, 2006 amended and restated subtit. 8, §§ 20.800—20.804 in its entirety to read as herein set out. Former subtit. 8 pertained to the same subject matter and derived from C.B. 8, 2005.

Cross reference— Shared sewage disposal facilities, § 18.1200 et seq.

Sec. 20.800. - Purpose.

The purpose of this subtitle is to provide a payment mechanism to reimburse the controlling authority for the operation, maintenance, and continuance of shared sewage disposal facilities.

(C.B. 16, 2006, § 2)

Sec. 20.801. - Definitions.

Terms used in this subtitle have the meanings indicated.

- (a) *Board of Education* has the meaning stated in section 18.1201 of this Code.
- (b) *Controlling Authority* has the meaning stated in section 18.1201 of this Code.
- (c) *Permit* has the meaning stated in section 18.1201 of this Code.
- (d) *Residential lot* has the meaning stated in section 18.1201 of this Code.
- (e) *Shared sewage disposal facility* has the meaning stated in section 18.1201 of this Code.

(C.B. 16, 2006, § 2)

Sec. 20.802. - Operation, maintenance, repair, and replacement fee.

- (a) *Payment of Fee.* The owner of each residential lot shall pay the controlling authority an annual fee for the operation, maintenance, repair, and replacement of a shared sewage disposal facility. The fee shall be paid regardless of whether the lot is occupied.
- (b) *Delegation of Authority.* The County or the Board of Education may enter into an agreement under section 18.1208 of this Code to empower another governmental body to act as the controlling authority and to have all the rights and responsibilities of the County as set forth in this subtitle.
- (c) *Operation, Maintenance, Repair, and Replacement Fee.* The fee shall include:
 - (1) The cost to operate, maintain, repair, and replace the shared sewage disposal facility, including, but not limited to:
 - (i) Periodic inspection of the facility;
 - (ii) Periodic septage removal;
 - (iii) Repair of tanks, piping, pumps and electrical systems;
 - (iv) Repair of the subsurface wastewater disposal area;
 - (v) Cost of replacing, at the end of their anticipated useful lives, tanks, pumps, piping, electrical systems or other components of the shared sewage disposal facility;
 - (vi) Costs associated with relocation of the subsurface wastewater disposal area at the end of its anticipated useful life;
 - (vii) Administrative costs, including, but not limited to legal, billing, overhead, enforcement, and liability insurance;
 - (viii) Electrical costs that are not the responsibility of the residential lot owner;
 - (ix) Chemicals, supplies, and other costs associated with wastewater treatment; and
 - (x) Costs to repair or maintain the components of the collection system; and
 - (2) An amount to cover the controlling authority's costs for:
 - (i) Repairing tanks, pumps, piping, or facilities within a subsurface wastewater disposal area or residential lot that fail prematurely; and
 - (ii) Relocating a subsurface wastewater disposal area that fails prematurely.
- (d) *Fee Established:*
 - (1) The controlling authority annually shall establish the fee for a shared sewage disposal facility.
 - (2) The fee shall be based on the historical operating, maintenance, and repair costs or an estimate of those costs for a new shared sewage disposal facility and the estimated replacement cost of the shared sewage disposal facility and shall include:
 - (i) Any anticipated costs pursuant to a systematic procedure established by the controlling authority;
 - (ii) Any surplus or deficit projected to exist at the end of the current fiscal year;
 - (iii) Any costs required to comply with a condition of the permit; and
 - (iv) Any costs required to comply with State laws and regulations governing shared sewage disposal facilities.
 - (3) After renewal of the permit, the fee shall include the estimated costs of complying with all State and local regulations and conditions of the permit.
- (e) *Timing of Initial Payment.* The initial fee is due at the time the property is connected to the shared sewage disposal facility.
- (f) *Payment by Developer:*

- (1) A developer may choose to pre-pay some or all of the operation, maintenance, repair, and replacement fee for a residential lot.
 - (2) If the developer prepays a fee for a residential lot, a subsequent owner of the lot is responsible for the difference between the actual fee and the amount pre-paid by the developer.
- (g) *Charge to Appropriate Accounts.* If the County is the controlling authority, the County shall charge the costs of its operations, maintenance, repair, and replacement activities for shared sewage disposal facilities to the appropriate accounts included in the budget for the current fiscal year and funded by the annual operations, maintenance, repair, and replacement fees paid by owners of residential lots under this section.

(C.B. 16, 2006, § 2)

Sec. 20.803. - Billing; interest; collection of fees.

- (a) *Billing.* The controlling authority shall periodically bill the owner of a residential lot for the annual operations, maintenance, repair, and replacement fee.
- (b) *Interest.* If the owner of a residential lot does not pay the amount billed within 30 days after the billing date, the controlling authority may add interest at the rate of one and one-half percent to the unpaid Amount for every month, or portion thereof, that the bill remains unpaid.
- (c) *Collection of Fees.* If the County is not the controlling authority, the County may enter into a written agreement with the controlling authority to collect the annual operations, maintenance, repair, and replacement fee from the owner of a residential lot in accordance with this section.

(C.B. 16, 2006, § 2)

Sec. 20.804. - Advances from the general fund.

- (a) *Authority.* If the County is the controlling authority, the Director of Finance may make advances from the general fund for shared sewage disposal facilities if:
 - (1) (i) There are insufficient funds in the account for a shared sewage disposal facility to pay for routine maintenance of the facility; and
 - (ii) The funds are prepaid by the County from future operations, maintenance, repair, and replacement fees paid by the owners of residential lots; or
- (2) (i) The amount in the account for unplanned major replacement costs for any shared sewage disposal facility is insufficient to cover the cost to the County of an unplanned major replacement; and
- (ii) The funds are repaid by the County from that portion of any future operations, maintenance, repair, and replacement fees earmarked for major replacement costs.
- (b) *Agreement.* If the County is not the controlling authority, the Director of Finance may not advance funds from the general fund unless a written agreement for repayment is entered into between the County and the controlling authority.
- (c) *Billing When Advance from General Fund.* Regardless of whether the County is the controlling authority, the County may collect the annual operations, maintenance, repair, and replacement fee from the owner of a residential lot if an advance from the general fund is made under this section.

(C.B. 16, 2006, § 2)

SUBTITLE 9. - REFUSE COLLECTION CHARGE

Sec. 20.900. - Definitions.

- (a) *In General.* In this subtitle the following terms have the meanings indicated:
- (b) *Residential property* means:
 - (1) Real property under a single tax account that is improved with one or more dwelling units and that is assessed on the basis of residential use.
 - (2) Includes single-family residences and separately owned town houses and condominium units.
 - (3) Does not include rental apartment buildings or mobile home parks.
- (c) *Dwelling unit* means one or more rooms in a structure arranged and designed to be used by a single-family for living and sleeping purposes and having a kitchen or kitchenette.
- (d) *Ellicott City Refuse Collection Zone* means:
 - (1) The improved real property in the Ellicott City area of the County that is not residential property, for which the County provides refuse collection service.
 - (2) The council shall define the Ellicott City Refuse Collection Zone in the resolution that establishes the refuse collection charge.
- (e) *Refuse collection service* means the collection and disposal by the County of solid waste.

(C.B. 38, 1998; C.B. 15, 2008, § 2)

Sec. 20.901. - Refuse collection charge.

- (a) *Refuse Collection Charge for Residential Property.* There is a refuse collection charge levied annually on all residential property for which the County provides refuse collection service.
 - (1) Except as otherwise provided in this subsection, the Council shall levy a uniform basic charge on each residential property for which the County provides refuse collection service.
 - (2) The owner of a residential property on which there is more than one dwelling unit may apply to the Department of Public Works to receive refuse collection service for additional dwelling units. The charge levied on residential property that receives additional service shall be the uniform basic charge multiplied by the number of dwelling units receiving refuse collection service.
 - (3) The uniform basic charge for residential property for which refuse collection service is provided shall be established by resolution of the County Council.
 - (4) The County Council shall establish by resolution the uniform basic charge for residential property for which collection service is provided and the quantity of refuse collected for the basic charge.
- (b) *Refuse Collection Charge for Ellicott City Refuse Collection Zone.* There is a refuse collection charge levied annually on property in the Ellicott City Refuse Collection Zone.
 - (1) The Council shall levy a uniform basic charge on property in the Ellicott City Refuse Collection Zone, and may include a surcharge for commercial uses which generate a significant quantity of refuse.
 - (2) The County Council shall establish by resolution the uniform basic charge and the amount of any surcharge imposed on property in the Ellicott City Refuse Collection Zone.

(C.B. 38, 1998)

Sec. 20.902. - Billing and collection.

- (a) *Billing Procedure.* The Department of Finance shall include the refuse collection charge as a separate item on the real property tax bill for each property for which the County provides refuse collection service.
- (b) *Collection; Enforcement.* The refuse collection charge under this subtitle shall be collected in the same manner as County real property taxes and shall have the same priority, rights, and bear the same interest and penalties, and be enforced in the same manner as County real property taxes.

(C.B. 38, 1998)

Sec. 20.903. - Collection of excess refuse.

- (a) *Additional Refuse.* The Department of Public Works may provide for the collection of additional quantities of refuse or for additional refuse collection services from residential property upon the payment of a fee.
- (b) *Establishment of Fee.* The County Council shall establish by resolution any fees authorized by subsection (a) of this section.

(C.B. 38, 1998; C.B. 15, 2008, § 2)

Sec. 20.904. - Refuse collection charge assistance program.

- (a) *Program Established.* There is a refuse collection charge assistance program, administered by the Department of Finance, to assist individuals who qualify under the program in payment of the refuse collection charge established under this subtitle.
- (b) *Application and Eligibility:*
 - (1) *Application.* Application for assistance under the program shall be made to the Department of Finance on forms prescribed by it, and shall include sufficient information and documentation to allow the Department of Finance to evaluate the eligibility of the Applicant.
 - (2) *Eligibility.* An individual is eligible for assistance under the program if:
 - (i) The individual:
 - a. Owns residential property for which the County provides refuse collection services; or
 - b. Owns a mobile home that is located in a mobile home park in the County, for which the County provides refuse collection service, if the individual submits evidence that he or she is paying the refuse collection charge to the park owner under subsection 16.511(d) of the County Code;
 - (ii) The individual's income is 250 percent or less of the poverty level, as established by the U.S. Department of Health and Human Services, and adjusted for family size; and
 - (iii) On July 1 of the year in which application is made, the individual:
 - a. Resides in the property for which refuse collection services are provided; or
 - b. In the case of a mobile home owner, the individual resides in the mobile home.
- (c) *Amount of Assistance.* Upon determination of eligibility, the Department of Finance shall provide assistance in the form of a grant or a credit in the amount of 60 percent of the refuse collection charge.

(C.B. 38, 1998; C.B. 15, 2008, § 2; C.B. 36, 2008, § 1)

SUBTITLE 10. - STREETLIGHT DISTRICT CHARGES

Sec. 20.1000. - Purpose.

- (a) In order to finance the material and installation costs, as well as the maintenance and operating costs for the two-year period commencing on the date of completion of the installation of the first streetlight, of all the new streetlights in a streetlight district created in accordance with title 18, subtitle 8, "streetlights," of the Howard County Code, there is hereby levied a charge against all real property, improved and unimproved, within a streetlight district.
- (b) The charge shall be levied, collected and have the same priority, right and bear the same interest and penalties and in every respect be treated the same as County taxes.
- (c) All receipts from the charges pursuant to this section shall be credited by the Director of Finance to a special account established on his books; and the receipts shall be used only for the purpose of the installation and material costs, as well as the maintenance and operating costs, of a streetlight district.

(C.B. 38, 1998)

Sec. 20.1001. - Charge computation.

The annual charge for each parcel within a streetlight district shall be computed using the following formula:

Charge =	$\frac{avp}{avps}$	x	$\frac{c}{2}$
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Where:

avp = Current assessed value of specific parcel or property and improvements thereon.

avps = Total current assessed values of all parcels and properties and improvements thereon in the district.

c = The sum of:

- (1) The total estimated material and installation costs for all proposed new streetlights in the district, reduced by the amount of advance payments or legally binding commitments (other than the charges imposed by this subtitle of the Howard County Code) from persons or entities to pay part or all of such material or installation costs; and
- (2) The total projected operating and maintenance costs for the proposed new streetlights for a period of two years commencing with the installation of the first new streetlight in the district.

(C.B. 38, 1998)

SUBTITLE 11. - WATERSHED PROTECTION AND RESTORATION^[7]

Footnotes:

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Editor's note— Section 2 of C.B. 38-2013 set out provisions as follows: "And Be It Further Enacted by the County Council of Howard County, Maryland, that, for a non-residential property with a Watershed Protection and Restoration Fee that exceeds \$10,000: (1) For Fiscal Year 2014, the property owner shall pay the greater of 50% of the Watershed Protection and Restoration Fee or \$10,000. (2) For each other Fiscal Year, the property owner shall pay 100% of the Watershed Protection and Restoration Fee."

Sec. 20.1100. - Purpose; applicability.

- (a) *Purpose.* To protect the public health, safety, and welfare, the County's Stormwater Management, Storm Drainage, and Water Quality Programs must be supported by an adequate, sustainable source of revenue. All real property in the County, including property owned by tax-exempt entities, benefits from these County programs and services. Further, those with higher amounts of uncontrolled impervious area contribute greater amounts of stormwater or pollutants to the County's stormwater management facilities, storm drains, and streams, and therefore should carry a proportionate burden of the cost. Therefore, the County has determined that it is in the interest of the public to enact a watershed protection and restoration fee that allocates program costs to all owners of improved real property based on impervious surface measurement, as described in this subtitle.
- (b) The watershed protection and restoration fee shall be charged on all improved property in the County, except for property exempted under Section 4.202.1 of the Environment Article of the Annotated Code of Maryland.

(C.B. 8, 2013, § 2)

Sec. 20.1101. - Definitions.

Except as provided below, terms used in this subtitle shall have the meanings set forth in section 18.901 of this Code:

- (a) *Fee* means the watershed protection and restoration fee.
- (b) *Fund* means the Watershed Protection and Restoration Fund.
- (c) *Impervious surface measurement* means the number of square feet of horizontal impervious area.
- (d) *Impervious unit* means 500 square feet.
- (e) *Impervious unit rate* means the monetary amount established by Resolution of the County Council that, when multiplied by the impervious units on a property, determines a nonresidential property's Watershed Protection and Restoration Fee.
- (f) *Office* means the Office of Community Sustainability.

(C.B. 8, 2013, § 2; C.B. 38, 2013, § 1(2); C.B. 3, 2015, § 1)

Sec. 20.1102. - Watershed protection and restoration fund.

- (a) *Dedicated Fund.* In accordance with Title 4, Subtitle 2 of the Environment Article of the Annotated Code of Maryland, the County's Watershed Protection and Restoration Fund is hereby established as a dedicated, non-lapsing, Enterprise Fund.
- (b) *Revenue.* The following revenue shall be deposited into the fund:
 - (1) Monetary contributions to meet the provisions of title 18, subtitle 9 of this Code regarding stormwater management alternatives;

- (2) All monetary fines, penalties, and costs associated with violations of title 18, subtitle 3 and subtitle 9 of this Code;
 - (3) All money collected from the imposition of the fee;
 - (4) All interest or other income earned on the investment of money in the fund; and
 - (5) Any additional money made available from any sources for the purposes for which the fund has been established.
- (c) *Expenses.* In accordance with Title 2, Subtitle 4 of the Environment Article of the Annotated Code of Maryland and subject to subsection (d) of this section, the fund shall only be used for the following expenses:
- (1) Capital improvements for stormwater management including stream and wetland restoration projects;
 - (2) Operation and maintenance of stormwater management systems and facilities;
 - (3) Public education and outreach relating to stormwater management or stream and wetland restoration;
 - (4) Stormwater management planning, including:
 - (i) Mapping and assessment of impervious surfaces; and
 - (ii) Monitoring, inspection, and enforcement activities to carry out the purposes of the fund;
 - (5) To the extent that fees imposed under Section 4-204 of the Environment Article of the Annotated Code of Maryland are deposited into the fund, review of stormwater management plans and permit applications for new development;
 - (6) Grants to nonprofit organizations for up to 100 percent of a project's costs for watershed restoration and rehabilitation projects relating to:
 - (i) Planning, design, and construction of stormwater management practices;
 - (ii) Stream and wetland restoration; and
 - (iii) Public education and outreach related to stormwater management or stream and wetland restoration; and
 - (7) Reasonable costs necessary to administer the fund.
- (d) *Expenditure Priority.* Subject to the County Executive's budget authority under the Charter, the first priority for expenditure of revenue from the watershed protection and restoration fee collected under this subtitle shall be to pay the debt service on bonds, notes, and other obligations issued to finance or refinance capital improvements or related expenses in connection with stormwater management systems and facilities.

(C.B. 8, 2013, § 2)

Sec. 20.1103. - Watershed protection and restoration fee.

- (a) The County shall charge and a property owner shall pay an annual Watershed Protection and Restoration Fee.
- (b) The fee shall be adopted by resolution of the County Council.
- (c) *Setting the Rate.* The County Council shall adopt by resolution a schedule of impervious unit rates and a schedule of rates for residential properties.
- (d) *Method of Calculation.* The fee based on the amount of impervious surface shall be calculated as follows:

- (1) Determine the impervious surface measurement in square feet for the property, rounded to the nearest whole impervious unit.
 - (2) Multiply the property's impervious units by the Impervious Unit Rate.
- (e) *Determining What Constitutes Impervious Area.* The County shall determine the impervious surface measurement for a property based on:
- (1) Analysis of aerial photography;
 - (2) Measurement from approved engineering drawings including, without limitation, as-built drawings or site plans;
 - (3) Field surveys signed and sealed by a Professional Engineer or Professional Land Surveyor licensed in the State of Maryland; or
 - (4) Inspections conducted by the Department.
- (f) *Agricultural Properties.* If a property has an agricultural use assessment as determined by the State Department of Assessments and Taxation, the fee shall be:
- (1) The residential rate if:
 - (i) The property has a fully implemented Soil Conservation and Water Quality Plan that has been approved by the Soil Conservation District or a forest conservation and management agreement with the Maryland Department of Natural Resources; or
 - (ii) The property owner has agreed to enter into, and is in the process of implementing, a soil conservation and water quality plan; or
 - (2) Computed based on the impervious surface measurement calculated for the entire property, if the property has not implemented a Soil Conservation and Water Quality Plan approved by the Soil Conservation District.

(C.B. 8, 2013, § 2; C.B. 38, 2013, § 1(3))

Sec. 20.1104. - Schedule of rates; regulations.

- (a) The County Council shall adopt by resolution a schedule of rates that shall include:
- (1) The impervious unit rate that may be based on certain variables relative to a property's characteristics;
 - (2) Rates for residential properties;
 - (3) Rates for credits awarded under section 20.1105 of this subtitle;
 - (4) Rates for reimbursements awarded under section 20.1106 of this subtitle; and
 - (5) Rates for reimbursements awarded under the Watershed Protection and Restoration Fee Assistance Program.
- (b) *Regulations.* The County may adopt regulations to administer the provisions of this subtitle.

(C.B. 8, 2013, § 2; C.B. 38, 2013, § 1(4))

Sec. 20.1105. - Credits.

- (a) *Authority.* The fee assessment may be adjusted through the use of credits.
- (b) *Eligibility.* An owner of a property subject to the fee may be eligible for an annual credit in the form of an annual reduction of the fee if the owner makes an investment in a stormwater best

management practice as defined in the Maryland Stormwater Design Manual published by the Maryland Department of the Environment.

- (c) *Ineligibility.* A credit may not be awarded:
 - (1) To a property owner who provides only aesthetic maintenance of a stormwater management facility, which for purposes of this section includes maintenance activities that are not essential to the proper operation or function of the facility; or
 - (2) For stormwater management facilities that are not functioning properly or as intended.
- (d) *Application Requirements and Certification Reports.* An application for a credit shall:
 - (1) Be made to the Office on forms prescribed by it;
 - (2) Be made on or before a date set by the Office;
 - (3) Include information and documentation to allow the Office to evaluate the eligibility of the applicant and the stormwater best management practice; and
 - (4) Be accompanied by an application fee of \$75.00.
- (e) *Amount of Credit.*
 - (1) Upon a determination of eligibility, the County shall provide a credit as set forth in a rate schedule adopted by Resolution of the County Council and the application fee shall either be applied towards the Applicant's tax account or refunded.
 - (2) If the County Executive determines that the balance in the County's Watershed Protection and Restoration Fund is sufficient to cover the costs that are reasonably expected during the current and following fiscal year, the County Council may authorize, at the request of the County Executive, an additional credit of up to 100 percent of the Watershed Protection and Restoration Fee for each property that is subject to the fee.
- (f) *Credit Recertification for Continued Credit.* In order to remain eligible for a credit, a property owner shall submit a recertification application:
 - (1) Every three years;
 - (2) At the owner's expense; and
 - (3) To the Office on a form provided by it.
- (g) *Inspections.* The Department, or its designee, may enter upon any property to inspect stormwater best management practices for which a credit is awarded. Credits may not be awarded if a property owner refuses to permit an inspection.
- (h) *Proration.* The fee shall not be prorated for a credit approved by the County during the billing year and any approved credits shall be applied to the next billing cycle.
- (i) *Nonprofit Entities.* A nonprofit entity that qualifies as not for profit under the Internal Revenue Code may receive a credit for stormwater treated on its property under one of the two following options:
 - (1) *Equivalent percentage.* The nonprofit entity may receive a credit that is equivalent to the percentage of stormwater treated onsite; or
 - (2) *Maximum percentage.*
 - (i) A nonprofit entity may receive a credit of up to 100 percent of the fee if the nonprofit entity:
 - a. Allows the County to enter onto its property to assess the property and to advise the nonprofit entity of ways to treat stormwater to the maximum extent practicable; and
 - b. Implements the improvements recommended by the County.
 - (ii) *County assistance.* The County may:

- a. Award grants to nonprofit entities to assist with the payment for improvements to treat stormwater to the maximum extent practicable; or
- b. Waive the fee until work is completed and the credit is awarded.

(C.B. 8, 2013, § 2; C.B. 38, 2013, § 1(5); C.B. 3, 2015, § 1; C.B. 20, 2016, § 1)

Sec. 20.1106. - Reimbursements.

- (a) *Authority.* The fee assessment may be adjusted through the use of reimbursements when an investment in an on-site stormwater best management practice reduces the impact on the public stormwater management system.
- (b) *Eligibility.* An owner of a property subject to the fee may be eligible for a one-time partial reimbursement for the cost of a stormwater best management practice when the property owner is able to show that the practice has been completed and is functioning as designed.
- (c) *Application Requirements.* An application for a reimbursement shall:
 - (1) Be made to the Office on forms prescribed by it;
 - (2) Be made on or before the earlier of a date set by the Office or 12 months after the completion of work; and
 - (3) Include information and documentation to allow the Office to evaluate the eligibility of the Applicant and the stormwater best management practice.
- (d) *Amount of Reimbursement.* Upon a determination of eligibility, the County shall provide a reimbursement in an amount set forth in a rate schedule adopted by resolution of the County Council.
- (e) *Annual limit on amount of reimbursements awarded.*
 - (1) During a fiscal year, the total of all reimbursements awarded under this section shall not exceed an amount set forth in the annual budget and appropriation ordinance.
 - (2) Reimbursements shall be awarded in the order in which the Office receives complete applications under subsection (d) of this section.

(C.B. 8, 2013, § 2; C.B. 3, 2015, § 1)

Sec. 20.1107. - Billing; method of collection; interest and penalties.

- (a) *Billing Procedure.* The Department of Finance may include the Watershed Protection and Restoration Fee as a separate item on the real property tax bill for each property subject to the fee. Contact information for questions and appeals shall be included with the bill's mailing.
- (b) *Due.* The watershed protection and restoration fee shall be considered delinquent if not paid on or before the due date shown on the bill.
- (c) *Interest Accrual.* Unless the fee billed to a property owner is under active appeal, interest on an overdue payment accrues according to the same schedule and at the same rate charged for delinquent real property taxes until the owner has remitted the outstanding payment and interest in full.
- (d) *Collection; Enforcement.* The fee charged pursuant to this subtitle shall be collected in the same manner as County real property taxes and shall have the same priority, rights, and bear the same interest and penalties, and be enforced in the same manner as County real property taxes. The unpaid charge is a lien against the property and, accordingly, the lien has the same priority as a lien imposed for nonpayment of real property taxes.

(C.B. 8, 2013, § 2; C.B. 38, 2013, § 1(6); C.B. 20, 2016, § 1)

Sec. 20.1108. - Adjustment of the watershed protection and restoration fee.

- (a) Any property owner may request an adjustment of the watershed protection and restoration fee by submitting a request in writing to the Administrator of the Office within 30 days after the date the bill is issued to the property owner. Grounds for adjustment of the fee are limited to the following:
 - (1) An error was made regarding the impervious surface measurement of the property;
 - (2) There is a mathematical error in calculating the fee; or
 - (3) The identification of the property owner invoiced for the fee is in error.
- (b) The application submittal requirements for an adjustment shall be on a form provided by the Office.

(C.B. 8, 2013, § 2; C.B. 3, 2015, § 1)

Sec. 20.1109. - Watershed Protection and Restoration Fee Assistance Program.

- (a) *Program Established.* There is a Watershed Protection and Restoration fee assistance program, administered by the Department of Finance, to assist property owners who qualify under the program in payment of the fee established under this subtitle.
- (b) *Residential Application and Eligibility.*
 - (1) *Application.* An application for assistance under the program shall be made to the Department of Finance on forms prescribed by it, and shall include sufficient information and documentation to allow the Department of Finance to evaluate the eligibility of the Applicant.
 - (2) *Eligibility.* An Applicant is eligible for assistance under the program if:
 - (i) The Applicant is an individual who:
 - 1. Owns residential property for which the Watershed Protection and Restoration Fee applies;
 - 2. Has an income of 250 percent or less of the poverty level, as established by the U.S. Department of Health and Human services, and adjusted for family size; and
 - 3. On July 1 of the year in which application is made, resides in the property which is subject to the Watershed Protection and Restoration Fee.
- (c) *Nonresidential Properties.*
 - (1) For nonresidential properties owned by an entity which does not qualify as a not for profit under the Internal Revenue Code, the payment of the fee is a hardship if it exceeds:
 - (i) The percentage of the property's total property tax bill that is set in the fee schedule that the County Council adopts by resolution; or
 - (ii) One thousand dollars and the owner proves hardship to the satisfaction of the Administration, based on a review of:
 - 1. A recent certified financial statement or filed tax return;
 - 2. Other information regarding the severe economic hardship that the property owner is sustaining, including but not limited to, information from lenders, lien holders, creditors, attorneys, tax collectors, or others with knowledge about the economic condition of the property owner;
 - 3. Any notice of foreclosure on the property; and

4. Any other evidence that the property owner has no other reasonable means of relieving that economic hardship.
- (2) If the fee is a hardship under:
 - (i) Paragraph (1)(i) of this subsection, the property owner shall pay an amount equal to the total property tax bill multiplied by the percentage set in the fee schedule; or
 - (ii) Paragraph (1)(ii) of this subsection, the property owner shall pay \$1,000.00, subject to a payment plan acceptable to the Administration.

(C.B. 8, 2013, § 2; C.B. 38, 2013, § 1(7))

Sec. 20.1110. - Appeals.

Except where other appeal procedures are authorized in this subtitle, any property owner aggrieved by any determination, decision, or order relating to the watershed protection and restoration fee made by the Director of the Department of Public Works, the Director of the Department of Finance, or the Administrator of the Office may appeal such determination, decision, or order to the Board of Appeals within 30 days after such determination, decision or order is made. After notice and hearing, the Board of Appeals shall review the case consistent with its duly adopted Rules of Procedures. The Board of Appeals may not waive, set aside, or change any specific provision(s) of this subtitle.

(C.B. 8, 2013, § 2; C.B. 3, 2015, § 1)

Sec. 20.1111. - Report.

- (a) Subject to section 22.1000 of the County Code, with the cooperation of the Director of the Department of Public Works and the Director of the Department of Finance, the Administrator of the Office shall submit a report to the County Council that includes:
 - (1) Any information required by subsection 4-202.1(i) of the Environment Article of the Maryland Code;
 - (2) Financial data regarding:
 - (i) The imposition, collection, and disposition of the watershed protection and restoration fee;
 - (ii) The watershed protection and restoration fund, including balances, deposits, and disbursements;
 - (iii) Program costs;
 - (3) Information about reimbursements and grants;
 - (4) The number of appeals and whether the kinds of appeals suggests that changes to law or procedures are indicated;
 - (5) Information about applications for credits and credit awards;
 - (6) Year over year tax delinquency data as well as the number of properties, if any, in tax delinquency where the amount delinquent may be related to the stormwater fee;
 - (7) Information about applications for the fee assistance program and recommendations for program improvements, with a focus in the first year on the feasibility of establishing a fee assistance program for non-residential property owners;
 - (8) Projections for the next two years to show expenses, projected fee revenue, other anticipated sources of revenue, and any adjustments to the fee; and
 - (9) Any program recommendations.

- (b) The Administrator shall submit the report annually on or before March 1 for the preceding calendar year.

(C.B. 8, 2013, § 2; C.B. 3, 2015, § 1; C.B. 20, 2016, § 1; C.B. 43, 2018, § 1)

Sec. 20.1112. - Severability.

If any portion of this subtitle is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall not affect the validity of the remaining portions of this subtitle. It is the intent of the County that this subtitle shall stand, even if a section, subsection, sentence, clause, phrase, or portion may be found invalid.

(C.B. 8, 2013, § 2)

SUBTITLE 12. - CLEAN ENERGY LOAN PROGRAM

Sec. 20.1200. - Definitions.

In this subtitle, the following words have the meanings indicated:

- (a) *Clean Energy Financing Agreement* means an agreement between a property owner and a Clean Energy Lender providing for the terms and conditions of a Clean Energy Loan.
- (b) *Clean Energy Lender* means a private lender providing a Clean Energy Loan.
- (c) *Clean Energy Loan* means any loan made by a private lender to a property owner under the Clean Energy Loan Program.
- (d) *Clean Energy Loan Program Administrator* means any person or entity selected by the county to manage the Clean Energy Loan Program.
- (e) *Clean Energy Loan Obligation* means all indebtedness and obligations of a property owner to a Clean Energy Lender under a Clean Energy Financing Agreement.
- (f) *Commercial Property* has the meaning stated in the Local Government Article, section 1-1101, of the Annotated Code Of Maryland.
- (g) *Department* means the Department of Finance.
- (h) *Property Owner* means an owner of commercial property.
- (i) *Person* includes an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, limited liability company, nonprofit entity, or any other entity.

(C.B. 4, 2016, § 1)

Sec. 20.1201. - Program established; administration.

- (a) *Established* . There is a Clean Energy Loan Program to finance energy efficiency projects and renewable energy projects in accordance with section 1-1101, et seq., of the Local Government Article of the Annotated Code of Maryland.
- (b) *Rules and Regulations* . The Department may adopt rules and regulations to administer the Program consistent with this Subtitle.
- (c) *Program Administrator* . The County Executive may enter into an agreement with a private entity to administer the Program.

(C.B. 4, 2016, § 1)

Sec. 20.1202. - Scope and eligibility.

- (a) *Scope* . Commercial property owners are eligible to participate in the Program for nonaccelerating loans greater than \$15,000.00 for a term of up to 20 years.
- (b) *Eligibility* . In order to be eligible for a Clean Energy Loan, the property owner shall:
 - (1) Have a 100 percent ownership interest in the property located in Howard County for which improvements are proposed;
 - (2) Obtain an energy audit approved under program guidelines demonstrating that the energy savings projected to be obtained from the improvements over the life of the loan equal or exceed the principal and aggregate interest to be paid over the term of the loan;
 - (3) Demonstrate that the most recent property tax bill has been paid for the property;
 - (4) Provide a copy of written notice to all current holders of a mortgage or deed of trust who have a priority recorded lien on the property and written proof of express consent to the loan as a priority lien by all current holders of a mortgage or deed of trust on the property; and
 - (5) Establish that the property owner is able to repay the loan based on criteria and methods set forth in Ann. Code of Md., Commercial Law article, §§ 12-409.1 and 12-925 and any criteria and methods required by the Clean Energy Lender.

(C.B. 4, 2016, § 1)

Sec. 20.1203. - Qualifying improvements and costs.

- (a) *Qualifying Improvements* . The following improvements, either new or replacement, qualify as energy efficiency projects or renewable energy projects under the Clean Energy Loan Program:
 - (1) Solar energy equipment;
 - (2) Geothermal energy devices;
 - (3) Wind energy systems;
 - (4) Water conservation devices not required by law;
 - (5) Any construction, renovation, or retrofitting of commercial property to reduce energy consumption, including, high efficiency lighting and building systems, heating ventilation air conditioning (HVAC) upgrades, high efficiency boilers and furnaces, high efficiency hot water heating systems, combustion and burner upgrades, fuel switching, heat recovery and steam traps, building shell or envelope improvements, fenestration improvements, building energy management systems, and process equipment upgrades; and
 - (6) Any other improvement approved by the County as qualifying as an energy efficiency project or renewable energy project.
- (b) *Qualifying Costs* . A Clean Energy Loan may be used to pay for all costs incurred by a property owner for the following costs in connection with the qualifying improvements:
 - (1) The cost of the energy audit;
 - (2) Feasibility studies and reports;
 - (3) The design, installation, and construction of the qualifying improvements;
 - (4) Commissioning;
 - (5) Energy savings or performance guaranty or insurance; and

(6) Closing costs of the loan.

(C.B. 4, 2016, § 1)

Sec. 20.1204. - Real property tax surcharge.

- (a) *Repayment of Loans* . A property owner participating in the Clean Energy Loan program shall repay the loan through a surcharge on the owner's real property tax bill. Upon receipt of written notice from the Clean Energy Loan Program Administrator of the execution of a Clean Energy Loan Financing Agreement, the County shall, add the surcharge to the tax property bill on July 1 of the year immediately following the execution of the Agreement. The surcharge shall constitute a first lien on the property from the date it becomes payable until the unpaid surcharge and interest and penalties on the surcharge are paid in full, regardless of a change in ownership, whether voluntary or involuntary. A person that acquires property subject to a surcharge assumes the obligation to pay the surcharge.
- (b) *Calculation* . The surcharge for a Clean Energy Loan shall include the Clean Energy Loan Obligation and any administrative costs incurred by the County. The included administrative costs shall be the actual expenses incurred to administer the program.
- (c) *Agreement* . The property owner shall execute an agreement with the County and the Clean Energy Lender that will be recorded in the Land Records of Howard County, at the expense of the owner, and which shall include:
- (1) The date the Clean Energy Loan was made to the property owner and the property became subject to the surcharge;
 - (2) The term of the Clean Energy Loan and the surcharge;
 - (3) The amount of the Clean Energy Loan Obligation and estimated county administrative costs for the first year;
 - (4) The annual principal and interest amount for each year of the term of the loan, including any partial year prorated amounts;
 - (5) The prepayment requirements and any prepayment premium that may apply, if the loan is a prepayable Clean Energy Loan;
 - (6) Agreement by the property owner to repay all Clean Energy Loan Obligations and the county's administrative costs through a surcharge included on the owner's real property tax bill due and payable on the same date as the real property tax bill;
 - (7) Acknowledgement by the property owner that an unpaid Clean Energy Loan surcharge constitutes a first lien on the property that has priority over prior or subsequent liens in favor of private parties, and that the surcharge will continue as a lien on the property from the date it becomes payable until the unpaid surcharge and interest and penalties on the surcharge are paid in full, regardless of a change in ownership of the property, whether voluntary or involuntary;
 - (8) Acknowledgement by the property owner and the lender that the County has no liability for the Clean Energy Loan Obligation or any costs associated with the collection of amounts due under the Clean Energy Financing Agreement; and
 - (9) Acknowledgement by the property owner that an overdue surcharge shall be collected pursuant to Ann. Code of Md., Tax-Property article, title 14, subtitle 8 and section 20.140 of this Code.
- (d) *Default* . If a property owner defaults on the Clean Energy Loan Surcharge, the lien will be collected pursuant to Ann. Code of Md., Tax-Property article, title 14, subtitle 8 and section 20.140 of this Code, irrespective of whether property taxes (or any other taxes, charges or assessments) are due and owing.

- (e) *Credit of Payments.* Payments received from a property owner shall be credited first to all County taxes, assessments, and charges.
- (f) *County to Forward Surcharges Collected .* The County shall forward the surcharges to the Clean Energy Lenders or the Program Administrator within 30 days of receipt.
- (g) *County Liability.* Except for the obligation to forward surcharges under subsection (f) of this section, the County does not incur any liability by participating in the Clean Energy Loan Program and the County shall not incur any liability to the Clean Energy Lender or others in the event of default.

(C.B. 4, 2016, § 1)

Sec. 20.1205. - Financing.

- (a) *Private Lenders; Terms.* Any private lender may provide a Clean Energy Loan, and the Clean Energy Financing agreement that evidences the loan may include any terms and conditions permitted by law.
- (b) *County Role.* The County's role in the Clean Energy Loan Program is limited to sponsoring the Program and collecting and forwarding the surcharges imposed under the Program. The County may not provide Clean Energy Loans or other financing in connection with the Program.

(C.B. 4, 2016, § 1)

TITLE 21 - TRAFFIC CONTROL AND TRANSPORTATION^[1]

Footnotes:

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Editor's note— C.B. 9, 1997, enacted March 3, 1997, and as amended by C.B. 32, 1997, enacted May 5, 1997, amended tit. 21 in its entirety. Formerly, tit. 21 pertained to similar subject matter. For a detailed history of the provisions of former tit. 21, see the Code Comparative Table.

State Law reference— Traffic generally, Ann. Code of Md. Transportation article, § 11-101 et seq.; powers of local authorities, Ann. Code of Md. Transportation article, § 25-101 et seq.

SUBTITLE 1. - DEFINITIONS; GENERAL PROVISIONS

Sec. 21.101. - Definitions.

- (a) *In General.* Except as provided in subtitle 6 of this title, in this title, the following terms have the meanings indicated:
- (b) *Alley* means a highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through traffic.
- (c) *Bus* means:
 - (1) A motor vehicle designed for carrying more than ten passengers and used for the transportation of persons; or
 - (2) Any other motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.
- (d) *Bus stand* means a space or area adjacent to a curb or the side of a roadway for the exclusive use of a bus to pick up or discharge passengers.

- (e) *Business district* means the area contiguous to and including a highway when 50 percent or more of the frontage on the highway, for a distance of 300 feet or more, is occupied by buildings in use for business.
- (f) *Chief of Police* means the Chief of the Howard County Department of Police, or the Chief's designee.
- (g) *Commercial motor vehicle* means:
 - (1) A motor vehicle registered with the motor vehicle administration under one of the following classes:
 - (i) Class C (funeral and ambulance) vehicles;
 - (ii) Class E (truck) vehicles as follows:
 - a. Truck-trailer combinations;
 - b. Dump service registrations;
 - c. Tow trucks; or
 - d. Vehicles that display permanently affixed commercial advertising or MHIC license number on the exterior body;
 - (iii) Class F (tractor) vehicles;
 - (iv) Class G (trailer) vehicles;
 - (v) Class H (school) vehicles; or
 - (vi) Class P (passenger bus) vehicles; or
 - (2) Any motor vehicle used in the furtherance of any commercial purpose for the carrying of material, which includes but is not limited to freight, merchandise, supplies, equipment, or debris.
- (h) *Commercial private property* means:
 - (1) Property not owned by the State or County Government, that is a shopping center, business location, public or private school, or other property on which a commercial activity takes place.
 - (2) Does not include property used exclusively as a private dwelling.
 - (3) Includes common parking areas of apartment, condominium, and townhome developments.
- (i) *County Council* means the County Council of Howard County.
- (j) *Crosswalk* means:
 - (1) Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other marking on the surface; or
 - (2) That portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections.
- (k) *Curb marking* means a conspicuous marking applied to a curb, side or edge of a roadway.
- (l) *Director of Finance* means the Director of the Howard County Department of Finance or the Director's designee.
- (m) *Director of Fire and Rescue Services* means the Director of the Howard County Department of Fire and Rescue Services or the Director's designee.
- (n) *Director of Public Works* means the Director of the Howard County Department of Public Works or the Director's designee.

- (o) *Driver or operator* means an individual who drives or is in actual physical control of a vehicle, including an individual who is exercising control over, or steering a vehicle being towed by a motor vehicle.
- (p) *Fire lane* means part of a highway, road, curb, or fire department access road that is designated by the Department of Fire and Rescue Services as required for access by emergency vehicles and that is marked with approved signs or other approved notices in accordance with the Howard County Fire Prevention Code.
- (q) *Foreign vehicle* means a vehicle that:
 - (1) Is of a type required to be registered under title 13 of the transportation article of the Annotated Code of Maryland;
 - (2) Is brought into this State from another State, territory or country, other than in the ordinary course of business by or through a manufacturer or dealer; and
 - (3) Is not registered in this State.
- (r) *Freight curb loading zone* means an area for the exclusive use of vehicles during loading or unloading of freight.
- (s) *Gross weight* means the weight of a vehicle and its load.
- (t) *Hazardous or congested parking area* means an area designated by the Department of Public Works and marked by curb markings or signs, in which the stopping, standing or parking of a vehicle would:
 - (1) Endanger those using the highway; or
 - (2) Interfere with the free movement of traffic on the highway.
- (u) *Highway* means the entire width between the boundary lines of every way or thoroughfare of which any part is used by the public for purposes of vehicular travel, whether or not dedicated to the public and accepted by County authorities.
- (v) *Intersection* means:
 - (1) (i) The area within the prolongation or connection of the lateral curblines or, if none, the lateral boundary lines of the roadways of two highways that join at, or approximately at, right angles; or
 - (ii) The area within which vehicles traveling upon different highways joining at any other angle may come in conflict.
 - (2) If a divided highway includes two roadways that are 30 feet or more apart, every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection. If the intersecting highway also includes two roadways that are 30 feet or more apart, every crossing of two roadways of such highways is a separate intersection.
- (w) *Loading zone* means an area adjacent to a curb specifically designed for the purpose of loading and unloading of passengers or merchandise.
- (x) *Motor vehicle* means a vehicle which is self-propelled or propelled by electric power, but not operated upon rails.
- (y) *Motor Vehicle Administration* means the Motor Vehicle Administration of the Maryland Department of Transportation.
- (z) *Owner* means a person having the property interest in or title to a vehicle, including a person entitled to the use and possession of a vehicle subject to a security interest in another person.
- (aa) *Park* means to halt a vehicle, whether occupied or not, other than temporarily:
 - (1) When accessory to avoid conflict with other traffic or in compliance with the directions of a Police Officer or a traffic control device; or

- (2) For the purpose of and while actually engaged in loading or unloading of property or passengers.
- (ab) *Parking meter* means a device located on a public street, sidewalk, or parking area, which provides time periods for which parking privileges may be granted for a fee.
- (ac) *Passenger curb loading zone* means an area used exclusively by an authorized vehicle for the purpose of loading or unloading passengers.
- (ad) *Person* includes an individual, firm, partnership, association, limited liability company, or corporation.
- (ae) *Police Department* means the Howard County Department of Police.
- (af) *Private property* means property not owned or controlled by Federal, State, or County Government.
- (ag) *Property owner* means the owner, tenant, or agent in control of private property.
- (ah) *Railroad sign* or *signal* means a sign, signal or device erected by authority of a public body or official or by a railroad, and intended to give notice of the presence of railroad tracks or the approach of a railroad train.
- (ai) *Roadway* means:
- (1) The portion of a highway improved, designed, or ordinarily used by vehicles for travel, exclusive of the berm or shoulder.
 - (2) If a highway includes two or more separate roadways, *roadway* , means any one roadway separately, but not to all of the roadways collectively.
- (aj) *Safety zone* means an area in a roadway that is officially set apart for the exclusive use of pedestrians, and which is protected or is so marked or indicated by signs.
- (ak) *Sidewalk* means the part of a highway intended for use by pedestrians, which is between the curblines or the lateral boundary lines of a roadway and the adjacent property lines.
- (al) *Stand* means to halt a vehicle, whether occupied or not, other than temporarily:
- (1) When necessary to avoid conflict with other traffic or in compliance with the directions of a Police Officer or a traffic control device; or
 - (2) For the purpose of and while actually engaged in receiving or discharging passengers.
- (am) *State* means the State of Maryland.
- (an) *Stop* means:
- (1) Where used in the mandatory sense, the complete cessation from movement; and
 - (2) Where used in a prohibitory sense to halt, even momentarily a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a Police Officer or traffic control device.
- (ao) *Taxicab* means a motor vehicle for hire, designed to carry seven persons or less, including driver, operated upon any public street or highway in this County, or on call or demand, accepting or soliciting passengers, indiscriminately for transportation for hire between such points along public streets or highways in this County as may be directed by the passenger or passengers so being transported; provided that, nothing in this section shall be construed to include as a taxicab a motor vehicle operated with the approval of the Maryland Public Service Commission on fixed routes and schedules.
- (ap) *Taxicab stand* means an area for the exclusive use of taxicabs licensed and regulated by the Department of Public Works.
- (aq) *Traffic* means pedestrians, vehicles, and other conveyances, either singly or together, while using any highway for travel.

- (ar) *Traffic control device* means a sign, signal, marking, or device that:
 - (1) Is not inconsistent with the Maryland Vehicle Law; and
 - (2) Is placed by authority of authorized public body or official to regulate, warn, or guide traffic.
- (as) *Traffic control signal* means a traffic control device, whether manually, electrically or mechanically operated, by which traffic alternately is directed to stop and permitted to proceed.
- (at) *Truck* means a motor vehicle designed, used or maintained primarily for the transportation of property.
- (au) *Urban district* means the area contiguous to and including any street which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than 100 feet for a distance of a quarter mile or more.
- (av) *Vehicle* means a device in, on, or by which an individual or property is or may be transported or drawn upon a highway.

(C.B. 9, 1997; C.B. 13, 2011, § 1; C.B. 8, 2016, § 1)

State Law reference— Definitions, Ann. Code of Md. Tax-Property article, § 11-101 et seq.

Sec. 21.102. - Applicability.

Except as otherwise provided in this title or in the Maryland Vehicle Law, the provisions of this title apply to all drivers in Howard County and to all vehicles owned or operated in the County.

(C.B. 9, 1997)

Sec. 21.103. - Presumption of validity of traffic control devices.

- (a) *Presumed to Be Official Act.* Unless the contrary is established by competent evidence, if a traffic control device is placed in a manner that substantially conforms to the requirements of this title, the device is presumed to have been placed by the official act or direction of lawful authority.
- (b) *Presumed to Meet Legal Requirements.* Unless the contrary is established by competent evidence, if a traffic control device is placed in accordance with the provisions of this title and purports to meet the lawful requirements governing the device, the device is presumed to comply with the requirements of this title.

(C.B. 9, 1997)

Sec. 21.104. - Severability.

If a court determines that any word, phrase, clause, item, sentence or section of this title or any rule, order or regulation passed by the County Council pursuant hereto, or the application thereof to any person or circumstance, is held invalid, the remaining provisions and the application of such provisions to other persons or circumstances is not affected thereby.

(C.B. 9, 1997)

Sec. 21.105. - Emergency regulations.

The Chief of Police and the Director of Public Works, and the Director of Fire and Rescue Services, acting separately or in concert, may adopt regulations necessary to make effective the provisions of the traffic acts of this County and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. A temporary or experimental regulation shall remain in effect for no more than 90 days.

(C.B. 19, 1975; C.B. 9, 1997)

Sec. 21.106. - Police Department to enforce title.

The Police Department shall enforce the provisions of this title and the Maryland Vehicle Law.

(C.B. 9, 1997)

SUBTITLE 2. - STANDING, STOPPING, AND PARKING OF VEHICLES; AUTOMATED ENFORCEMENT²¹

Footnotes:

--- (2) ---

State Law reference— Stopping, standing and parking, Ann. Code of Md. Transportation article, § 10-101 et seq.; general authority relative to parking, Ann. Code of Md. Transportation article, § 25-102(a)(1).

PART I. - PARKING ZONES AND ENFORCEMENT; AUTOMATED ENFORCEMENT

Sec. 21.200. - Parking enforcement.

- (a) *Parking Enforcement Officers.* The County Executive may designate parking enforcement officers to have concurrent jurisdiction with the Police Department in enforcing the provisions of this subtitle.
- (b) *Issuance of Citations.* When a Police Officer or parking enforcement officer finds that a vehicle is parked in violation of this title, the officer may issue a citation and shall deliver a citation to the operator of the vehicle.
- (c) *Unattended Vehicle.* If the vehicle is unattended, the officer shall place the citation on the vehicle in a secure and conspicuous location.
- (d) *Certification on Citation.* The citation shall bear the certification of the officer, under penalty of perjury, attesting to the truth of the facts set forth therein.
- (e) *Copies of Citation.* A copy of the citation shall be retained by the officer and the remaining copies shall be forwarded to the Department of Finance.
- (f) *Owner Presumed to Be Recipient.* In the absence of the operator, the registered owner of the vehicle is presumed to be the person receiving the citation.

(C.B. 9, 1997)

Sec. 21.201. - Collection of fines; procedures; authority of Director of Finance.

The Director of Finance may:

- (1) Establish procedures necessary to collect the fines and penalties imposed under this title;
- (2) Refund or waive towing charges or storage costs that have been improperly assessed; and

- (3) At the request of the issuing officer or agency, and as otherwise permitted by law, declare invalid and void any violation notice for stopping, standing, or parking violations. In all cases where the Director of Finance voids a citation, the reasons for the voiding shall be fully documented.

(C.B. 9, 1997)

Sec. 21.202. - Fines; intention to stand trial.

- (a) *Council to Set Fines.* The County Council shall adopt by resolution a schedule of fines for violations of the parking laws under this subtitle. These fines shall be in addition to the costs payable to a political subdivision under section 7-301 of the Courts and Judicial Proceedings article of the Annotated Code of Maryland.
- (b) *Fines; Control of Citations.* Fines imposed under this subtitle shall be payable to the Director of Finance. The Director of Finance shall control the issuance of prenumbered violation notice forms to the Police Department and to designated parking enforcement officers and shall record the final disposition of each violation notice.
- (c) *Procedures for Election to Stand Trial:*
 - (1) If a recipient of a citation desires to stand trial for an offense, the recipient may elect to do so by notifying the Director of Finance of the intention to stand trial, at least five days prior to the payment date set forth in the citation.
 - (2) Upon receipt of notification that a recipient of a violation notice intends to stand trial for the offense, the Director of Finance shall forward to the district court a copy of the violation notice and a copy of the notice from the recipient indicating the intention to stand trial.
 - (3) At the time the notice of intention to stand trial is given, the recipient shall notify the Director of Finance that the recipient requests the presence, at the trial, of the officer who issued the citation. If the presence of the officer at the trial is not requested, the officer need not appear, and the copy of the citation bearing the certification of the officer shall be prima facie evidence of the matters set forth therein.

(C.B. 9, 1997)

Sec. 21.203. - Administrative handling fee; failure to comply with violation notice.

- (a) *Failure to Pay Fine.* If a person receiving a violation notice for a violation under this subtitle or under section 21-202.1 of the transportation article of the Annotated Code of Maryland fails to pay the appropriate fine for the violation by the date of payment set forth on the violation notice, and fails to file a notice of intention to stand trial for the offense, the Director of Finance or the Automated Enforcement Division shall send a written notice of the violation to the owner's last known address. If within 15 days from the date of notice the violation has not been satisfied, the offender shall pay a penalty as established by resolution of the County Council.
- (b) *Administrative Handling Fee.* If the Motor Vehicle Administration is notified, under section 21.205 of this subtitle, of a failure to pay a fine or to file a notice of intention to stand trial, a penalty as established by resolution of the County Council shall be imposed.

(C.B. 9, 1997; C.B. 40, 2000, § 1, 7-27-00)

Sec. 21.204. - Appeal.

Any person who elects to stand trial under this subtitle may appeal from the judgment of the district court as provided in the Maryland rules.

(C.B. 9, 1997)

Sec. 21.205. - Effect of parking or automated enforcement violation on vehicle registration.

- (a) *Notice to Motor Vehicle Administration.* The Director of Finance or the Automated Enforcement Division shall notify the Motor Vehicle Administration if a person who receives a citation for a violation under this title or under section 21-202.1 of the transportation article of the Annotated Code of Maryland, respectively:
- (1) Fails to pay the fine for the violation by the date specified in the citation; or
 - (2) Fails to file a notice of intention to stand trial for the violation.
- (b) *Effect of Notice.* If the Director of Finance or the Automated Enforcement Division notifies the Motor Vehicle Administration of a failure under subsection (a) of this section, the provisions of section 26-305 of the transportation article of the Annotated Code of Maryland apply, and the Motor Vehicle Administration will not register or transfer the registration of the vehicle involved in the violation, except in accordance with that section.

(C.B. 9, 1997; C.B. 40, 2000, § 1, 7-27-00)

Sec. 21.206. - Parking meters; installation, zones, and spaces.

- (a) *Parking Meter Zones.* The Department of Public Works may establish a parking meter zone on any highway or parking facility under the County's jurisdiction.
- (b) *Parking Meters.* In a parking meter zone established under this section the Department of Public Works shall:
- (1) Install parking meters; and
 - (2) Adequately inform the public concerning:
 - (i) The designation of parking spaces to the appropriate parking meter;
 - (ii) The days and hours when payment is required;
 - (iii) The cost to park for each interval of time;
 - (iv) Acceptable methods of payment; and
 - (v) The length of time for which parking is lawfully permitted.

(C.B. 93, 1995; C.B. 9, 1997)

Sec. 21.207. - Parking restrictions.

- (a) *Department of Public Works.* Except as provided in section 21.105 of this title, on property that is under the County's jurisdiction, the Department of Public Works may:
- (1) Prohibit or establish a time limit on parking on any highway; and
 - (2) Designate each parking space where a plug-in vehicle may be recharged.
- (b) *Signs.* The Department of Public Works shall place and maintain appropriate signs indicating a parking restriction under subsection (a) of this section.

(c) *Plug-in Vehicle Recharging Stations.*

- (1) In this section, plug-in vehicle means a vehicle that:
 - (i) Is made by a vehicle manufacturer;
 - (ii) Is manufactured primarily for use on a public street, road, and highway;
 - (iii) Has a rated unloaded gross vehicle weight of no more than 8,500 pounds;
 - (iv) Has a maximum speed capability of at least 55 miles per hour; and
 - (v) Is propelled to a significant extent by an electric motor that draws electricity from a battery that:
 - (A) For a four-wheeled vehicle, has a capacity of at least four kilowatt-hours;
 - (B) For a two-wheeled or three-wheeled vehicle, has a capacity of at least 2.5 kilowatt-hours; and
 - (C) Can be recharged from an external source of electricity.
- (2) Plug-in vehicle includes a qualifying vehicle that has been modified from the original manufacturer's specifications.
- (3) Except as provide in paragraph (4) of this subsection, a person may not stop, stand, or park a vehicle in a space that is posted for the exclusive use of plug-in vehicles:
 - (i) Under subsection (b) of this section for County property; or
 - (ii) By the property owner for private property.
- (4) A plug-in vehicle may be parked in a space that is posted for the use of plug-in vehicles.
- (5) A sign that designates a space under this subsection must meet be at least 12 inches by 18 inches and meet any applicable State or Federal standards for parking control signs.
- (d) (1) The Police Department may enforce this section on public property or private property.
- (2) The Police Department may impound a vehicle that is parked in violation of this section.

(C.B. 93, 1995; C.B. 9, 1997; C.B. 36, 2014, § 1; C.B. 7, 2016, § 1)

Sec. 21.208. - Curb loading zones and permits.

- (a) *Zones Established.* The Department of Public Works may establish passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable.
- (b) *Loading Zone Permits:*
 - (1) A person may apply to the Department of Public Works for a permit to establish a loading zone and to install signs to indicate the border of the zone.
 - (2) The Applicant shall pay an annual service fee plus the cost of installation of the signs, as established by resolution of the County Council. The Department of Public Works may impose conditions upon the use of the signs, and for reimbursement for the value thereof in the event of their loss or damage, and their return in the event of misuse or upon expiration of the permit.
 - (3) A permit under this section expires at the end of one year.

(C.B. 19, 1975; C.B. 9, 1997)

Sec. 21.209. - Public carrier stops and stands.

- (a) *Stops and Stands Established.* The Department of Public Works may establish bus stops, bus stands, taxicab stands, and stands for other passenger common-carrier motor vehicles so as to be of greatest benefit and convenience to the public.
- (b) *Signs.* The Department of Public Works shall post and maintain appropriate signs designating a bus stop, bus stand, taxicab stand or other stand.

(C.B. 19, 1975; C.B. 9, 1997)

Sec. 21.210. - Permits for loading or unloading; angle parking.

The Department of Public Works may issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. A permit under this section may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to the person the privilege as therein Stated and authorized herein.

(C.B. 19, 1975; C.B. 9, 1997)

Sec. 21.211. - Individuals with disabilities.

- (a) *Parking in General.* An individual with a disability to whom a special plate or parking permit for individuals with disabilities has been issued under the Maryland Vehicle Law:
 - (1) May park in the areas designated with the wheelchair emblem or established for individuals with disabilities;
 - (2) May park for unlimited periods in parking zones restricted as to the length of parking time permitted; and
 - (3) Is not required to pay parking meter fees established by the County.
- (b) *Exceptions.* The provisions of this section do not apply to zones where stopping, standing, or parking is prohibited to all vehicles or which are reserved for special types of vehicles, nor does this privilege apply where there is an ordinance prohibiting parking during heavy traffic periods during morning, afternoon or evening rush hours, or where parking would clearly present a traffic hazard.

(C.B. 9, 1997)

Sec. 21.212. - Stopping, standing or parking in spaces designated for individuals with disabilities.

- (a) *In General.* Except as provided in subsection (b) of this section, no limitations on parking, stopping, or standing may be placed on parking spaces reserved for individuals with disabilities.
- (b) *Prohibited Parking:*
 - (1) An individual may not stop, stand or park a vehicle in a space designated for individuals with disabilities unless the vehicle displays a valid:
 - (i) Special registration plate; or
 - (ii) Parking permit for individuals with disabilities.
 - (2) An individual may not park a vehicle so as to occupy the same space or any portion of a space where the space is already occupied by a vehicle displaying a special registration plate or parking permit for individuals with disabilities.
 - (3) An individual who operates a motor vehicle displaying a parking permit for a person with a disability may not use the privileges under section 21.211 of this subtitle, unless the person is:

- (i) A person with a disability who meets the requirements under the Maryland Vehicle law; or
 - (ii) Accompanied by a dependent, or a person who depends on the individual for transportation, who meets the requirements under the Maryland Vehicle Law.
- (c) *Signs.* Signs designating spaces reserved for individuals with disabilities shall prominently display the amount of the fine for a violation of this section.
- (d) *Vehicles Impounded.* The Police Department may impound a vehicle parked in violation of this section.

(C.B. 9, 1997)

Sec. 21.213. - Penalties.

- (a) *Criminal Penalties.* An individual who violates a provision of this subtitle, except section 21.407, is guilty of a misdemeanor, and on conviction is subject to a fine not to exceed \$100.00.
- (b) *Civil Penalties.* Alternatively or in addition to and concurrent with all other remedies, the Police Department may enforce the provisions of this subtitle, except section 21.407, with civil penalties under title 24, "civil penalties," of the Howard County Code. A violation shall be a Class D offense.

(C.B. 9, 1997)

Sec. 21.214. - Unsatisfied parking violation notices—Impoundment.

(a) *In General.*

- (1) This section applies to a commercial motor vehicle parked on a public street in Howard County, if the street is in or adjacent to a residential area or property zoned for residential use, that is:
- (i) Parked illegally and against which there is one or more unsatisfied parking violations; or
 - (ii) Parked legally and against which there are two or more unsatisfied parking violations.
- (2) The department of police may impound the vehicle in accordance with the procedures specified in section 21.250 of this subtitle if:
- (i) 1. For a vehicle with one unsatisfied parking violation, at least 90 days has elapsed since the unsatisfied parking violation was issued; or
 - 2. Otherwise, at least 30 days has elapsed since the most recent unsatisfied parking violation was issued and at least 90 days has elapsed since any other unsatisfied parking violation was issued; and
 - (ii) The Department of Finance has flagged the vehicle for impoundment.

(b) *Release of Impounded Vehicle.*

- (1) The Department of Finance shall issue an impounded vehicle release to the owner if the owner satisfies the outstanding parking violations and any associated penalties or fees.
- (2) If the owner demonstrates to the satisfaction of the Department of Finance that the vehicle should not have been impounded, the Department of Finance shall give the owner:
- (i) An impounded vehicle release; and
 - (ii) A waiver for the costs of towing and storage.
- (3) The owner of the impounded motor vehicle may repossess the vehicle by:
- (i) Presenting the impounded vehicle release to the custodian of the motor vehicle; and

- (ii) Paying the custodian the costs of towing and storage or presenting a waiver from the Department of Finance for the costs.

(C.B. 51, 2011, § 1)

Secs. 21.215—21.219. - Reserved.

PART II. - IN GENERAL

Sec. 21.220. - General prohibitions; applicability to disabled vehicles.

- (a) *In General.* Except as otherwise provided in this section, on any highway outside of a business district or residential district, an individual may not stop, park or leave standing on the roadway any vehicle, whether attended or unattended, when it is practicable to stop, park or so leave the vehicle off the roadway.
- (b) *Leaving Standing Vehicles.* Except as otherwise provided in this section, on any highway outside of a business district or residential district, an individual may not leave a vehicle standing without providing an unobstructed width of the roadway opposite the standing vehicle for the passage of other vehicles.
- (c) *Prohibited Stops.* Except as otherwise provided in this section, on any highway outside of a business district or residential district, an individual may not stop a vehicle unless it can be seen clearly from 200 feet away in each direction on the roadway.
- (d) *Disabled Vehicles.* This section does not apply to the driver of any vehicle that has become unintentionally disabled while on a highway in a manner and to an extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in that position.

(C.B. 19, 1975; C.B. 9, 1997)

Sec. 21.221. - Stopping, standing or parking prohibited in specified places.

- (a) Except when necessary to avoid conflict with other traffic, or in compliance with law or directions of a Police Officer or traffic control device, an individual may not stop, stand, or park a vehicle:
 - (1) In front of or within five feet of a public driveway, or within a private driveway, without the consent of the owner or occupant of the premises;
 - (2) Within an intersection;
 - (3) Within a tee or modified tee turnaround;
 - (4) On a sidewalk or pathway;
 - (5) On a pedestrian or school crosswalk;
 - (6) Between a safety zone and the adjacent curb;
 - (7) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic;
 - (8) Upon any bridge (or other elevated structure);
 - (9) Within a highway tunnel;
 - (10) On any ramp entering onto or exiting from any highway;
 - (11) On any property of the Howard County Board of Education where an official sign or curb markings prohibit or restrict such parking;

- (12) At any place where an official sign or curb markings prohibit stopping, standing or parking;
 - (13) Within 30 feet to the approach to any official regulatory signal, sign or traffic-control device located on the side of the roadway, with the exception of parking signs;
 - (14) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
 - (15) On the traveled portion of any roadway;
 - (16) Within 100 feet to the approach of an intersecting street, highway or commercial private property driveway, except in any residentially zoned district;
 - (17) In any hazardous or congested parking area posted as a no-parking, tow-away zone;
 - (18) Adjacent to the center island of a cul-de-sac; or
 - (19) Except as specifically authorized by section 21.207 of this subtitle, in a space posted for a plug-in vehicle.
- (b) The Police Department may impound a vehicle for a violation of subsection (a)(1), (2), (3), (4), (5), (7), (8), (9), (10), (14), (15), (17), or (19) of this section.

(C.B. 9, 1997; C.B. 36, 2014, § 2)

State Law reference— Similar provisions, Ann. Code of Md. Transportation article, § 21-1003.

Sec. 21.222. - Parking prohibited in specified places.

- (a) Except when necessary to avoid conflict with other traffic or in compliance with law or directions of a Police Officer or traffic control device, an individual may not park a vehicle in the following locations:
- (1) Within 15 feet of a fire hydrant;
 - (2) Within 20 feet of a crosswalk;
 - (3) Within 20 feet of the driveway entrance or exit to any fire station;
 - (4) Within 75 feet on the side of a street opposite the driveway entrance or exit to a fire station, when signs or red curb markings are present;
 - (5) On a curve or the brow of a hill where solid lines indicating a no-passing zone appear on the surface of the road;
 - (6) Within 50 feet of the nearest rail of a railroad crossing;
 - (7) Outside of any lines painted on a roadway or public parking area designating a parking space;
or
 - (8) On a highway or public parking area for more than 18 consecutive hours in a nonoperable, unregistered, untagged or disabled condition.
- (b) The Police Department may impound a vehicle for a violation of subsection (a)(8) of this section.

(C.B. 9, 1997; C.B. 8, 2016, § 1)

State Law reference— Similar provisions, Ann. Code of Md. Transportation article, § 21-1003.

Sec. 21.223. - Unattended motor vehicle.

The operator of a motor vehicle may not leave the vehicle unattended without first stopping the engine, locking the ignition, removing the key and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

(C.B. 9, 1997)

Sec. 21.224. - Wheels parallel to curb.

Except as otherwise provided in this subtitle, the operator of a vehicle stopped or parked upon a two-way roadway shall stop or park the vehicle with the right-hand wheels parallel to and within 12 inches of the right hand curb or edge of the roadway.

(C.B. 9, 1997)

State Law reference— Similar provisions, Ann. Code of Md. Transportation article, § 21-1004.

Sec. 21.225. - Parking on one-way highway.

Except as otherwise regulated by the Department of Public Works under the provisions of this title, the operator of a vehicle stopped or parked upon a one-way roadway shall stop or park the vehicle parallel to the curb or edge of the roadway in the direction of authorized traffic movement, with:

- (1) The vehicle's right-hand wheels within 12 inches of the right-hand curb or edge of the roadway;
or
- (2) The vehicle's left-hand wheels within 12 inches of the left-hand curb or edge of the roadway.

(C.B. 9, 1997)

Sec. 21.226. - Curb loading zone.

- (a) *Standing in Passenger or Curb Loading Zone.* An individual may not stop, stand, or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for a period not to exceed 30 minutes.
- (b) *Standing in Freight Curb Loading Zone.* An individual may not stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed 30 minutes.

(C.B. 9, 1997)

Sec. 21.227. - Stopping, standing or parking of buses.

- (a) The operator of a bus may not stand or park the bus on a highway at any place other than a bus stand so designated as provided herein.
- (b) The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a highway in such a manner that the bus, when stopped to load or unload passengers or baggage, shall be in a position with the right front wheel of the bus not farther than 18 inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(C.B. 9, 1997)

Sec. 21.228. - Stopping, standing or parking of taxicabs.

The operator of a taxicab may not stop, stand or park the taxicab on a highway at any place other than in a taxicab stand so designated as provided herein. This section does not prohibit the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purposes of and while actually engaged in the expeditious loading and unloading of passengers.

(C.B. 9, 1997)

Sec. 21.229. - Restricted use of bus and taxicab stands by unauthorized vehicles.

- (a) An individual may not stop, stand, or park a vehicle, other than a bus, in a bus stop, or other than a taxicab in a taxicab stand, when stopping or standing is prohibited, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading and unloading passengers, when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter the zone.
- (b) The Police Department may, when posted, impound a parked vehicle other than a bus or taxicab for violation of subsection (a) of this section.

(C.B. 9, 1997)

Sec. 21.230. - Parking time limited on certain streets.

If parking is restricted under section 21.207 of this subtitle, an individual may not park a vehicle on the highway for a longer period of time than is posted.

(C.B. 9, 1997; C.B. 17, 2003, § 5)

Sec. 21.231. - Stopping, standing or parking in special parking spaces.

- (a) *Reserved Parking Spaces.* No parking, stopping, or standing limitations may be placed upon those spaces reserved for circuit court judges, district court judges and County Officials.
- (b) *Impoundment of Unauthorized Vehicles.* When posted, the Police Department may impound an unauthorized vehicle parked in a space reserved under subsection (a) of this section.

(C.B. 9, 1997)

Sec. 21.232. - Parking commercial motor vehicles in residential areas.

- (a) *Parking Prohibited.* An individual may not park a commercial motor vehicle for more than six continuous hours on any highway in the residential areas of Howard County.
- (b) *Exceptions.* This section shall not apply to:
 - (1) Any motor vehicle which is designated by the motor vehicle administration as an emergency vehicle;
 - (2) Any motor vehicle owned by a public utility, or any other motor vehicle visibly identified as being under contract to a public utility; or

- (3) Any motor vehicle that is designed and constructed primarily to provide temporary living quarters for recreation and travel use.

(C.B. 9, 1997)

Sec. 21.233. - Parking in alleys or narrow streets.

An individual may not:

- (1) Park a vehicle within an alley so as to leave available less than 18 feet of the width of the roadway for the free movement of traffic; or
- (2) Stop, stand, or park a vehicle within an alley in a manner that blocks the driveway entrance to any adjacent property.

(C.B. 9, 1997)

Sec. 21.234. - Parking on commercial private property.

An individual may not stop, stand, or park a vehicle on any commercial private property after the property owner requests, by word or sign, the individual to remove the vehicle from the property or area of property; provided that any signs erected are consistent with the provisions of this title.

(C.B. 9, 1997)

Sec. 21.235. - Fire lanes.

- (a) *Creation of Fire Lanes* : In accordance with the Howard County Fire Prevention Code, the Department of Fire and Rescue Services shall determine whether a fire lane should be designated and shall create fire lanes consistent with standards included in the Code.
- (b) *Notice* . The Department of Fire and Rescue Services shall notify a property owner before designating the area established as a fire lane.
- (c) *Installation of Fire Lane Markings* . The property owner shall install fire lane markings or signs within 20 days of receipt of the notification under subsection (b) of this section.
- (d) *Penalties for Failure to Comply* . A property owner who fails to comply with the requirements of this section is subject to penalties as set forth in the Howard County Fire Prevention Code.
- (e) *Parking in Fire Lane Prohibited* . An individual may not stop, stand, or park a vehicle in a fire lane.
- (f) *Vehicle in Fire Lane Impounded* . The Police Department may impound a vehicle that is in violation of this section.

(C.B. 9, 1997; C.B. 8, 2016, § 1)

Sec. 21.236. - Parking meter violations; expired time.

- (a) *In General*. An individual may not park a vehicle in a designated parking meter space during the restricted or regulated time applicable to the parking meter zone in which the meter is located so that any part of the vehicle occupies more than one space or protrudes beyond the markings designating the space, except that a vehicle which is of a size too large to be parked within a single designated parking meter zone may occupy two adjoining spaces if the individual pays for each space so occupied as required in this title.

(b) *Payment and Time Limits:*

- (1) An individual may not park a vehicle in a parking meter zone during the restricted and regulated time applicable to the parking meter zone unless the applicable meter has been placed in operation and payment, as provided under this title, is made.
- (2) An individual may not permit a vehicle under the individual's control to be parked in a parking meter space during the restricted and regulated time applicable to the parking meter for the space, when the lawful parking time in the space has expired. This provision does not apply to the act of parking or the time required to make the appropriate payment.
- (3) This section does not relieve any person from the duty to observe other and more restrictive provisions of this title or the Maryland Vehicle Law prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

(c) *Parking Zones and Time Limits.* Parking meter zones are hereby established within the County or on the highways or parking facilities where regulated by parking meters between the hours and on the days specified.

(C.B. 9, 1997)

Sec. 21.237. - Angle parking.

- (a) *When Required.* On a highway that has been signed or marked by the Department of Public Works for angle parking, a person shall park or stand a vehicle at the angle to the curb or edge of the roadway indicated by such signs or markings.
- (b) *Violation of Permit for Angle Parking.* A permittee or other person shall comply with the terms or conditions of a permit issued under this section.

(C.B. 9, 1997)

Sec. 21.238. - Parking detached trailers and semitrailers on highway or County property.

- (a) An individual may not park a trailer or semitrailer that is detached from a motor vehicle on highway.
- (b) The Police Department may impound a trailer or semitrailer parked in violation of this section.

(C.B. 9, 1997)

Secs. 21.239—21.249. - Reserved.

PART III. - IMPOUNDMENT OF VEHICLES

Sec. 21.250. - Impoundment of vehicles.

- (a) *Impoundment Authorized.* When authorized under this subtitle or the Maryland Vehicle Law, the Police Department may remove a vehicle from a highway to an approved garage or to a site designated or maintained by the County.
- (b) *Notice to Known Owners.* When the Police Department impounds a vehicle as authorized in this subtitle and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, the officer shall, as soon as practicable, notify the owner that the vehicle has been impounded, the reasons for the impoundment, and the location of the vehicle. If the vehicle is stored in a public garage, a copy of the notice shall be given to the proprietor of the garage.

- (c) *When Owner is Not Known.* If the Police Department impounds a vehicle under this subtitle and does not know and is not able to ascertain the name of the owner, the Department shall give notice to the proprietor of any public garage in which the vehicle is stored. The notice shall include the date, time and place from which the vehicle was removed, the reason for the removal, and name of the garage or place where the vehicle is stored.
- (d) *Towing and Storage Costs.* Towing and storage costs shall be paid by the owner of the vehicle impounded.
- (e) *Election of Towing Service.* If the individual who parked a vehicle is present at the time the vehicle is proposed to be impounded, the individual may elect to secure a private towing service. This provision does not apply to foreign vehicles impounded for failure to comply with parking violation notices if the vehicle is being held for security on the outstanding citations.

(C.B. 9, 1997)

Sec. 21.251. - Establishment of rules and regulations.

The Chief of Police may establish rules and procedures as may be required to direct and regulate towing services under Police Department direction.

(C.B. 19, 1975; C.B. 9, 1997)

SUBTITLE 3. - TRAFFIC

Sec. 21.300. - Duties of the Department of Public Works.

The Department of Public Works shall:

- (1) Determine the installation and proper timing and maintenance of traffic control devices;
- (2) Conduct engineering analyses of traffic accidents to devise remedial measures;
- (3) Conduct engineering investigations of traffic conditions;
- (4) Plan the operation of traffic on the highways of this County;
- (5) Cooperate with other County Officials in the development of ways and means to improve traffic conditions; and
- (6) Carry out the additional powers and duties imposed by law.

(C.B. 9, 1997)

Sec. 21.301. - Police Department and Department of Fire and Rescue Services to direct traffic; traffic section.

- (a) *Police Department.* Personnel of the Police Department may direct traffic by voice, hand, or signal.
- (b) *Department of Fire and Rescue Services.* Notwithstanding any other provision of this title, in the event of a fire or other emergency, personnel of the Department of Fire and Rescue Services may direct traffic to expedite traffic or to safeguard pedestrians.
- (c) *Traffic Section Established.* There is, in the Police Department, a traffic section to be under the control of an officer appointed by and responsible to the Chief of Police.
- (d) *Duty of Traffic Section.* The traffic section shall:

- (1) Enforce the provisions of this subtitle and the Maryland Vehicle Law;
 - (2) Make arrests for traffic violations;
 - (3) Investigate accidents;
 - (4) Establish an accident towing program;
 - (5) Cooperate with the Department of Public Works and other County Officials in the administration of the traffic laws and in developing ways and means to improve traffic conditions; and
 - (6) Carry out other duties and responsibilities imposed by law.
- (e) *Traffic Section to Investigate Accidents.* The traffic section shall investigate traffic accidents and, arrest and assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.
- (f) *Traffic Accident Studies.* Whenever the accidents at any particular location become numerous, the traffic section shall cooperate with the Department of Public Works in conducting studies of such accidents and determining remedial measures.
- (g) *Traffic Accident Reports.* The traffic section shall maintain a suitable system of filing traffic accident reports. Selected groups of reports shall be forwarded to the Department of Public Works for its use and information.
- (h) *Accident Towing Program:*
- (1) To ensure public safety on County roads, there is an accident towing program in the traffic section of the Police Department.
 - (2) The traffic section shall establish criteria for the program, which covers the towing of:
 - (i) Private vehicles from collision scenes;
 - (ii) Disabled vehicles; and
 - (iii) Vehicles that impede the safe circulation of traffic on County roads or represent a threat to public safety.
 - (3) Contracts for the accident towing program shall be awarded by the office of purchasing through a competitive process under title 4 of this Code.
 - (4) A tow operator shall not charge more than a maximum rate that is set annually by resolution of the County Council.

(C.B. 9, 1997; C.B. 79, 2004)

Sec. 21.302. - Traffic control devices; authority.

The Department of Public Works shall place and maintain traffic control devices when and as required under County law or the Maryland Vehicle Law and may place and maintain additional traffic control devices as it may deem necessary to regulate, warn, or guide traffic under County law or the Maryland Vehicle Law.

(C.B. 9, 1997)

Sec. 21.303. - Traffic control devices; specifications.

All traffic control devices and their use shall conform to the Manual of Uniform Traffic Control Devices and Specifications approved by the State of Maryland. All traffic control devices in the County shall, so far as practicable, be uniform as to type and location.

(C.B. 9, 1997)

Sec. 21.304. - Testing traffic control devices.

The Department of Public Works may test traffic control devices under actual conditions of traffic.

(C.B. 9, 1997)

Sec. 21.305. - Sight distance obstructions to traffic.

(a) *Determination of Obstruction; Notification:*

- (1) The Director of Public Works may determine, based on Federal, State, or local standards, that a physical obstruction, except a building, located on private property, or any obstruction on a public right-of-way, so restricts the vision of drivers on a highway as to create a hazardous condition.
- (2) Based on a determination under paragraph (1) of this subsection, the Director of Public Works shall notify the property owner, in writing, of the condition, including:
 - (i) A statement of particulars in which the vision of motor vehicle operators is obstructed;
 - (ii) The steps necessary to correct the obstruction; and
 - (iii) A request that the property owner correct the obstruction.

(b) *Failure to Correct Obstruction.* If the property owner fails to comply with the letter requesting correction of the visibility obstruction within 30 days, an order of removal shall be issued to the property owner ordering the property owner to correct the visibility obstruction within 30 days.

(c) *Appeal of Order of Removal.* Any person aggrieved by an order under this section may, within ten days of the receipt of the order, petition the Director of Public Works, in writing, for a hearing. Within ten days from the receipt of the petition, the Director of Public Works shall hold a hearing, after which the Director may either affirm, modify or rescind the order. No official of the County Government may remove any obstruction or enforce any order issued hereunder until after such hearing by the Director of Public Works has been held, or until the time to petition for such hearing has expired, without such a petition having been filed, or until any appeal becomes final.

(d) *Failure to Comply with Order.* If a person fails to comply with an order issued under this section within the time specified, the Director of Public Works shall order the removal of all or such part of the obstruction as may be necessary to eliminate the hazardous condition.

(e) *Service on Property Owner.* All orders and notices issued by the Director of Public Works under this section shall be served on the person to whom they are directed either by registered mail or by personal delivery. If the recipient is known not to reside in and cannot be found in the County, service shall be made by publication once in a newspaper of general circulation in the County and by posting the same on the premises in a conspicuous manner. Service by publication and posting shall be deemed to be made on the day of publication or posting.

(f) *Corrective Action by Director.* The Director of Public Works may order the visibility obstruction to be removed by County personnel if the removal:

- (1) Would constitute an excessive economic burden on the property owner;
- (2) Involves regrading of both a public right-of-way and adjoining private property; or
- (3) Would result in the removal of vegetation located in the public right-of-way that has encroached upon adjoining private property.

- (g) *Work Plan.* If the Director of Public Works corrects the visibility obstruction with County personnel, a detailed description of work and/or construction plans and a work schedule shall be furnished to the property owner when private property is to be physically altered.

(C.B. 9, 1997)

Sec. 21.306. - Limitations on turning; business district.

The driver of a vehicle on a highway in a business district may not turn a vehicle so as to proceed in the opposite direction and may not, on any other highway, so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

(C.B. 9, 1997)

Sec. 21.307. - Snow emergency routes.

- (a) *Snow tires* defined. In this section, *snow tires* means those tires that are in a good state of repair and that:
- (1) Are normally designated by their manufacturer as snow tires;
 - (2) Are approved by the motor vehicle administration as meeting the standards of effectiveness required of normally designated snow tires; or
 - (3) Have anti-skid patterns cut into the treated surfaces, which are specifically designed to give effective traction on snow or ice-covered highways.
- (b) *Designation of Snow Emergency Routes.* The Director of Public Works may designate any County highway as a snow emergency route. When a highway is so designated, appropriate signs indicating this designation shall be placed along the highway.
- (c) *Declaration of Snow Emergency.* When a snow emergency is declared pursuant to the provisions of the Maryland Vehicle Law, which snow emergency encompasses Howard County, the snow emergency is effective for snow emergency routes designated under this section. A snow emergency, once declared, shall remain in effect until the Director of Public Works declares that the snow emergency is no longer in effect for County highways.
- (d) *Travel on Snow Emergency Routes.* An individual may not drive or attempt to drive a motor vehicle on a highway that is designated and posted as a snow emergency route and for which a snow emergency has been declared and is in effect, unless the vehicle is equipped with snow tires or chains on at least one wheel at each end of a driving axle.
- (e) *Parking on Snow Emergency Routes.* An individual may not park a vehicle on a highway that is designated and posted as a snow emergency route and for which a snow emergency has been declared and is in effect. The Police Department may impound a vehicle parked in violation of this subsection.

(C.B. 9, 1997)

Sec. 21.308. - Crosswalks and safety zones.

- (a) The Department of Public Works may designate and maintain, by appropriate traffic control devices, marks, or lines upon the surface of the roadway, crosswalks at intersections where there is particular danger to pedestrians crossing the roadway, and at such other places as are necessary.
- (b) The Department of Public Works may establish safety zones of such kind and character and at such places as may be necessary for the protection of pedestrians.

(C.B. 9, 1997)

Sec. 21.309. - Traffic lanes.

The Department of Public Works may mark with lines or other devices, traffic lanes on the roadway of any highway where a regular alignment of traffic is necessary.

(C.B. 9, 1997)

Sec. 21.310. - Applicability of State speed laws.

- (a) *In General.* Except as provided in subsection (b) of this section, provisions of the Maryland Vehicle Law regulating the speed of vehicles apply on all highways within the County.
- (b) *Department of Public Works May Set Speed Limits:*
 - (1) If authorized by the Maryland Vehicle Law, the Department of Public Works may determine, upon the basis of an engineering and traffic investigation, that certain speed regulations shall be applicable upon specified streets or in certain areas of the County.
 - (2) On the basis of that determination, the Department shall post signs giving drivers notice of the speed limit.
 - (3) If a sign is posted under this section, the driver of a vehicle shall obey the instructions thereon.

(C.B. 9, 1997)

Sec. 21.311. - Speed regulations.

- (a) *Department of Public Works to Declare Speed Limit.* If the Department of Public Works determines, on the basis of an engineering investigation, that the maximum speed permitted by State law is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the Department may determine and declare a reasonable and safe maximum limit thereon which:
 - (1) Decreases the limit at intersections;
 - (2) Increases the limit within an urban district, but not to more than 50 miles per hour; or
 - (3) Decreases the limit outside an urban district, but not less than 25 miles per hour.
- (b) *Proper Maximum Speed.* The Department of Public Works shall determine, by an engineering investigation, the proper maximum speed for all County highways and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the maximum speed permitted under State law.
- (c) *When Speed Limit Effective.* Any altered speed limit established under this section shall be effective when appropriate signs giving notice thereof are erected upon the highway.
- (d) *Timing of Traffic Control Signals.* The Department of Public Works may regulate the timing of traffic control signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections, and shall erect appropriate signs giving notice thereof.

(C.B. 9, 1997)

State Law reference— Authority to regulate speed, Ann. Code of Md. Transportation article, § 25-102(a)(10); speed generally, Ann. Code of Md., Transportation article, § 21-801 et seq.

Sec. 21.312. - Turning movements.

- (a) *Authority to Place Devices Altering Normal Course for Turns.* The Department of Public Works may place official traffic control devices within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections.
- (b) *Authority to Place Restricted Turn Signs.* The Department of Public Works may determine those intersections at which drivers of vehicles shall not enter or make a right, left or U-turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs, or they may be removed when such turns are permitted.

(C.B. 9, 1997)

State Law reference— Authority to regulate or prohibit turning of vehicles Ann. Code of Md. Transportation article, § 25-102(a)(9); turning movements, Ann. Code of Md., Transportation article, § 21-601 et seq.

Sec. 21.313. - Restrictions on use of certain vehicles.

- (a) *Weight Restrictions.* When posted, an individual may not operate a vehicle on a highway with a gross weight in excess of the amounts specified.
- (b) *Commercial Vehicles Restricted:*
 - (1) Except as provided in paragraph (2) of this subsection, when posted, an individual may not operate a commercial vehicle on a highway.
 - (2) Paragraph (2) of this subsection does not apply to a vehicle when delivering or picking up materials or merchandise, so long as the operator of the vehicle uses the most expeditious route for ingress and egress to the restricted area.
- (c) *Size Restrictions.* As provided in the Maryland Vehicle [Law], the Department of Public Works may restrict the size of vehicles on a highway.
- (d) *Restrictions upon Use of Streets by Certain Vehicles.* The Department of Public Works may determine and designate those heavily traveled streets upon which shall be prohibited the use of the roadway by motor-driven cycles, bicycles, horse-drawn vehicles or other nonmotorized traffic and shall erect signs giving notice thereof.
- (e) *Use of Certain Vehicles on Private Property.* An individual may not operate a minibike, motorcycle, go-cart or other similar vehicle on any private property, not owned or leased by the operator, unless the operator obtains written permission from the owner of the property. This written permission shall be displayed upon demand of any officer of the Police Department. The Police Department may impound the vehicle if the requirements of this subsection are not met.

(C.B. 9, 1997)

Sec. 21.314. - One-way streets and narrow streets.

- (a) *Authority to Sign One-Way Streets and Alleys.* Upon the basis of an engineering investigation, one-way streets and alleys are hereby designated as such whenever the Department of Public Works shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless

such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

- (b) *One-Way Streets and Alleys.* Upon those streets and parts of streets and in those alleys as shall be determined above, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.
- (c) *Authority to Restrict Direction of Movement on Streets During Certain Periods.* The Department of Public Works may determine and designate a highway or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall place and maintain appropriate signs, markings, barriers or other devices to give notice thereof. The Department of Public Works may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.
- (d) *Narrow Highways.* The Department of Public Works may erect signs and/or curb markings indicating no parking on a highway when the width of the roadway does not exceed 24 feet, or upon one side of a street as indicated by such signs, when the width of the roadway does not exceed 30 feet.

(C.B. 9, 1997)

State Law reference— Authority to regulate or prohibit turning of vehicles Ann. Code of Md. Transportation article, § 25-102(a)(4); one-way streets, Ann. Code of Md., Transportation article, § 21-

Sec. 21.315. - Stop and yield intersections.

Upon the basis of an engineering study, the Department of Public Works shall place and maintain stop or yield signs, as appropriate, at highway intersections and hazardous entrances to highways. Signs under this subsection shall be installed in accordance with the most recent edition of the manual for uniform traffic control devices.

(C.B. 9, 1997)

State Law reference— Stop and yield signs, Ann. Code of Md., Transportation article, § 21-708.

SUBTITLE 4. - BICYCLES³

Footnotes:

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State Law reference— -Authority to regulate bicycles, Ann. Code of Md. Transportation article, § 25-102(a)(8); bicycles and play vehicles, Ann. Code of Md. Transportation article, § 21-1201 et seq.

Sec. 21.400. - Policy.

It is the public policy of Howard County, Maryland, that the County is concerned about the safe operation of bicycles on public rights-of-way; and for this reason, in order to protect the health, welfare and safety of the residents of the County, it is necessary that reasonable regulations be promulgated to

permit the operation of bicycles in a prescribed manner and to require the use of safety equipment during their operation. These regulations are in addition to the Statewide bicycle regulations contained in the Maryland Vehicle Law.

(C.B. 9, 1997)

Sec. 21.401. - Scope.

- (a) The provisions of this subtitle apply throughout the County on public rights-of-way and publicly owned facilities under the jurisdiction of the County.
- (b) The parent, guardian or legal custodian of a minor shall not authorize nor knowingly permit the minor to violate this subtitle.

(C.B. 9, 1997)

Sec. 21.402. - Equipment for bicycle riders.

Any person less than 16 years of age operating or riding on a bicycle on a public roadway, bicycle path, or any right-of-way under the jurisdiction and control of the County shall wear a protective helmet designed for bicycle safety. Such helmet shall meet or exceed the standards set by the American National Standards Institute or the Snell Foundation.

(C.B. 9, 1997)

Sec. 21.403. - Use of sidewalk and pathways.

- (a) In this section, "play vehicle" includes a skateboard and similar devices.
- (b) This section does not apply on the following roads in historic Ellicott City:
 - (1) Main Street between the Patapsco River and Ellicott Mills Drive;
 - (2) Ellicott Mills Drive from Main Street to the first intersection with Fels Lane;
 - (3) Court Avenue;
 - (4) Church Road between Main Street and Sarahs Lane;
 - (5) Emory Street;
 - (6) Saint Paul Street between Maryland Avenue and College Avenue;
 - (7) Maryland Avenue between Main Street and Mulligans Hill Lane;
 - (8) Mulligans Hill Lane;
 - (9) Old Columbia Pike between Main Street and Roussey Lane;
 - (10) Hamilton Street;
 - (11) Forrest Street;
 - (12) Merryman Street; and
 - (13) Hill Street.
- (c) Pursuant to Ann. Code of Md., Transportation article, § 21-1103, a person may ride a bicycle, play vehicle, or unicycle on a sidewalk or pathway.

- (d) The Department of Public Works shall post signs along sidewalks and pathways that are closed to bicycles, play vehicles, or unicycles.

(C.B. 9, 1997; C.B. 3, 2016, § 1)

Sec. 21.403A. - Sharrows.

The Department of Public Works shall place and maintain shared lane markings, known as bike-and-chevron sharrows, on Main Street between Ellicott Mills Drive and the Patapsco River bridge in historic Ellicott City.

(C.B. 3, 2016, § 1)

Sec. 21.404. - Penalty for violation.

- (a) The provisions of this subtitle shall be enforced with civil penalties under title 24, "civil penalties," of the Howard County Code. A first offense violation of any of the provisions of this subtitle shall constitute a Class E offense; and a second offense violation of this subtitle within 12 months, shall constitute a Class D offense.
- (b) The court may waive any fine for which a person found guilty of violating the provision of section 21.402 of this subtitle would be liable, if the person supplies the court with proof that between the date of violation and the appearance date for such violation, the person purchased a helmet which meets the requirement of section 21.402 of this subtitle.

(C.B. 9, 1997)

SUBTITLE 5. - PUBLIC TRANSPORTATION

Sec. 21.500. - Public policy for transportation.

- (a) *Public Policy.* It is the public policy of Howard County, Maryland, to promote, encourage and assist public and private carriers in establishing efficient and viable public transportation services to the people of the County, to develop a comprehensive plan for providing public transportation services, and when consistent with any such plan duly adopted by the County Council, to establish, own and operate public transportation facilities.
- (b) *Definition.* In this subtitle *capital improvement master plan (C.I.M.P.) for transportation* means a plan proposed by the County Executive upon the recommendations of the Director of Planning and Zoning and the Director of Public Works, and adopted by the County Council pursuant to the provisions of section 22.405 of the County Code. The C.I.M.P. indicates the capital improvements to the County's road and bridge network and public transportation system to be constructed during the next ten years in order to implement the housing and employment growth projections of the County's general plan. The C.I.M.P. for transportation includes the roads, bridges, traffic lights, and public transportation system projects included in the Howard County Capital Budget and Capital Program and Extended Capital Program and the Maryland Consolidated Transportation Program.
- (c) *Requirement to Prepare C.I.M.P. and Review It Annually.* The Department of Public Works and the Department of Planning and Zoning shall jointly prepare the C.I.M.P. for transportation pursuant to the provisions of section 22.405 of the County Code. The Departments shall review the plan annually and shall submit updates as appropriate for adoption by the County Council.

(C.B. 9, 1997)

Sec. 21.501. - General powers and duties of County Executive.

The County Executive may:

- (a) Develop a comprehensive plan for providing public transportation in Howard County, Maryland, and to submit such a plan to the County Council for its approval. Such plan shall assess the needs for public transportation, the resources available to meet such needs, and shall recommend an orderly and economically viable procedure for development of public transportation services in the County, and shall be coordinated with State and regional transportation plans;
- (b) Contract with public agencies and firms, corporations or associations to provide public transportation services to Howard County residents;
- (c) Design, establish, and implement appropriate transportation programs consistent with local and regional planning;
- (d) Apply for, receive, and administer, grants, funds, services, equipment, real and personal property, and other valuable consideration from any source, to assist in the establishment, implementation and support of transportation programs that benefit County residents; and
- (e) Act as a liaison and coordinator in cooperation with local, regional, State, and Federal bodies and agencies in the field of public transportation.

(C.B. 9, 1997)

Sec. 21.502. - Multimodal Transportation Board.

- (a) *General Provisions.* General provisions applicable to the Multimodal Transportation Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members.* There is a Howard County Multimodal Transportation Board. The Howard County Multimodal Transportation Board shall consist of nine members. Non-voting ex officio members from State, regional, and County agencies may also be designated by the County Executive, but not to exceed four in number.
- (c) *Qualifications.*
 - (1) Each member shall be a resident of Howard County;
 - (2) Each member shall be experienced or interested in or a user of at least one of the following:
 - (i) Public transit, including fixed-route or paratransit;
 - (ii) Bicycle transportation;
 - (iii) Pedestrian transportation;
 - (iv) Road networks that promote all modes of transportation; or
 - (v) Transportation demand management.
 - (3) As new appointments are considered, special attention shall be given to ensure that a balance of expertise is maintained on the Board. The County Executive shall, when submitting the appointment of a potential Board member to the County Council for approval, also provide a statement of the balance of expertise among the existing members of the Board and an explanation of how the potential appointee's expertise will complement the current balance.
- (d) *Executive Secretary.* The Administrator of the Office of Transportation or the Administrator's designee shall serve as Executive Secretary to the Board and shall attend all meetings.

(C.B. 9, 1997; C.B. 20, 2017, § 1)

Sec. 21.503. - General powers and duties of Multimodal Transportation Board.

The Howard County Multimodal Transportation Board shall:

- (a) Initiate, advise, and assist in providing transportation options for Howard County residents and businesses, including, but not limited to:
 - (1) Public transit, including fixed-route and paratransit;
 - (2) Bicycle transportation;
 - (3) Pedestrian transportation;
 - (4) Road networks that promote all modes of transportation; and,
 - (5) Transportation demand management;
- (b) Make recommendations to the County Executive as requested or by its own initiation, concerning contracts with State and Federal agencies, firms, corporations, and associations to provide public transportation services to Howard County;
- (c) Encourage additional home-to-work transit services, including, but not limited to the modes of transportation described in subsection (a) of this section;
- (d) Assist in providing adequate public transportation for County residents having no alternative means of transportation;
- (e) Assist in increasing transportation access to health and human services, educational institutions, recreational facilities and other goods and services;
- (f) Develop and submit recommendations to County, State, and regional administrative bodies in planning comprehensive transportation services for Howard County residents;
- (g) Receive and coordinate public comment and complaints concerning transportation needs and to recommend actions thereon; and
- (h) Make recommendations, in consultation with the Transit and Pedestrian Advisory Group, to the Office of Transportation on any proposed permanent elimination or relocation of a transit stop in Howard County after notice is provided and at least one public meeting is held at which interested persons shall be afforded a reasonable opportunity to offer input into the proposed change; however, nothing in the foregoing shall preclude the County from the temporary elimination or relocation of a transit stop in the case of an emergency, provided that no such change shall be made permanent prior to completion of the Board's recommendation process described above; and
- (i) Furnish recommendations and provide information to the County Executive and the County Council on any matter concerning the present and future needs of public transportation in Howard County, including providing access to both the Baltimore and Washington areas through the transportation options described in this section.
- (j) At the directive of the County Executive or by resolution of the County Council, review and make recommendations on any matter related to public transportation in Howard County.

(C.B. 9, 1997; C.B. 20, 2017, § 1)

SUBTITLE 6. - SPEED MONITORING SYSTEMS

Sec. 21.600. - Definitions.

Terms in this subtitle have the meanings indicated:

- (a) *Owner* shall have the meaning set forth in section 21-809 of the Transportation Article of the Annotated Code of Maryland.
- (b) *Recorded image* shall have the meaning set forth in section 21-809 of the Transportation Article of the Annotated Code of Maryland.
- (c) *Speed monitoring system* shall have the meaning set forth in section 21-809 of the Transportation Article of the Annotated Code of Maryland.
- (d) *School zone* shall be a zone established in accordance with section 21-803.1 of the Transportation Article of the Annotated Code of Maryland. for purposes of this subtitle, a school zone on a county road shall be determined, following a public meeting for community comment, by the Department of Public Works to be that part of the road that has a reasonable nexus or proximity to a school or school walking route based on an engineering evaluation conducted by the Department of Public Works and a school zone shall be marked with signage as required by state law.

(C.B. 13, 2011, § 2)

Sec. 21.601. - Authority to use speed monitoring systems; use of fines.

- (a) In accordance with section 21-809 of the Transportation Article of the Annotated Code of Maryland, the Howard County Department of Police may:
 - (1) Use up to eight speed monitoring systems for the purpose of determining the speed of a vehicle traveling within a designated school zone; and
 - (2) Issue civil citations to vehicle owners based upon the speed recorded by the recorded image of the speed monitoring system.
- (b) In accordance with section 7-302 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, regarding fines collected as a result of violations enforced by speed monitoring systems, the County may:
 - (1) Recover the costs of implementing and administering the speed monitoring systems; and
 - (2) Subject to section 7-302(e)(4)(ii) of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, spend any remaining balance solely for public safety purposes, including pedestrian safety programs.
- (c) Any citation issued under this section shall include:
 - (1) Information about the right to a trial and to have the speed monitoring system operator present at the trial; and
 - (2) How to request that the speed monitoring system operator be present at the trial.
- (d) If a citation is issued on the basis of speed indicated by a flashing light, the speed system operator must verify that the flashing lights are operating properly.

(C.B. 13, 2011, § 2)

Sec. 21.602. - Report.

- (a) Subject to section 22.1000 of the County Code, regarding the use of speed monitoring systems in school zones, the Department of Police shall submit a written report to the County Council that shall include the following:
 - (1) Enforcement activity information including the location and frequency of the placement of speed monitoring systems;

- (2) Citation information including the number of initial violations photographed, the number of violations rejected, the number of citations issued, the number appealed, and the outcome of final adjudication;
 - (3) Collision information including a comparison of collision data in school zones before and after the use of speed monitoring systems;
 - (4) Any updated speed surveys that are conducted at select locations;
 - (5) Financial information including program costs, vendor fees, total fines collected, the amount of any fines collected in excess of program costs, and the actual or planned use for fines collected in excess of program costs;
 - (6) A list of school zones and specifically highlighting any changes from the previous year's report to either the school zone or the speed limit within the school zone;
 - (7) Any major problems or irregularities experienced; and
 - (8) Any program recommendations.
- (b) The Department of Police shall submit the report annually on or before March 1 for the preceding calendar year. At the request of the County Council, the report shall be presented at a public meeting.

(C.B. 13, 2011, § 2)

Sec. 21.603. - Notice.

- (a) The Department of Public Works shall place a sign at the beginning of each school zone indicating that a speed monitoring system may be in use in the school zone.
- (b) The Department of Police shall publish notice of the location of speed monitoring systems on its website.

(C.B. 13, 2011, § 2; C.B. 43, 2018, § 1)

SUBTITLE 7. - SCHOOL BUS MONITORING CAMERAS.

Sec. 21.700. - School bus monitoring cameras.

- (a) *Definitions.* For purposes of this section, the following terms shall have the meaning indicated.
 - (1) *School bus monitoring camera* has the meaning stated in section 21-706.1 of the Transportation Article of the Annotated Code of Maryland.
- (b) *In general.* The use of school bus monitoring cameras is authorized in Howard County in accordance with section 21-706.1 of the Transportation Article of the Annotated Code of Maryland.
- (c) *Enforcement.* The Howard County Department of Police may issue civil citations for violations of this section.
- (d) *Violations.* A person who commits a violation of section 21-706 of the Transportation Article of the Annotated Code of Maryland that is recorded by a school bus monitoring camera is subject to the maximum civil penalty allowed under section 21-706.1 of the Transportation Article of the Annotated Code of Maryland.
- (e) *Use of fines.* Fines collected under this section shall be used to:
 - (1) Recover the costs of installing, operating, and maintaining school bus monitoring cameras; and
 - (2) For public safety purposes, including pedestrian safety programs.

(C.B. 18, 2019, § 1)

TITLE 22 - GENERAL PROVISIONS⁽¹⁾

Footnotes:

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Editor's note— C.B. 32, 2014, § 2, amended the title of title 22 to read as herein set out. Formerly title 22 was titled General Provisions, Penalties and Rules of Interpretation.

SUBTITLE 1. - COUNTY FLAG AND COUNTY SEAL

Sec. 22.100. - County flag.

The Howard County flag is a red, white, green and gold design which incorporates part of the flag of the State of Maryland. Added to the basic design, on the first quarterly, a sheaf of wheat in gold. In the fourth quarterly, a green outline of the County is set in a triangle of gold. The remaining quarterlies are red. The flag is centered with the same red and white cross incorporated in the flag of the State of Maryland.

The design is as published in the Central Maryland News of June 6, 1968.

(C.B. 11, 1969)

Sec. 22.101. - County seal.

- (a) *Origin.* The seal of Howard County, Maryland, shall be a copy of the seal designed by Edward Stabler for the Howard District of Anne Arundel County, Maryland, and dated 1840.
- (b) *Design.* The seal, based on the Stabler design, is a shock of wheat, centrally dominant, with a hand plow to the left and a pike harrow to the right. All three are centered in a plowed field with tobacco plants growing in the foreground. Trees and rolling hills form the background. A cloudless sky forms the upper third of the design.
- (c) *Color Rendering.* When rendered in color, the design colors shall be: The sky, prussian blue-medium; the wheat, yellow ochre; the hills, graduated shades of terraverte; the tobacco plant in the foreground, chrome-green-medium; the trees, a dark shade of chrome green; the soil, burnt umber-medium; the spike harrow and the plow blade, ivory black diluted to gray; and the plow handles, burnt sienna-medium.
- (d) *Displaying.* The County seal shall be displayed on the wall of the County Council hearing room, Ellicott City, Maryland. The seal may be displayed in other County buildings.
- (e) *Attesting.* The duly elected County Executive of Howard County, the duly appointed Secretary to the County Council of Howard County, and the duly appointed County Administrator of Howard County shall attest to the County seal.
- (f) *Use.* It shall be unlawful for any person to make or use the seal, or reproduction thereof, for any purpose other than for the official business of Howard County, unless expressly approved in writing by the Chief Administrative Officer. The seal, or any representation or near representation, shall not be used for:
 - (1) Any political purpose, including, but not limited to mailers or handouts; or
 - (2) Any purpose which would mislead the public into believing they are dealing with a representative of Howard County.

- (g) *Penalties.* Any person who violates the provisions of subsection 22.101(f) of this subtitle is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 for each occurrence and/or imprisonment not exceeding five months. Alternatively, in addition to and concurrent with all other remedies at law or equity the Chief Administrative Officer and Howard County may enforce the provisions of subsection 22.101(f) with civil penalties pursuant to title 21 "civil penalties" of the Howard County Code. A violation of this section is a Class B offense.

(C.B. 12, 1969; C.B. 56, 1973; C.B. 74, 2004)

SUBTITLE 2. - HOWARD COUNTY PUBLIC ETHICS LAW^[2]

Footnotes:

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Editor's note— C.B. 50, 2011, § 1, adopted Nov. 11, 2011, repealed former Subt. 2, §§ 22.200—22.209, and enacted a new Subt. 2 as set out herein. Former Subt. 2 pertained to public ethics and originally derived from C.B. 14, 1982 and was amended by numerous ordinances. See the Code Comparative Table—Council Bills for complete derivation.

State Law reference— Local public ethics laws, Ann. Code of Md., State Government article, § 15-801 et seq.; public ethics laws required, Ann. Code of Md., State Government article, § 15-803; special provisions for Howard County, State Government article, § 15-848 et seq.

Sec. 22.200. - Short title.

This subtitle may be cited as the Howard County Public Ethics Law.

(C.B. 50, 2011, § 1)

Sec. 22.201. - Statement of purpose and policy.

- (a) Howard County, recognizing that our system of representative government is dependent in part upon the people maintaining the highest trust in their public officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained.
- (b) It is evident that this confidence and trust is eroded when the conduct of the County's business is subject to improper influence and even the appearance of improper influence.
- (c) For the purpose of guarding against improper influence, the County Council enacts this Public Ethics Law to require County elected officials, officials, employees, and individuals appointed to Boards and Commissions to disclose their financial affairs and to set minimum standards for the conduct of local government business.
- (d) It is the intention of the Council that this subtitle, except its provisions for criminal sanctions, be liberally construed to accomplish this purpose.

(C.B. 50, 2011, § 1)

Sec. 22.202. - Definitions.

In this subtitle, the following terms have the meanings indicated:

- (a) (1) *Business entity* means a corporation, general or limited partnership, limited liability company, limited liability partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit.
- (2) Business entity does not include a governmental entity.
- (b) *Commission* means the Howard County Ethics Commission established under section 22.203 of this subtitle.
- (c) (1) *Compensation* means any money or thing of value, regardless of form, received or to be received by any individual covered by this subtitle from an employer for service rendered.
- (2) For the purposes of section 22.207 of this subtitle, if lobbying is only a portion of a person's employment, "compensation" means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties.
- (d) *County* means Howard County.
- (e) *Doing business with* means:
 - (1) Having or negotiating a contract that involves the commitment, either in a single or combination of transactions, of \$5,000.00 or more of County controlled funds; or
 - (2) Being regulated by or otherwise subject to the authority of the County; or
 - (3) Being registered as a lobbyist under section 22.207 of this subtitle.
- (f) (1) *Elected official* means any individual who holds an elective office of the County.
- (2) *Elected official* does not include the sheriff, state's attorney, register of wills, the clerk of the court, or a member of the Maryland General Assembly.
- (g) (1) *Employee* means an individual who is employed by the County or the Howard County Library, including a contingent employee.
- (2) *Employee* does not include an elected local official.
- (3) *Employee* does not include an employee of:
 - (i) The offices of the sheriff, state's attorney, register of wills, or the clerk of the court;
 - (ii) The County health department; or
 - (iii) The County department of social services.
- (4) *Employee* does not include a contractual employee, unless the contractual employee is subject to this subtitle by the terms of a contract.
- (h) *Financial interest* means:
 - (1) Ownership of any interest as the result of which the owner has received, within the past three years, or is presently receiving, or in the future is entitled to receive, more than \$1,000.00 per year; or
 - (2) Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than 3 percent of a business entity by a County official or employee, or the spouse of an official or employee.
- (i) (1) *Gift* means the transfer of anything of economic value, regardless of the form, without adequate and lawful consideration.
- (2) *Gift* does not include a political campaign contribution regulated under the Elections Article of the Annotated Code of Maryland or any other provision of State or local law regulating the conduct of elections or the receipt of political campaign contributions.
- (j) *Immediate family* means a spouse and dependent children.

- (k) (1) *Interest* means a legal or equitable economic interest, whether or not subject to an encumbrance or a condition, that is owned or held, in whole or in part, jointly or severally, directly or indirectly.
- (2) For purposes of section 22.204 of this subtitle, "interest" includes any interest held at any time during the reporting period.
- (3) *Interest* does not include:
 - (i) An interest held in the capacity of a personal agent, custodian, fiduciary, or personal representative, trustee, unless the holder has an equitable interest in the subject matter;
 - (ii) An interest in a time or demand deposit in a financial institution;
 - (iii) An interest in an insurance policy, endowment policy or annuity contract under which an insurer promises to pay a fixed amount of money either in a lump sum or periodically for life or a specified period;
 - (iv) A common trust fund or a trust which forms part of a pension or profit sharing plan which has more than 25 participants and which has been determined by the internal revenue service to be a qualified trust under the Internal Revenue Code;
 - (v) A college savings plan under the Internal Revenue Code; or
 - (vi) A mutual fund that is publicly traded on a national scale unless the mutual fund is composed primarily of holdings of stocks and interests in a specific sector or area that is regulated by the department in which the individual is employed.
- (l) *Lobbyist* means a person required to register and report expenses related to lobbying under section 22.207 of this subtitle.
- (m) *Lobbying* means:
 - (1) Communicating in the presence of a County official or employee with the intent to influence any official action of that official or employee; or
 - (2) Engaging in activities with the express purpose of soliciting others to communicate with a County official or employee with the intent to influence that official or employee.
- (n) *Official* means an elected official, an employee of the County, or a person appointed to or employed by the County or any County agency, board, commission, or similar entity:
 - (1) Whether or not paid in whole or in part with County funds; and
 - (2) Whether or not compensated.
- (o) *Person* includes an individual or business entity.
- (p) *Qualified relative* means a spouse, parent, child, brother or sister.

(C.B. 50, 2011, § 1; C.B. 5, 2015, § 1)

Sec. 22.203. - Administration.

- (a) There is a Howard County Ethics Commission that consists of five members, appointed by the County Executive with the concurrence of the County Council.
- (b) In addition to the qualifications set forth for board and commission members generally in title 6, subtitle 3 of this Code, members of the Ethics Commission shall not:
 - (1) Serve more than two consecutive terms;
 - (2) Hold or be a candidate for any elected or appointed Office of the United States, the State, any political subdivision or incorporated municipality of the State, or of any political party;

- (3) Be an employee of the County or of any political party; and
- (4) Be otherwise required to file a lobbying registration pursuant this subtitle.
- (c) (1) The Commission shall elect a chairman from among its members.
- (2) The term of the chairman is one year.
- (3) The chairman may be reelected.
- (d) A majority vote of the Commission shall consist of three or more votes. A quorum consists of three members present.
- (e) (1) The County Solicitor shall assist the commission in carrying out the Commission's duties;
- (2) If a conflict of interest under section 22.204 of this subtitle or other conflict prohibits the County Solicitor from assisting the Commission in a matter, the County shall provide sufficient funds for the Commission to hire independent counsel for the duration of the conflict.
- (f) The County Solicitor shall designate an Executive Secretary who shall attend all meetings.
- (g) The Commission is the advisory body responsible for interpreting this subtitle and advising persons subject to this subtitle regarding its application.
- (h) The Commission shall hear and decide, with the advice of the County Solicitor or other legal counsel if appropriate, all complaints filed regarding alleged violations of this subtitle by any person.
- (i) The Commission shall keep on file the minutes of its proceedings in accordance with State of Maryland's Open Meetings Act. The Commission, or an office designated by the Commission, shall retain as a public record all forms submitted by any person under this subtitle for the longer of:
 - (1) Four years after receipt; or
 - (2) If the person is an elected official, the entirety of the person's term.
- (j) The Commission shall conduct a public information and education program regarding the purpose and implementation of this subtitle.
- (k) The Commission shall certify to the state ethics commission on or before October 1 of each year that the County is in compliance with the requirements of the State Government Article, title 15, subtitle 8, of the Annotated Code of Maryland for Elected Local Officials.
- (l) The Commission shall:
 - (1) Determine if changes to this subtitle are required to be in compliance with the requirements of the State Government Article, title 15, subtitle 8, of the Annotated Code of Maryland; and
 - (2) Forward any recommended changes and amendments to the County Council for enactment.
- (m) (1) Any person subject to this subtitle may request an advisory opinion from the Commission concerning the application of this subtitle.
- (2) The Commission shall respond promptly to a request for an advisory opinion and shall provide interpretations of this subtitle based on the facts provided or reasonably available to the Commission within 60 days of the request.
- (3) In accordance with all applicable State and County laws regarding public records, the Commission shall publish or otherwise make available to the public copies of the advisory opinions, with the identities of the subjects deleted.
- (4) The Commission may adopt additional policies and procedures related to the advisory opinion request process.
- (n) (1) Any person may file a complaint with the Commission alleging a violation of any of the provisions of this subtitle.
- (2) A complaint shall be in writing and under oath; and

- (3) The Commission may refer a complaint to the County Solicitor, or other legal counsel if appropriate, for investigation and review.
 - (4) The Commission may reject without further proceedings any complaint which it deems to be plainly frivolous or which, assuming the facts alleged were true, does not state a violation of this subtitle.
 - (5) The Commission may dismiss a complaint if, after receiving an investigative report, the Commission determines that there are insufficient facts upon which to base a determination of a violation.
 - (6) If there is a reasonable basis for believing a violation has occurred, the subject of the complaint shall be given an opportunity for a hearing conducted in accordance with the applicable County Rules of Procedure.
 - (7) A final determination of a violation resulting from the hearing shall include findings of fact and conclusions of law.
 - (8) Upon finding a violation, the Commission may take any enforcement action provided for in section 22.208 of this subtitle.
 - (9)
 - (i) After a complaint is filed and until a final finding of a violation by the Commission, all actions regarding a complaint are confidential.
 - (ii) A finding of a violation is public information.
 - (10) The Commission may adopt additional policies and procedures related to complaints, complaint hearings, the use of independent investigators and staff, the use of witness and document subpoenas, and cure and settlement agreements.
- (o) The Commission may grant exemptions to or modifications of the conflict of interest and financial disclosure provisions of this subtitle to officials or employees serving as members of County boards and commissions, when the Commission finds that the exemption or modification would not be contrary to the purposes of this subtitle, and the application of this subtitle would:
- (1) Constitute an unreasonable invasion of privacy; and
 - (2) Significantly reduce the availability of qualified persons for public service.
- (p) The Commission may:
- (1) Assess a late fee of \$2.00 per day up to a maximum of \$250.00 for a failure to timely file a financial disclosure statement required under section 22.206 of this subtitle; and
 - (2) Assess a late fee of \$10.00 per day up to a maximum of \$250.00 for a failure to file a timely lobbyist registration or lobbyist report required under section 22.207 of this subtitle.
- (q) (1) The Executive Secretary or a designee, on behalf of the Commission, may issue subpoenas:
- (i) For the attendance of witnesses to testify; or
 - (ii) To produce documents and other evidence relevant and necessary to the administration and enforcement of this subtitle.
- (2) A subpoena shall be served by hand-delivering or mailing by certified mail a copy either to the person named or to an agent authorized by appointment or by law to receive service for the person named.
 - (3) A subpoena may be judicially enforced.

(C.B. 50, 2011, § 1; C.B. 5, 2015, § 1)

Sec. 22.204. - Prohibited conduct and interests.

(a) *Participation Prohibitions.*

- (1) Except as permitted by Commission regulation or opinion, an official or employee may not participate in:
 - (i) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee or a qualified relative of the official or employee has an interest.
 - (ii) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:
 - a. A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;
 - b. A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;
 - c. A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating or has any arrangement concerning prospective employment;
 - d. If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;
 - e. An entity, doing business with the County, in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or
 - f. A business entity that:
 1. The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and
 2. As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.
- (2) A person who is disqualified from participating under paragraph 1. of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:
 - (i) The disqualification leaves a body with less than a quorum capable of acting;
 - (ii) The disqualified official or employee is required by law to act; or
 - (iii) The disqualified official or employee is the only person authorized to act.
- (3) The prohibitions of paragraph 1. of this subsection do not apply if participation is allowed by regulation or opinion of the Commission.
- (4) A former regulated lobbyist who is or becomes subject to this subtitle as an employee or official, other than an elected official or an appointed official, may not participate in a case, contract, or other specific matter as an employee or official, other than an elected official or appointed official, for one calendar year after the termination of the registration of the former regulated lobbyist if the former regulated lobbyist previously assisted or represented another party for compensation in the matter.

(b) *Employment and Financial Interest Restrictions.*

- (1) Except as permitted by regulation of the commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:
 - (i) Be employed by or have a financial interest in any entity:
 - a. Subject to the authority of the official or employee or the County agency, board, commission with which the official or employee is affiliated; or
 - b. That is negotiating or has entered a contract with the agency, board, or commission with which the official or employee is affiliated; or
 - (ii) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.
- (2) The prohibitions of paragraph (1) of this subsection do not apply to:
 - (i) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to the authority;
 - (ii) Subject to other provisions of law, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and the Commission;
 - (iii) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted and in accordance with regulations adopted by the Commission; or
 - (iv) Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

(c) *Post-Employment Limitations and Restrictions.*

- (1) A former official or employee may not assist or represent any party other than the County for compensation in a case, contract, or other specific matter involving the County if that matter is one in which the former official or employee significantly participated as an official or employee.
- (2) For a year after the former elected official leaves office, a former elected official may not assist or represent another party for compensation in a matter that is the subject of legislative action before Howard County.

(d) *Contingent Compensation.* Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the County.

(e) *Use of Prestige of Office.*

- (1) An official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another.
- (2) This subsection does not prohibit the performance of usual and customary constituent services by an elected official without additional compensation.

(f) *Solicitation and Acceptance of Gifts.*

- (1) An official or employee may not solicit any gift.
- (2) An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.

- (3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:
 - (i) Is doing business with or seeking to do business with the County office, agency, board or commission with which the official or employee is affiliated;
 - (ii) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;
 - (iii) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or
 - (iv) Is a lobbyist with respect to matters within the jurisdiction of the official or employee.
- (4)
 - (i) Subsection (4)(ii) does not apply to a gift:
 - a. That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;
 - b. Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or
 - c. Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.
 - (ii) Notwithstanding paragraph (3) of this subsection, an official or employee may accept the following:
 - a. Meals and beverages consumed in the presence of the donor or sponsoring entity;
 - b. Ceremonial gifts or awards that have insignificant monetary value;
 - c. Unsolicited gifts of nominal value that do not exceed \$20.00 in cost or trivial items of informational value;
 - d. Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;
 - e. Gifts of tickets or free admission extended to an elected official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;
 - f. A specific gift or class of gifts that the Commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the County and that the gift is purely personal and private in nature;
 - g. Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee; or
 - h. Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is not related, in any way, to the official's or employee's official position.
- (g) *Disclosure of Confidential Information.* Other than in the discharge of official duties, an official or employee may not disclose or use confidential information, that the official or employee acquired by reason of the official's or employee's public position and that is not available to the public, for the economic benefit of the official or employee or that of another person.
- (h) *Participation in Procurement.*
 - (1) An individual or a person that employs an individual who assists a County, agency or unit in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement,

may not submit a bid or proposal for that procurement, or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.

- (2) The Commission may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring agency.

(C.B. 50, 2011, § 1; C.B. 44, 2018, § 1)

Sec. 22.205. - Exceptions pursuant to the provisions of subsection 901(b) of the Howard County Charter.

(a) *Applicability.* This section applies to all County employees or officials, except:

- (1) Members of the Commission;
- (2) The Executive Secretary to the Commission;
- (3) The County Solicitor; and
- (4) Assistants to the County Solicitor whose assigned duties include representing and providing staff services to the Commission.

(b) *Procedure:*

- (1) *Authorization.* The Commission may authorize County employees or officials to have an interest in or be employed by an entity which has dealings with the County provided that, after a public hearing and full disclosure, the Commission, applying the criteria listed in subsection (c), "criteria," of this section, determines that the interest or employment does not violate the public interest.
- (2) *Request.* The employee or official who wishes such an authorization shall make a signed request in writing to the Commission. The request shall explain in detail:
 - (i) The nature of the entity in which the interest or employment is held and its dealings with the County;
 - (ii) The nature and scope of the employee's or official's interest or employment with the entity;
 - (iii) The nature and scope of the employee's or official's duties with the County;
 - (iv) Any additional information which is relevant to determining whether the public interest would be violated by the interest or the employment.
- (3) *Hearing.* The Commission shall schedule a public hearing on the request to take place within 45 calendar days after the Commission's receipt of the request. The hearing shall be advertised at least once in a newspaper of general circulation in the County. At the public hearing the Commission may hear testimony from the official or employee making the request, from other individuals with knowledge of the employee's or official's role in the County or in the outside entity, and from members of the public.

(c) *Criteria.* The Commission shall consider the following criteria in determining whether to conclude that the outside employment or interest does not violate the public interest and therefore to authorize the interest or employment.

- (1) The employee's or official's duties with the County do not significantly impact on the entity in which a financial interest is held or on the outside employer or on the contract or proposed contract between the County and the entity or outside employer.
- (2) The employee or official is not directly supervised by a person who has duties that significantly impact on the entity or on the outside employer or on the contract or proposed contract.
- (3) The employee or official does not supervise a person who has duties that significantly impact on the entity or on the outside employer or on the contract or proposed contract.

- (4) The employee or official is not affiliated with the department, office or agency within the County that exercises authority over the entity or over the outside employer or is involved in contracts with the outside employer or entity.
 - (5) The employee or official has complied with other relevant sections of the Howard County Public Ethics Law relating to the matters involved.
 - (6) The employee's or official's financial interest in an outside entity or outside employment involves no substantive nonministerial duties which significantly relate to the County's authority over the outside employer or entity.
 - (7) The employee's or official's private compensation is not funded to any significant extent by the County contract(s).
 - (8) The employee's or official's specific employment circumstances do not otherwise raise a conflict of interest or appearance of conflict as contemplated by subsection 901(b) of the Howard County Charter and sections 22.201 and 22.204 of this subtitle.
- (d) *Decision.* Within 45 calendar days after the public hearing the Commission shall issue a written decision stating whether the requested outside employment or interest is authorized and giving the reasons for the decision.

(C.B. 50, 2011, § 1)

Sec. 22.206. - Financial disclosure statements.

- (a) This section applies to all elected officials, all candidates to be elected officials, all employees holding positions listed in subsection (b) of this section, all persons appointed to the boards and commissions listed in subsection (c) of this section, and certain high school members of boards and commissions.
- (b) This section applies to the following County employees:
 - (1) All executive exempt positions as listed in section 1.306 "Executive Exempt" of the Howard County Code;
 - (2) All employees authorized to draft specifications for, negotiate or execute a contract which commits the County or any of its boards, agencies or departments to expend in excess of \$2,500.00; and
 - (3) All employees in a managerial or policy-making positions as determined by the commission upon recommendation of their department or agency head. In making such a recommendation, the department or agency head shall consider such factors as the employee's responsibility for decision making and policy recommendation in the areas of contracting, procurement, administration and/or monitoring of grants and subsidies, planning or zoning, inspecting, licensing, regulating, auditing and budgeting; and
- (c) This section applies to members of the following boards and commissions:
 - (1) Board of Appeals;
 - (2) Planning Board;
 - (3) Recreation and Parks Board;
 - (4) Public Works Board;
 - (5) Ethics Commission;
 - (6) Housing and Community Development Board;
 - (7) Agricultural Preservation Board;
 - (8) Equal Business Opportunity Commission;

- (9) Historic Preservation Commission;
 - (10) Board of Library Trustees;
 - (11) Howard County Housing Commission;
 - (12) Economic Development Authority Board;
 - (13) Howard County Pension Oversight Commission;
 - (14) Local Behavioral Health Advisory Board;
 - (15) Howard County Alcoholic Beverage Hearing Board;
 - (16) Howard County Revenue Authority Board;
 - (17) Design Advisory Panel;
 - (18) Animal Matters Hearing Board;
 - (19) Advisory Board on Consumer Protection;
 - (20) Board of Electrical Examiners;
 - (21) Board of Health; and
 - (22) Human Rights Commission.
- (d) This section shall apply to high school members of boards and commissions as follows:
- (1) A high school student member of a board or commission listed in subsection (c) of this section shall file a statement of financial interest on a form that the Commission provides.
 - (2) The high school student member statement shall only include the following information regarding interests that may create a conflict between the student member's personal interests and the individual's duties as a board or commission member:
 - (i) A schedule of sources of earned income of the high school student member and of the member's parent(s) or legal guardian(s) that exceed \$100.00, including the name and address of each place of salaried employment and of each business entity solely or partially owned and from where income was earned. Where the source of income is an attorney-client or a physician/psychiatrist/psychologist-patient relationship, the names of individual clients or patients need not be disclosed;
 - (ii) A schedule of each gift in excess of \$20.00 in value (or an aggregate of \$100.00 from any one person) directly or indirectly from a person(s) who does business with Howard County. This schedule as to each such gift, shall include:
 - a. The nature and value of the gift; and
 - b. The identity of the person from whom, directly or indirectly, the gift was received;
 - c. For purposes of this subsection, gift does not include:
 - i. Ceremonial gifts or awards of insignificant monetary value; or
 - ii. Unsolicited gifts of nominal value or trivial items of informational value; and
 - (iii) A list of family members employed by the County in accordance with subsection (j)(7) of this section; and
- (e) Except as provided in subsection (g) of this section, an elected official, employee, appointee to a board or commission, or candidate to be an elected official shall file the financial disclosure statement required under this subsection:
- (1) On a form provided by the Commission;
 - (2) Under oath or affirmation;

- (3) With the Commission; and
 - (4) The Commission may require that a financial disclosure statement be submitted through an electronic process for which the oath or affirmation shall be made by an electronic signature that:
 - (i) Is attached to and made part of the financial disclosure statement;
 - (ii) Is made expressly under the penalties of perjury; and
 - (iii) Subjects the individual making the signature to the penalties of perjury to the same extent as an oath or affirmation before an individual authorized to administer oaths.
- (f) *Deadlines for Filing Statements.*
- (1) An incumbent official or employee shall file a financial disclosure statement annually no later than April 30th of each year for the preceding calendar year.
 - (2) An official or employee who is appointed to fill a vacancy in an office for which a financial disclosure statement is required and who has not already filed a financial disclosure statement shall file a statement for the preceding calendar year within 30 days after appointment.
 - (3)
 - (i) An individual who, other than by reasons of death, leaves an office for which a statement is required shall file a statement upon resignation or termination of office.
 - (ii) The statement shall cover:
 - a. The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and
 - b. The portion of the current calendar year during which the individual held the office.
- (g) *Candidates to be Elected Officials.*
- (1) Except an official or employee who has filed a financial disclosure statement under another provision of this section for the reporting period, a candidate to be an elected official shall file a financial disclosure statement each year beginning with the year in which the certificate of candidacy is filed through the year of the election.
 - (2)
 - (i) A candidate to be an elected official shall file a statement required under this section:
 - a. In the year the certificate of candidacy is filed, no later than the filing of the certificate of candidacy;
 - b. In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and
 - c. In all other years for which a statement is required, on or before April 30.
 - (ii) The initial financial disclosure statement shall include the preceding calendar year through the date of the certificate of candidacy filed with the Board of Elections for Howard County.
 - (3) A candidate to be an elected official:
 - (i) May file the statement required under subsection (g)(2)(i) of this section with the County Board of Elections with the certificate of candidacy or with the Commission prior to filing the certificate of candidacy; and
 - (ii) Shall file the statements required under subsections (g)(2)(ii) and (iii) of this section with the Commission.
 - (4) If a candidate fails to file a statement required by this section after written notice is provided by the County Board of Elections at least 20 days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.
 - (5) The County Board of Elections may not accept any certificate of candidacy unless a statement required under this section has been filed in proper form.

- (6) Within 30 days of the receipt of a statement required under this section, the County Board of Elections shall forward the statement to the Commission, or an office designated by the Commission.
- (h) *Public Record.*
- (1) The Commission, or an office designated by the Commission, shall maintain all financial disclosure statements filed under this section.
 - (2) The Commission, or an office designated by the Commission, shall make financial disclosure statements available during normal office hours, for examination and copying by the public subject to reasonable fees and administrative procedures established by the County.
 - (3) The Commission shall redact an individual's home address before allowing the public to see a disclosure statement.
 - (4) If an individual examines or copies a financial disclosure statement, the Commission or the office designated by the Commission shall record:
 - (i) The name and home address of the individual reviewing or copying the statement; and
 - (ii) The name of the person whose financial disclosure statement was examined or copied.
 - (5) The Commission, or the office designated by the Commission, shall provide the official or employee with a copy of the name and home address of the person who reviewed the official's or employee's financial disclosure statement.
 - (6) A financial disclosure statement required by this subtitle shall not be used in any way for, or be made available for commercial purposes.
- (i) *Retention Requirements.* The Commission, or the office designated by the Commission, shall retain financial disclosure statements for the longer of:
- (1) Four years after receipt; or
 - (2) If the person is an elected official, the entirety of the person's term.
- (j) *Contents of Statement.* Employees and elected officials shall disclose all the information required by this subsection. Members of boards and commissions listed in subsection (c) of this section shall disclose the information required by this subsection only with respect to those interests, gifts, compensated positions, and liabilities that may create a conflict, as prohibited by section 22.204 of this subtitle, between the member's personal interests and the member's official local duties as a board or Commission member.
- (1) *Interests in real property.*
 - (i) A statement filed under this section shall include a schedule of all interests in real property wherever located.
 - (ii) For each interest in real property, the schedule shall include:
 - a. The nature of the property and the location by street address, mailing address, or legal description of the property;
 - b. The nature and extent of the interest held, including any conditions and encumbrances on the interest;
 - c. The date when, the manner in which, and the identity of the person from whom the interest was acquired;
 - d. The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;
 - e. If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the

consideration received for the interest, and the identity of the person to whom the interest was transferred; and

f. The identity of any other person with an interest in the property.

(2) Interests in corporations and partnerships.

(i) A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the County.

(ii) For each interest reported under this paragraph, the schedule shall include:

a. The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;

b. The nature and amount of the interest held, including any conditions and encumbrances on the interest;

c. With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest and, if known, the identity of the person to whom the interest was transferred;

d. With respect to any interest acquired during the reporting period:

1. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

2. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(iii) An individual may satisfy the requirement to report the amount of the interest held under item (ii)(b) of this paragraph by reporting, instead of a dollar amount:

a. For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held; or

b. For an equity interest in a partnership, the percentage of equity interest held.

(3) Interests in business entities doing business with the County.

(i) A statement filed under this section shall include a schedule of all interests in any business entity that does business with the County, other than interests reported under paragraph (2) of this subsection.

(ii) For each interest reported under this paragraph, the schedule shall include:

a. The name and address of the principal office of the business entity;

b. The nature and amount of the interest held, including any conditions to and encumbrances on the interest;

c. With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest and, if known, the identity of the person to whom the interest was transferred; and

d. With respect to any interest acquired during the reporting period:

1. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

2. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.
- (4) Gifts.
 - (i) A statement filed under this section shall include a schedule of each gift in excess of \$20.00 in value or a series of gifts totaling \$100.00 or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with the County.
 - (ii) For each gift reported, the schedule shall include:
 - a. A description of the nature and value of the gift; and
 - b. The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.
 - (5) Employment with or interests in entities doing business with the County.
 - (i) A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the County.
 - (ii) For each position reported under this paragraph, the schedule shall include:
 - a. The name and address of the principal office of the business entity;
 - b. The title and nature of the office, directorship, or salaried employment held and the date it commenced; and
 - c. The name of each County agency with which the entity is involved as indicated by identifying one or more of the three categories of "doing business", as defined in section 22.202 of this subtitle.
 - (6) Indebtedness to entities doing business with the County.
 - (i) A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with the County owed at any time during the reporting period:
 - a. By the individual; or
 - b. By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.
 - (ii) For each liability reported under this paragraph, the schedule shall include:
 - a. The identity of the person to whom the liability was owed and the date the liability was incurred;
 - b. The amount of the liability owed as of the end of the reporting period;
 - c. The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and
 - d. The security given, if any, for the liability.
 - (7) Employment with the County. A statement filed under this section shall include a schedule of the immediate family members of the individual employed by the County in any capacity at any time during the reporting period.
 - (8) Sources of earned income.
 - (i) A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member

of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income, at any time during the reporting period.

- (ii) Notwithstanding item (i) of this paragraph, the schedule need not disclose:
 - a. A minor child's employment or business ownership, if the agency that employs the individual does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child; or
 - b. The names of individual clients or patients, where the source of income is an attorney-client or a physician/psychiatrist/psychologist-patient relationship.
- (iii) For a statement filed on or after January 1, 2019, if the individual's spouse is a lobbyist regulated by the County, the individual shall disclose the entity that has engaged the spouse for lobbying purposes.
- (9) Additional information. A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.
- (k) For the purposes of subsections (j)(1), (2) and (3) of this section, the following interests are considered to be the interests of the individual making the statement:
 - (1) An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual.
 - (2) An interest held by a business entity in which the individual held a 30 percent or greater interest at any time during the reporting period.
 - (3) An interest held by a trust or an estate in which, at any time during the reporting period:
 - (i) The individual held a reversionary interest or was a beneficiary, or
 - (ii) If a revocable trust, the individual was a settlor.
- (l)
 - (1) The Commission shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies.
 - (2) If, after notification by the Commission of any omission or deficiency, an individual does not cure such within 30 days, the Commission shall refer evidence of any noncompliance with this section to the County Solicitor for appropriate action.
 - (3) The Commission may take appropriate enforcement action to ensure compliance with this section.
- (m) *Incomplete Information.* When the individual required to file is unable to obtain the information needed to complete the schedules required by this section, the individual shall report the unavailability of certain information and shall provide a written statement of the efforts made to obtain the information. The Commission shall conduct an investigation to determine if the individual has used due diligence in attempting to obtain the missing information and whether, considering the circumstances, the omission of the material is justified. In making this determination, the Commission shall request and consider the opinion of the County Solicitor. The Solicitor's opinion and the report of the Commission shall be made part of the statement of the person required to file.

(C.B. 50, 2011, § 1; C.B. 5, 2015, § 1; C.B. 12, 2016, § 1; C.B. 13, 2018, § 1; C.B. 44, 2018, § 1; C.B. 63, 2018, § 1)

Sec. 22.207. - Lobbying.

- (a) Except as provided in subsections (b) and (c) of this section, a person or entity who engages in lobbying as defined in section 22.202 of this subtitle shall file a lobbying registration with the Commission if the person or entity, during the calendar year:
 - (1) Expends, exclusive of personal travel and subsistence expenses, in excess of \$100.00 in furtherance of this activity; or
 - (2) Is compensated in excess of \$500.00 in connection with this activity.
- (b) The following activities are exempt from regulation under this section:
 - (1) Professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of proposed or pending County Council actions when these services do not otherwise constitute lobbying activities;
 - (2) Appearances before the County Council upon its specific invitation or request if the person or entity engages in no further or other activities in connection with the passage or defeat of County Council actions;
 - (3) Appearances before a County agency upon the specific invitation or request of the agency if the person or entity engages in no further or other activities in connection with the passage or defeat of any agency executive action;
 - (4) Appearance as part of the official duties of a duly elected or appointed official or employee of the state or a political subdivision of the state, or of the united states, and not on behalf of any other entity;
 - (5) Actions of a publisher or working member of the press, radio, or television in the ordinary course of the business of disseminating news or making editorial comment to the general public who does not engage in further or other lobbying that would directly and specifically benefit the economic, business, or professional interests of the person or entity or the employer of the person or entity;
 - (6) Appearances by an individual before the County Council at the specific invitation or request of a registered lobbyist if the person performs no other lobbying act and notifies the County Council that the person or entity is testifying at the request of the lobbyist;
 - (7) Appearances by an individual before a government agency at the specific invitation or request of a registered lobbyist if the person or entity performs no other lobbying act and notifies agency that the person or entity is testifying at the request of the lobbyist;
 - (8) The representation of a bona fide religious organization solely for the purpose of protecting the right of its own members to practice the doctrine of the organization; and
 - (9) Appearance as part of the official duties of an officer, director, member, or employee of an association engaged exclusively in lobbying for counties and municipalities and not on behalf of any other entity.
- (c) *Limited Exemption—Employer of a Lobbyist.*
 - (1) A person or entity who compensates one or more lobbyists and who would otherwise be required to register as a lobbyist is not required to file a registration and submit lobbying reports if the person or entity reasonably believes that all expenses incurred in connection with the lobbying activities will be reported by a properly registered person or entity acting on behalf of the person or entity.
 - (2) A person or entity exempted under this subsection becomes subject to this section immediately upon failure of the lobbyist to report any information required under this section.
- (d)
 - (1) The registration filed under this section shall be filed on or before the latter of the beginning of the calendar year in which the person or entity expects to lobby and within five days of first engaging in lobbying activities in the calendar year.
 - (2) The registration filed under this section:

- (i) Shall be dated and on a form developed by the Commission;
 - (ii) Shall include:
 - a. The lobbyist's full and legal name and permanent address;
 - b. The name, address, and nature of business of any person or entity on whose behalf the lobbyist acts;
 - c. The written authorization of any person or entity on whose behalf the lobbyist acts or an authorized officer or agent, who is not the lobbyist, of the person or entity on whose behalf the lobbyist acts;
 - (iii) A statement of whether the person or entity on whose behalf the lobbyist acts is exempt from registration under subsection (c) of this section;
 - (iv) The identification, by formal designation, if known, of matters on which the lobbyist expects to act;
 - (v) Identification of the period of time within a single calendar year during which the lobbyist is authorized to engage in these activities, unless terminated sooner; and
 - (vi) The full legal signature of the lobbyist and, when appropriate, the person or entity on whose behalf the lobbyist acts or an agent or authorized officer of the person or entity on whose behalf the lobbyist acts.
- (e) A lobbyist shall file a separate registration for each person or entity that has engaged or employed the lobbyist for lobbying purposes.
- (f) A lobbyist may terminate the lobbyist's registration by providing written notice to the Commission and submitting all outstanding reports and registrations.
- (g) A person or entity may not engage in lobbying activities on behalf of another person or entity for compensation that is contingent upon the passage or defeat of any action by the County Council or the outcome of any executive action.
- (h) *Activity Report.*
- (1) A lobbyist shall file with the Commission or the office designated by the Commission:
 - (i) By July 31, one report concerning the lobbyist's lobbying activities covering the period beginning January 1 through June 30; and
 - (ii) By January 31, one report covering the period beginning July 1 through December 31.
 - (2) A lobbyist shall file a separate activity report for each person or entity on whose behalf the lobbyist acts.
 - (3) If the lobbyist is not an individual, an authorized officer or agent of the entity shall sign the form.
 - (4) The report shall include:
 - (i) A complete and current statement of the information required to be supplied with the lobbyist's registration form.
 - (ii) Total expenditures on lobbying activities in each of the following categories:
 - a. Total compensation paid to the lobbyist not including expenses reported under items (b)—(i) of this subparagraph;
 - b. Office expenses of the lobbyist;
 - c. Professional and technical research and assistance not reported in item (i) of this subparagraph;
 - d. Publications which expressly encourage persons to communicate with County officials or employees;

- e. Names of witnesses, and the fees and expenses paid to each witness;
 - f. Meals and beverages for County officials and employees;
 - g. Reasonable expenses for food, lodging, and scheduled entertainment of County officials or employees for a meeting which is given in return for participation in a panel or speaking engagement at the meeting;
 - h. Other gifts to or for County officials or employees or their spouses or dependent children; and
 - i. Other expenses.
- (5) For reporting purposes, a prorated amount shall be labeled as such.
- (i) *Special Gift Report.*
- (1) (i) With the six-month activity report required under subsection (h) of this section, a lobbyist shall report, except for gifts reported in item (h)(4)(ii)g. of this section, gifts from the lobbyist with a cumulative value of \$75.00 or more during the reporting period to an official, employee, or member of the immediate family of an official or employee.
 - (ii) The lobbyist shall report gifts under this paragraph regardless of whether the gift was given in connection with lobbying activities.
- (2) The report shall include the date, beneficiary, amount or value, and nature of the gift.
- (j) *Notification to Official and Confidentiality.*
- (1) If any report filed under this section contains the name of an official or employee or a member of the immediate family of an official or employee, the Commission shall notify the official or employee within 30 days.
 - (2) The Commission shall keep the report confidential for 60 days following receipt by the Commission.
 - (3) Within 30 days of the notice required under paragraph (1) of this subsection, the official or employee may file a written exception to the inclusion in the report of the name of the official, employee, or member of the immediate family of the official or employee.
- (k) The Commission may require a lobbyist to submit other reports the Commission determines to be necessary.
- (l) The Commission, or an office designated by the Commission, shall maintain all registrations and reports filed under this section.
- (m) (1) The Commission shall review the registrations and reports filed under this section for compliance with this section and shall notify persons engaging in lobbying activities of any omissions or deficiencies.
- (2) The Commission may take appropriate enforcement action to ensure compliance with this section.
- (n) *Annual Report.*
- (1) The Commission shall compute and make available a subtotal under each of the ten required categories in subparagraph (h)(4)(ii) of this section.
 - (2) The Commission shall compute and make available the total amount reported by all lobbyists for their lobbying activities during the reporting period.
- (o) The Commission shall make lobbying registrations and reports available during normal business hours for examination and copying subject to reasonable fees and procedures established by the Commission.

(C.B. 50, 2011, § 1)

Sec. 22.208. - Enforcement.

- (a) (1) Upon a finding of a violation of any provision of this subtitle, the Commission may:
 - (i) Issue an order of compliance directing the respondent to cease and desist from the violation;
 - (ii) Issue a reprimand; or
 - (iii) Recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal if that discipline is authorized by law.
- (2) If the Commission finds that a respondent has violated lobbying provisions set forth in section 22.206 and section 22.207 of this subtitle, the Commission may:
 - (i) Require a respondent who is a registered lobbyist to file any additional reports or information that reasonably related to the information that is required under section 22.207 of this subtitle;
 - (ii) Impose a fine not exceeding \$1,000.00 for each violation; and
 - (iii) Suspend the registration of an individual registered lobbyist if the Commission finds that the lobbyist has knowingly and willfully violated section 22.207 of this subtitle or has been convicted of a criminal offense arising from lobbying activities.
- (b) (1) Upon request of the Commission, the County Solicitor may file a petition for injunctive or other relief in the Circuit Court of Howard County, or in any other court having proper venue for the purpose of requiring compliance with the provisions of this subtitle.
- (2) (i) The court may:
 - a. Issue an order to cease and desist from the violation;
 - b. Except as provided in subparagraph (ii) of this paragraph, void an official action taken by an official or employee with a conflict of interest prohibited by this subtitle when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public; or
 - c. Impose a fine of up to \$1,000.00 for any violation of the provisions of this subtitle, with each day upon which the violation occurs constituting a separate offense;
- (ii) A court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or other evidences of public obligations.
- (c) (1) Any person who knowingly and willfully violates the provisions of section 22.207 of this subtitle is guilty of a misdemeanor, and upon conviction, is subject to a fine of not more than \$1,000.00 or imprisonment for not more than six months, or both.
- (2) If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and, upon conviction, is subject to the same penalties as the business entity.
- (d) In addition to any other enforcement provisions in this subtitle, a person who the Commission or a court finds has violated this subtitle:
 - (1) Is subject to termination or other disciplinary action; and
 - (2) May be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the commission or a court.

- (e) (1) A person who is subject to the provisions of this subtitle shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to complete and substantiate a report, statement, or record required under this subtitle for three years from the date of filing the report, statement, or record.
- (2) These papers and documents shall be available for inspection upon request by the Commission or the County Council after reasonable notice.
- (f) In addition to any other enforcement provisions in this subtitle, a person who is found guilty of a violation of section 22.204 of this subtitle is subject to forfeiture of office in accordance with section 901(c) of the Howard County Charter.
- (g) Any contract made in violation of section 22.204 of this subtitle may be declared void by the County Executive or by resolution of the County Council in accordance with section 901(c) of the Howard County Charter.

(C.B. 50, 2011, § 1)

Sec. 22.209. - Severability.

If any section, sentence, clause or phrase of this subtitle is held invalid or unconstitutional by any court or competent jurisdiction, the ruling shall not affect the validity of the remaining portions or this subtitle.

(C.B. 50, 2011, § 1)

SUBTITLE 3. - DISCLOSURE OF INTEREST BY PERSONS DOING BUSINESS WITH HOWARD COUNTY³¹

Footnotes:

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State Law reference— Special provisions for Howard County, State Government article, § 15-848 et seq.

Sec. 22.300. - Disclosure of interest by persons doing business with Howard County.

In order to promote public confidence in local government, all persons doing business with Howard County shall be required to make affidavit of compliance with the conflict of interest provisions of section 901 of the Howard County Charter.

(C.B. 74, 1973; C.B. 25, 1974)

Sec. 22.301. - Definitions.

When used in this subtitle:

- (a) *Person* includes any natural person, corporation, general or limited partnership, trust, unincorporated association, joint venture, organization, entity or enterprise.
- (b) *Business with Howard County* means anyone or any combination of sales, purchases, leases, contracts and awards to, from or with Howard County, or any agency, office or department thereof, and shall include:

- (1) All supplies, materials, equipment and contractual services contracted for or procured by purchase orders or other procedures established by title 4, "contracts and purchasing," of this Code, except for small purchases in an amount less than \$50.00.
 - (2) Any and all contracts entered into for professional services with any consultants whose services by their nature are unique and not subject to competitive bidding.
 - (3) All construction contracts providing for the alteration and/or maintenance of buildings, utilities, roads and any other improvements.
 - (4) All contracts for the purchase of land in fee simple.
 - (5) The award or grant of any franchise, liquor license or zoning application.
 - (6) The issuance of any developer's agreement.
- (c) *Affidavit* as to procurement of supplies, materials, equipment, services, land, and construction contracts, licenses, franchises, awards, developer's agreements or zoning changes shall be the following statement: "The undersigned does hereby declare that neither he nor any representative of his firm has provided, offered to provide, or will subsequently provide to any officer or employee of Howard County, whether elected or appointed, any benefits, monetary, or material consideration from the profits or emoluments of this contract, job, work or service for the County; and that no officer or employee has accepted or received or will receive in the future any service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally; nor has any such officer or employee of the County received or will receive, directly or indirectly, any part of any fee, commission or other compensation paid or payable by the County in connection with this contract, job, work or service for the County, excepting, however, the receipt of dividends on corporation stock. I/we do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my/our knowledge, information and belief."
- (d) *Affidavit* as to application or petition for licenses, franchises, awards, developer's agreements or zoning changes: "The undersigned does hereby declare that neither he nor any representative of his firm has provided, offered to provide, or will subsequently provide to any officer or employee of Howard County, whether elected or appointed, any monetary or material consideration, any service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally in connection with the submission, processing, issuance, grant or award of the within application or petition for a license, franchise, award, developer's agreement or zoning change. I/we do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my/our knowledge, information and belief."
- (e) *Monetary or material consideration* means any gift of more than \$25.00 in value or any transfer of any property below fair market value, or any paid travel or vacation, or the securing or paying of any debt on behalf of any County official, appointed board or commission member, or County employee, or member of any of the immediate family of any of the aforementioned.

(C.B. 74, 1973; C.B. 25, 1974)

Sec. 22.302. - Applicability and form of compliance.

- (a) Any person doing business with Howard County shall be required to comply with the requirement of execution of the affidavit set forth in subsection 22.301(c) in the manner deemed appropriate by the County Administrator.
- (b) The County Administrator shall cause the affidavit to be included and incorporated into the following named-form and shall require the execution thereof as part of the execution and completion of the following named forms by the person doing business with Howard County:
 - (1) Purchase order.

- (2) Developer's agreement.
- (c) The County Administrator shall cause the affidavit to be prepared as a separate document in order that the affidavit can be executed simultaneously with the execution of the contract document entered into with Howard County involving:
 - (1) Consultant services of any type, as defined in subsection 22.301(b)(2).
 - (2) Construction or utility contracts awarded under public bidding procedures, as defined in subsection 22.301(b)(1).
 - (3) Purchase or sale of land in fee simple.
 - (4) Grant or award of any franchise.
- (d) The Secretary of the County Council shall cause the affidavit to be prepared and submitted with any application submitted in connection with zoning and any application submitted regarding the issuance of any liquor license.

(C.B. 74, 1973; C.B. 25, 1974)

Sec. 22.303. - Penalties for violations.

Any person found to be in violation of any of the prohibitions set forth herein or in the County Charter, or to have made a false affidavit, shall be barred from doing business with Howard County, or any department receiving funds appropriated by the County Council, for a period of ten years. This section shall not be construed as limiting or restricting any judicial remedies available to the County.

Any person who has been awarded a contract or purchase order and has been found to be in violation of the prohibitions set forth herein and/or to have made a false affidavit may be found in default, and the contract may be terminated by Howard County.

It is not the intent of this subtitle to prohibit the County from doing business with firms or persons in which a County official, members of an appointed board or commission, or employee also hold positions of trust; however, such information must be disclosed and be on file in accordance with the requirements of section 901 of the Charter.

(C.B. 74, 1973; C.B. 25, 1974)

Sec. 22.304. - Severability.

The provisions of this subtitle are severable and if any provisions, sentence, clause, section or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or part of the subtitle or their application to other persons and circumstances. It is hereby declared to be the legislative intent that this subtitle would have been adopted if such illegal, invalid or unconstitutional provisions, sentence, clause, section or part had not been included therein, and if person or circumstances to which the subtitle or any part thereof if inapplicable had been specifically exempted therefrom.

(C.B. 74, 1973; C.B. 25, 1974)

SUBTITLE 4. - BUDGET PROCEDURES

Sec. 22.400A. - Office of Budget.

- (a) *Generally.* General provisions applicable to this office are set forth in subtitle 2, "administrative departments and offices," of title 6, "County Executive and the executive branch," of the Howard County Code.
- (b) *Head.* The Budget Administrator shall head the Office of Budget. The Office of Budget shall be under the general supervision of the Director of Administration.
- (c) *Qualifications of Budget Administrator.* The Budget Administrator shall have thorough knowledge of the principles and practices of public administration, including thorough knowledge of governmental budgeting methods, and the operational relationship between the budget function and the agencies of government. At the time of appointment, the Administrator shall have had at least five years of increasingly responsible public finance or budget experience, including three years of administrative experience.
- (d) *Duties and Responsibilities:*
 - (1) The Budget Administrator shall act, on behalf of the Chief Administrative Officer, as the chief budget officer of the County and as such shall prepare and submit to the Executive for approval and submission to the Council, all County budgets, prepared in the manner and form required by law.
 - (2) The Office of the Budget shall:
 - (i) Supervise the compilation of budget requests and the preparation of a statement of requests to the Chief Administrative Officer.
 - (ii) Supervise the preparation of statements showing revenue other than taxes, and the adjustment in tax rate necessary to compensate for the difference between miscellaneous revenue and the amount raised by taxation.
 - (iii) Prepare periodic reports on the efficiency and economy of County agencies.
 - (iv) Analyze complex budget requests and make recommendations to the Chief Administrative Officer.
 - (v) Supervise and participate in studies in the organization, methods and procedures of County agencies.
 - (vi) Participate in County Council budget hearings and explain budget requests.
 - (vii) Perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 62, 1988)

Sec. 22.400. - Howard Community College budget.

The Howard Community College budget shall be prepared and submitted annually at a time designated by the County Executive and in a format which clearly presents total expenditures and total proposed costs, to include but not limited to the following principal areas:

- (a) Academic programs (degree, associate degree, certificate).
- (b) Community service programs.
- (c) Any other primary areas.

(C.B. 71, 1973)

Sec. 22.401. - Submission of the capital budget for the Howard County public school system.

- (a) The capital budget for the Howard County public school system shall be submitted to the County Council in accordance to the following schedule:
 - (1) Initial submittal not later than the first of October in each year.
 - (2) Final submittal not later than the first of November in each year.
 - (3) First revision to the Planning Board not later than the first of March in each year.
- (b) The capital budget shall include but not be limited to:
 - (1) New construction projects.
 - (2) Remodeling projects.
 - (3) Renovation projects (cost above annual maintenance needs).
 - (4) Status previously approved but not completed projects.

(C.B. 70, 1973; C.B. 10, 1992)

Note— Formerly, § 22.420; renumbered § 22.401, by C.B. 10, 1992.

Sec. 22.402. - Definitions.

The following terms used in this subtitle have the meanings defined below:

- (a) *Capital budget* means the plan of the County to receive and expend funds for capital projects during the current fiscal year.
- (b) *Capital project* means:
 - (1) Any physical public improvement and any preliminary studies and surveys relative to the improvement.
 - (2) The acquisition of property of a permanent nature for public use.
 - (3) The purchase of equipment for any public betterment or improvement when first constructed.
- (c) *Capital program* means the plan of the County to receive and expend funds for capital projects during the first fiscal year covered by the capital budget and the next succeeding five fiscal years.
- (d) *Extended capital program* means the plan of the County to receive and expend funds for capital projects during the four fiscal years following the end of the capital program.
- (e) *Maryland Consolidated Transportation Program* means the State Consolidated Transportation Program as defined in the transportation article of the Annotated Code of Maryland.
- (f) *Maryland Capital Budget* means the plan of the State of Maryland to receive and expend funds for capital projects during the current fiscal year.

(C.B. 10, 1992)

Sec. 22.403. - Public notice of capital projects; public hearing by Planning Board.

- (a) *Planning Board Hearing on New Capital Projects and Capital Projects Substantially Modified in Scope*.
 - (1) The County Executive shall prepare a list of the new capital projects and capital projects substantially modified in scope that are included in the capital program and the extended capital program proposed by each agency of the County Government for Planning Board review

pursuant to subsection 1106(c) of the Howard County Charter. The Executive shall submit this list to the Planning Board concurrently with the agency proposals.

- (2) No later than 15 days after the capital program and the extended capital program proposed by each agency of the County Government is sent to the Planning Board for its review, the Planning Board shall hold a public hearing on the new capital projects and the capital projects substantially modified in scope which are included in the agencies' programs. The public hearing may, at the Planning Board's discretion, continue over several days.
- (b) *Notice of Public Hearing on New Capital Projects and Capital Projects Substantially Modified in Scope.*
- (1) The Planning Board shall advertise the public hearing on the new and substantially modified capital projects in the capital program and the extended capital program proposed by each agency of the County Government. The advertising shall include the time, date and place of the hearing, a brief description of each such project and a statement that copies of the capital program and the extended capital program containing greater detail about these projects are available for review in the Office of Planning and Zoning and in each branch of the Howard County Library.
 - (2) The Office of Planning and Zoning shall provide copies of the capital program and the extended capital program proposed by each agency of the County Government to the County library system.
 - (3) Advertising for the hearing shall include:
 - (i) Publication once a week for two successive weeks in at least one newspaper of general circulation in the County.
 - (ii) Posting the site of each such project (if owned by the County) and/or posting the right-of-way of the public road nearest to the site.
 - (iii) Mailing notices to village associations, neighborhood groups, civic associations and citizens who have requested the County Executive, the Director of Public Works, or the Director of Planning and Zoning to be placed on a central list to receive this and similar mailings.
- (c) *Consideration of Public Input.* In making its comments and recommendations on the impact of the proposed capital program and the extended capital program on the County general plan and the growth of the County, the Planning Board shall consider the testimony given at its public hearing.
- (d) *Public Notice of New Capital Projects and Capital Projects Substantially Modified in Scope That Are Included in the Capital Budget and the Capital Program and the Extended Capital Program Submitted by the County Executive.*
- (1) As soon as possible following the submission of the Executive's proposed capital budget and capital program and the extended capital program to the County Council, the Council shall give public notice of new capital projects and capital projects substantially modified in scope that are included in the Executive's proposed capital budget and capital program and the extended capital program. The notice shall consist of a brief description of each such project and a statement that copies of the Executive's capital budget and capital program and the extended capital program containing greater detail about these projects are available for review in the County Council Office, the Office of the County Administrator, and in each branch of the Howard County Library. The notice shall also give the time, date and place of the Council's public hearing on the Executive's proposed capital budget and capital program and the extended capital program.
 - (2) The Executive shall provide copies of the proposed capital budget and capital program and the extended capital program to the County library system.
 - (3) The notice shall be published once a week for two successive weeks in at least one newspaper of general circulation in the County; and mailings shall be sent to civil associations,

neighborhood groups and citizens who have requested the County Council, the County Executive, the Director of Public Works, or the Director of Planning and Zoning to be placed on a central list to receive such notices.

(C.B. 43, 1983; C.B. 10, 1992)

Note— Formerly § 22.414; renumbered § 22.403 by C.B. 10, 1992.

Sec. 22.404. - Contents of the capital budget and capital program and the extended capital program.

- (a) The capital budget and program summary shall include a "funding source summary" that shows:
 - (1) Prior appropriation by funding source;
 - (2) Budget request by funding source; and
 - (3) Each of the program years by funding source.
- (b) Each project class summary shall include:
 - (1) Prior appropriation by funding source;
 - (2) Budget request by funding source; and
 - (3) Each of the program years by funding source.
- (c) Each capital project shall be identified as a separate line item in the capital budget and the capital program and the extended capital program; shall be separately numbered; and shall set forth clearly the cost and fiscal year funding schedule of the capital project.
- (d) Each capital project that has previously received appropriations, but that is not yet completed, shall be separately identified in the capital budget and the capital program and the extended capital program and shall have set forth clearly the prior approved appropriation.
- (e) Subject to subsection (f) of this section, information relating to each capital project in the capital budget and the capital program and the extended capital program shall also include but shall not be limited to:
 - (1) A project description;
 - (2) A vicinity map showing location and extent of project;
 - (3) Scheduling of project phases and planned completion date;
 - (4) Each source of funding;
 - (5) The projected impact of the completed project on the current expense budget;
 - (6) Total expenditures and encumbrances for the project:
 - (i) Since inception through the end of February of the current year; and
 - (ii) Since inception through the end of February of the prior year;
 - (7) For multi-year recurring projects, an explanation of the proposed use of the funds for the upcoming fiscal year, including an identification of the known, planned, or potential facilities or uses to which the funds will be applied;
 - (8) For projects with prior approved or upcoming year funding, a description of any changes in:
 - (i) The name of the project since its inception;
 - (ii) The scope of the project from the prior year; and
 - (iii) The timing of the project from the prior year;

- (9) For projects with prior approved or upcoming year funding, an explanation for any changes in the total project cost from the prior year;
 - (10) Any amendments to the project that were previously adopted by ordinance;
 - (11) Previously approved and projected funding, showing any changes, for each fiscal year in the six-year capital program, and any changes in project totals by each source of funds; and
 - (12) For each project with funding proposed for the next fiscal year, except projects which include funding only for planning in the next or future fiscal years, the total cost estimate for the project from the time funding for engineering, construction, or any purpose other than planning was first budgeted or programmed.
- (f) Items (6)(ii), (8)(i), (10), (11) and (12) of subsection (e) of this section need not be included before Fiscal Year 2018.
 - (g) The information for capital projects required by subsection (e) of this section shall be a separate document and shall be approved as part of the annual budget and appropriation ordinance of Howard County approving the capital budget and as part of the resolution of the Council approving the capital program and the extended capital program as if the document were set out in full in the ordinance or resolution.
 - (h) Items (8)(i) and (12) of subsection (e) of this section shall apply only to projects that are new to the capital budget in Fiscal Year 2017 or later years.

(C.B. 69, 1973; C.B. 13, 1974; C.B. 14, 1983; C.B. 10, 1992; C.B. 54, 2015, § 1)

Note— Formerly, § 22.415; renumbered, § 22.404 by C.B. 10, 1992.

Sec. 22.405. - Capital improvement master plans.

(a) *Definitions.*

Capital improvement master plan (C.I.M.P.) is a plan adopted by the County Council which indicates the capital improvements for a particular type of County service to be constructed during the next ten years in order to support the housing and employment growth projections of the County's general plan. Capital improvement master plans are updated annually. Capital improvement master plans include the projects listed in:

- (1) The Howard County Capital Budget and Capital Program and Extended Capital Program;
 - (2) The Maryland Capital Budget; and
 - (3) The Maryland Consolidated Transportation Program.
- (b) *Consistency.* Capital improvement master plans shall be consistent with the general plan, with one another, and with the requirements of State law for master plans.
 - (c) *Types of Plans—Agency Responsible for Preparation.* There shall be C.I.M.P.'s for education, transportation, water and sewer and solid waste disposal and for other governmental functions as provided by law. Primary responsibility for preparation and updating of specific C.I.M.P.'s lies with the agency listed below. However, agencies preparing a C.I.M.P. shall consult with other agencies as appropriate.
 - (1) The C.I.M.P. for Education shall be prepared by the Department of Education.
 - (2) The C.I.M.P. for Transportation shall be prepared jointly by the Department of Public Works and the Department of Planning and Zoning.
 - (3) The C.I.M.P. for Water and Sewer shall be prepared by the Department of Public Works.
 - (4) The C.I.M.P. for Solid Waste Disposal shall be prepared by the Department of Public Works.

- (d) *Content of C.I.M.P.'s.* Each C.I.M.P. shall include:
- (1) Planning assumptions consistent with the general plan.
 - (2) For the next fiscal year and for the following nine fiscal years:
 - (i) Growth projection targets (numbers of new residences, number of new employees).
 - (ii) Justifications for and descriptions of capital projects needed to serve the growth projection targets.
 - (iii) Level of service standards.
 - (iv) Funds required to fund the needed capital projects.
- (e) *Process for Initial Adoption:*
- (1) *Review by Planning Board.* Upon submission of a C.I.M.P. from the agency responsible for its preparation, the Planning Board shall set a date for a public hearing on the C.I.M.P. It shall give at least 30 days' notice of the time, date, and place of the hearing.

Within 30 days after the public hearing, the Planning Board shall make its recommendations regarding consistency of the C.I.M.P. with the general plan and forward the recommendations to the agency(ies) which prepared the C.I.M.P.
 - (2) *Submission to County Council:*
 - (i) *C.I.M.P. for Education.* After consideration of the Planning Board's recommendations, the Board of Education shall send the C.I.M.P. to the County Council for approval by resolution. If not all the Planning Board's recommendations are incorporated into the C.I.M.P. submitted to the County Council, the Board of Education shall concurrently send the County Council the Board's reasons for not incorporating the Planning Board's recommendations.
 - (ii) *All other C.I.M.P.'s.* After consideration of the Planning Board's recommendations, the agency(ies), other than the Board of Education, responsible for preparing the C.I.M.P. shall send the C.I.M.P. to the County Executive. If not all the Planning Board's recommendations are incorporated into the C.I.M.P. submitted to the County Executive, the agency(ies) responsible for preparing the C.I.M.P. shall concurrently send the County Executive the agency(ies) reasons for not incorporating the Planning Board's recommendations.

The County Executive shall review the C.I.M.P., make changes he or she deems appropriate, and submit the C.I.M.P. to the County Council for approval by resolution.
- (f) *Updates of C.I.M.P.'s.* Updates to a C.I.M.P. shall be adopted in the same manner as the plan was originally adopted. The agency(ies) responsible for preparation of each C.I.M.P. shall review it each year and recommend updates as necessary based on such factors as:
- (1) The Howard County Capital Budget and Capital Programs and Extended Capital Program; the Maryland Capital Budget, and the Maryland Consolidated Transportation Program.
 - (2) Data derived from the development monitoring system.
 - (3) Adoption of a new general plan.
 - (4) Changes in comprehensive rezoning.
 - (5) Changes in service demands.
 - (6) Availability of services from nongovernmental sources.
 - (7) Changes in the economy.
 - (8) Changes to the rolling average (see section 16.1102, "the housing unit allocation concept," of the Howard County Code).

(C.B. 10, 1992)

Sec. 22.406. - Contents of the current expense budget.

The proposed current expense budget that the Executive submits to the County Council shall include, but is not limited to:

- (1) A comparative statement of the receipts and expenditures for the last completed fiscal year;
- (2) A comparative statement of authorized expenditures and revenues and estimated expenditures and revenues for the currently ending fiscal year;
- (3) For each department or other unit, which shall be classified by fund, fund center, and summary of expenditures by commitment:
 - (i) The actual expenditures from the previous fiscal year;
 - (ii) The appropriation for the current fiscal year;
 - (iii) The estimated expenditures for the current fiscal year; and
 - (iv) The expenditures recommended by the Executive for the ensuing fiscal year; and
- (4) Detailed departmental personnel summaries that include:
 - (i) The number of filled positions and the number of vacant positions approved in the current fiscal year's budget by classification title and pay grade; and
 - (ii) The number of filled positions and the number of vacant positions proposed in the upcoming fiscal year's budget by classification title and pay grade.

(C.B. 54, 2015, § 1)

Secs. 22.407—22.409. - Reserved.

Sec. 22.410. - Reserved.

Editor's note— C.B. 3, 1976 repealed § 22.410, pertaining to adoption of items prior to the annual budget submission, derived from C.B. 72, 1973.

SUBTITLE 5. - NOTICE⁴

Footnotes:

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Editor's note— Before its complete revision by § 1 of C.B. 4, 1983, subtitle 5 was entitled "notice of challenge to validity of county charter or laws."

Sec. 22.500. - Requirement that County Solicitor be notified of any proceeding challenging the validity of County Charter or laws.

If the validity of any portion of the Howard County Charter, a Howard County law, or a Howard County franchise is challenged, the County Solicitor shall be furnished with a copy of the pleadings by the parties filing such action immediately after suit or appeal has been filed.

(C.B. 43, 1981; C.B. 4, 1983; C.B. 56, 1986)

Sec. 22.501. - Notice required by State law; notice of claim against County for injury.

When State law requires that notice of a claim against the County for injury to a person or his/her property be served upon the County Executive, the notice shall be given in person or by registered mail, restricted delivery, return receipt requested.

(C.B. 4, 1983; C.B. 56, 1986)

State Law reference— Local government tort claims, Ann. Code of Md., Courts and Judicial Proceedings article, § 5-301 et seq.

Sec. 22.502. - Service of law suits.

- (a) *Service on Howard County Government.* Service of a law suit naming Howard County, Maryland, and/or any of its various departments, citizen boards, or commissions or officers or employees as a party, shall be obtained by service upon the County Executive, or the Executive's designee, or the County Solicitor, in person or by registered mail, restricted delivery, return receipt requested.
- (b) *Service on the County Council.* Service of law suit naming the County Council as a party shall be obtained by service upon the Chairperson or the Executive Secretary of the County Council, in person or by registered mail, restricted delivery, return receipt requested.
- (c) *Service on Zoning Board, Board of License Commissioners or the Health Board.* Service of law suit naming the Zoning Board, the Board of License Commissioners, or the Health Board as a party shall be obtained by service upon the Chairperson of the respective board or the Executive Secretary of the County Council, in person or by registered mail, restricted deliver, return receipt requested.
- (d) *Service on Governmental Agency Which Has Entered into an Agreement with the Howard County Government for Pooled Risk Management Pursuant to Title 23 of the Howard County Code.* Service of a law suit naming a governmental agency which has entered into an agreement with the Howard County Government for pooled risk management pursuant to title 23 of the Howard County Code or its officers or employees shall be obtained by service upon the Executive officer of that agency or the officer's designee, in person or by registered mail, restricted delivery, return receipt requested.

(C.B. 4, 1983; C.B. 56, 1986)

Sec. 22.503. - Copies of pleadings for County Solicitor.

Whenever a law suit is filed against Howard County, Maryland, and/or any parties set forth in subsection 22.502 (a), (b), (c) or (d) above, the County Solicitor shall be furnished with a copy of the pleadings by the plaintiff(s) immediately after suit has been filed.

(C.B. 4, 1983; C.B. 56, 1986)

SUBTITLE 6. - FEES FOR INDUSTRIAL DEVELOPMENT REVENUE BONDS AND MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY LOANS OR BONDS^[5]

Footnotes:

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Editor's note— C.B. 80, 1981, added subtitle 5, § 22.500, to title 22, which the editor has redesignated subtitle 6, § 22.600, inasmuch as C.B. 43, 1981, had previously added subtitle 5.

Sec. 22.600. - Fee schedule and collection.

- (a) Howard County shall collect a fee for each new or refunded industrial development revenue bond and each new or refunded Maryland Development Financing Authority loan or bond. The amount of the fee shall be set by resolution of the County Council and shall be reasonably related to Howard County's costs for the advertising, processing and review of the loan or bond.
- (b) The appropriate fee, as specified in subsection (a) above, shall be collected (except as provided in subsection (c) below) prior to the introduction of each industrial development revenue loan or bond issue ordinance or resolution or Maryland Industrial Development Financing Authority loan or bond resolution by the Howard County Director of Finance, who shall submit proof of payment to the Executive Secretary of the County Council.
- (c) The fee schedule set forth in subsection (a) above shall not apply and the fee, as specified in subsection (a) above, shall not be collected, for the advertising, processing and review of industrial development revenue bonds issued by the Maryland Industrial Development Financing Authority under its "Umbrella Program" or any similar program under which the Maryland Industrial Development Financing Authority issues and sells issues of its umbrella bonds, within which two or more series of permanent bonds are consolidated for purposes of marketing and sale. Actual costs incurred by Howard County, Maryland, for advertising such bonds shall be collected prior to the sale of such bonds.

(C.B. 80, 1981; C.B. 38, 1982; C.B. 21, 1983; C.B. 26, 1988; C.B. 75, 1988; C.B. 7, 1993)

SUBTITLE 7. - GRANTS

Sec. 22.700. - County authorized to award grants.

- (a) Howard County may award grants of funds or in-kind assistance to nonprofit agencies which provide services to County residents.
- (b) Grants are initiated when a nonprofit agency requests a grant to provide a certain service or when the County solicits nonprofit agencies to provide a certain service.
- (c) Grants may be funded with County funds or from designated private, State, regional, or Federal funds.

(C.B. 60, 1993)

Sec. 22.701. - Information to be provided.

Nonprofit agencies seeking a grant from Howard County shall submit information to the County department or office which will administer the grant in a format prescribed by that agency and shall include:

- (a) A general description of the nonprofit agency's membership and mission; a copy of its Charter and bylaws, a listing of its officers, Directors, and principal staff members; and evidence of its nonprofit status;
- (b) A description of the service the nonprofit agency proposes to provide with the grant, who will provide the service (staff and/or volunteers), where it will be provided, who will receive the service (target population), and how much it will cost to provide the service.

(C.B. 60, 1993)

Sec. 22.702. - Advisory Panel.

The County Executive may appoint an Ad Hoc Advisory Panel to review grant applications and to make recommendations to the County Executive regarding the amount and type of grants to be awarded. When appropriate, this committee may consist of the members of an existing County board or commission. No member of an ad hoc panel may receive any direct or indirect financial or personal benefit from any of the grant applications under consideration by the panel.

(C.B. 60, 1993)

Sec. 22.703. - Budgetary approval.

Grants may be awarded only to the extent provided in the annual budget. Where the grant is for longer than the current fiscal year, grants for subsequent fiscal years may be awarded only after the County Council has approved a multiyear agreement to fund the grant, pursuant to section 612 of the Howard County Charter.

(C.B. 60, 1993)

Sec. 22.704. - Grant agreement.

A grant shall not be made unless the nonprofit agency has executed a grant agreement with the County which sets forth:

- (a) The amount of the grant.
- (b) The service to be provided with the grant, where it will be provided, and who will receive the service (target population).
- (c) The type and format of the reports and records which the nonprofit agency will be required to keep in order to provide accountability and which will be subject to County audit.
- (d) Provisions to assure that there will be adequate public advertising and notification to potential recipients of the service.
- (e) Provisions to assure that the agency and the services provided will be in compliance with Federal, State and County laws and regulations, including conformity with the provisions of subtitle 2, "human rights," of title 12 of the Howard County Code.
- (f) Provisions to indemnify the County from any claims which might be made against the County as a result of the grant.
- (g) A requirement to provide the Department or office administering the grant with annual audit and/or program report on the agency's use of the grant during the County's previous fiscal year and, subject to section 22.1000 of the County Code, to send copies of the audit and/or program report to the County Executive and the County Council.

(C.B. 60, 1993; C.B. 43, 2018, § 1)

SUBTITLE 8. - GOVERNMENTAL TRANSPARENCY AND ACCESSIBLE DATA⁶

Footnotes:

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Editor's note— C.B. 32, 2014, § 2, added subtitle 8 to title 22 to read as herein set out. The absence of a history note indicates that the provision remains unchanged from the ordinance from which it originally derived.

Sec. 22.800. - Purpose; scope.

- (a) The purpose of this subtitle is to improve and maintain transparency and efficiency in government while addressing its goals of effective communication and collaboration within units and to deliver useful information to the public in an efficient manner, including through the provision of an intuitive and interactive web portal that also provides the public access to the information in usable and searchable formats.
- (b) Except as provided in section 22.806 of this subtitle or as determined by the Governmental Transparency Data Plan, this subtitle applies only to data created after this subtitle takes effect.
- (c) *Guiding principles.*
 - (1) All accessible data produced by or for a unit shall be made available without copyright, patent, trademark, or trade secret, or similar regulation other than reasonable privacy, security, and privilege restrictions.
 - (2) Accessible data shall be made available with the highest possible level of granularity in which it was developed by or for a unit.
 - (3) Accessible data shall be made available quickly to ensure usefulness to the public.
 - (4) Accessible data shall be available to the widest range of users for the widest range of purposes.
 - (5) To the extent practical, accessible data shall be structured to allow automated processing.
 - (6) Accessible data shall be available to anyone through the web portal, with no requirement of registration.
 - (7) Accessible data shall be available in non-proprietary or freely available formats and in accordance with any applicable open standard.
 - (8) Accessible data shall be published as soon as possible but no later than 30 days of when action has been taken.

Sec. 22.801. - Definitions.

- (a)
 - (1) Data means the final version of information that is created or maintained for or by a unit, but may also include documents provided to a unit as determined by the governmental transparency and accessible data guidance document.
 - (2) Data includes, but is not limited to, documents, records, digital data, lists, tables, spreadsheets, graphs, charts, memoranda, minutes, manuals, and orders.
 - (3) Data includes key relevant statistical or factual information about an image file and geographic information system data that would aid in a search.
- (b) Facilitator means the Director of the Department of Technology and Communications Services.
- (c) Unit means a unit of County government that is under the authority of the County Executive or the County Council.

Sec. 22.802. - Inventory.

- (a) Each unit shall compile an inventory of:
 - (1) The data that the unit publishes to the internet; and

- (2) The types of data that the unit creates or is the custodian of but does not publish to the internet.
- (b) (1) On or before, December 1, 2014, and each year thereafter, each unit shall submit to the facilitator the inventory.
- (2) The unit shall ensure that the inventory is complete, accurate, and up-to-date.
- (c) Each unit shall indicate for the items in the inventory:
 - (1) The items that the unit believes are of interest to the public;
 - (2) Any impediments to publication of the items to the internet; and
 - (3) The items that are confidential.
- (d) Subject to section 22.1000 of the County Code, each year the facilitator shall submit a combined inventory to the County Council and the County Executive.

(C.B. 43, 2018, § 1)

Sec. 22.803. - Portal.

- (a) The facilitator shall investigate options for a single web portal that would allow the public to locate and access the data that the County publishes to the internet.
- (b) On or before January 15, 2015, the facilitator shall recommend to the County Executive a plan to implement the portal and provide a report of that recommendation to the County Council.

Sec. 22.804. - Task force.

- (a) To carry out this subtitle, the facilitator must convene a task force.
- (b) The task force consists of:
 - (1) One member appointed by each member of the County Council;
 - (2) Members from the units that the facilitator believes should be represented; and
 - (3) Two representatives of the County Council.
- (c) The task force shall meet periodically to:
 - (1) Advise the facilitator, the County Executive, and the County Council;
 - (2) Study best practices;
 - (3) Ensure that units participate and comply with the purposes of this subtitle; and
 - (4) After reviewing the inventory, recommend items of interest to the public that should be published to the internet and their priority.
- (d) The task force shall issue a report on or before February 1, 2015, and periodically will meet thereafter until publication to the internet under the plan has begun.

Sec. 22.805. - Governmental transparency and accessible data plan and guidance document.

- (a) (1) On or before April 1, 2015, the facilitator shall submit to the County Executive and the County Council a plan for publishing to the internet the items that are of interest to the public.
- (2) The plan shall:
 - (i) Include the inventory including the identification of significant data sets and documents of most interest to the public;
 - (ii) Evaluate the confidential or protected information that should not be included;

- (iii) Prioritize the data sets and documents to be published, with a suggested schedule of publication;
 - (iv) Assign data set and document owners who are to be accountable for publishing and updating;
 - (v) Establish guidelines for updating and retiring data sets and documents;
 - (vi) Make recommendation on historical document inclusion;
 - (vii) Define a schedule for approved historical document publication;
 - (vii) [(viii)] Define a process to evaluate future data sets and documents for publication;
 - (ix) Define an agency data security policy for publishing information;
 - (x) Provide for the selection of a software tool set to be used;
 - (xi) Recommend an initial and ongoing staffing plan; and
 - (xii) Provide a cost estimate of preparation, planning, implementation; and maintenance.
- (b) The plan shall include a guidance document that includes the items identified in the plan that will require review and updating. The guidance document shall be updated on December 15, 2016 and each _____ year thereafter.

Sec. 22.806. - Publication to the internet.

- (a) As soon as practical, but not later than July 1, 2016, the items identified in the plan as being of interest to the public must begin to be published to the internet.
- (b) This section does not apply to:
 - (1) Email, instant messages, correspondence, or similar exchanges;
 - (2) A governmental record that is required or permitted to be withheld from disclosure under any federal or State law, including the Maryland Public Information Act;
 - (3) Any document or data that is required to be confidential under County, State, or federal law;
 - (4) Any other document or data as determined by the Governmental Transparency Data Plan.
- (c) (1) Subject to paragraph (2) of this subsection, the items published under this section must be searchable.
- (2) Meta-data or tags must be provided for items that cannot be made searchable.

Sec. 22.807. - Citizens' Election Fund System—Donations.

- (a) The facilitator shall ensure that the County website includes a mechanism to accept donations to the Citizens' Election Fund.
- (b) The mechanism shall be prominently located on each appropriate County web page.

(C.B. 30, 2017, § 1)

SUBTITLE 9. - COMPUTATION OF TIME

Sec. 22.900. - Definitions.

For purposes of this subtitle, the following terms have the meanings indicated:

- (a) *Deadline* means the last day of any period of time by which any person or County department or agency is required to take some action.

- (b) *Holiday* means the holidays designated by the County's Chief Administrative Officer and posted on the County's website.
- (c) *Ordinary business hours* means 8 a.m. to 5 p.m. on Monday through Friday.

(C.B. 51, 2016, § 1)

Sec. 22.901. - Application.

This subtitle applies to any deadline established by this Code that exceeds seven days.

(C.B. 51, 2016, § 1)

Sec. 22.902. - Computation of time.

- (a) *Beginning of the period of time* . In computing any period of time subject to this subtitle, the day of the act, event, or default, after which the designated period of time begins to run, is not to be included.
- (b) *Deadline* . The deadline is to be computed as follows:
 - (1) If the last day is a Saturday, Sunday, or holiday, the deadline shall be the end of the next day, which is not a Saturday, Sunday, or holiday; or
 - (2) If the County office is not open on the last day of the period, or is closed for a part of a day, the deadline shall be the end of the next day which is:
 - (i) Not a Saturday, Sunday, or holiday; or
 - (ii) A day on which the County office is open the entire day during ordinary business hours.

(C.B. 51, 2016, § 1)

SUBTITLE 10. - REPORTS

Sec. 22.1000. - Reports to the County Council.

- (a) *Scope*. This section applies to each report, study, publication, or other document that is distributed to or submitted to the County Council.
- (b) *Electronic submission*. A document shall be sent electronically to:
 - (1) Each member of the County Council;
 - (2) The Council Administrator; and
 - (3) The County Auditor.
- (b) *Format*. A document shall be sent as a searchable portable document format (PDF/A) file that meets the standards published for that file type by the International Organization for Standardization.

(C.B. 43, 2018, § 1)

TITLE 23 - RISK MANAGEMENT¹¹

Footnotes:

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Editor's note— Prior to its complete revision by C.B. 55, 1986, and C.B. 57, 1986, tit. 23 was entitled "Insurance," consisted of §§ 23.100, 23.200, and was derived from C.B. 38, 1980. New subtit. 1 and 2 were added by C.B. 57, 1986, and new subtit. 3—5 were added by C.B. 55, 1986.

SUBTITLE 1. - COMPREHENSIVE RISK MANAGEMENT PROGRAM

Sec. 23.100. - Authority to provide for comprehensive risk management program.

There shall be a comprehensive risk management program to compensate for injury or death of persons or damage to property resulting from the negligent or wrongful acts within the scope of their official duties of public officials, agents or employees of the County, to provide protection against physical loss or damage to property of the County and to provide for the defense of claims.

The comprehensive risk management program may include but is not limited to the following coverage:

- (a) Comprehensive general liability.
- (b) Property.
- (c) Boiler and machinery.
- (d) Workers' compensation.
- (e) Compulsory vehicular insurance required by title 17, subtitle 1 of the transportation article of the Annotated Code of Maryland.

(C.B. 57, 1986; C.B. 117, 1989; C.B. 65, 1995)

Sec. 23.101. - Purchased insurance or self-insurance.

The risk management program may be implemented by purchasing insurance coverage or by providing self-insurance or by combining the two, subject to Maryland law regarding the self-insuring of workers' compensation and compulsory vehicle insurance.

(C.B. 57, 1986; C.B. 65, 1995)

Sec. 23.102. - Cooperation with other governmental agencies.

(a) *Agreements for Pooled Comprehensive Risk Management:*

(1) *Governmental agency* means:

- (i) A public or quasi-public agency in Howard County created by State or local law, including, without limitation, the Howard County Board of Education, Howard County Volunteer Fire Corporations the Howard County Community College; the Howard County Board of Library trustees, the Howard County Housing Commission, the Howard County Economic Development Authority, and the Howard County Revenue Authority;
- (ii) Any nonprofit or nonstock corporation in Howard County that is exempt from taxation under subsection 501(c)(3) or(4) of the Internal Revenue Code and receives 50 percent or more of its annual operating budget from the State Government or the Government of Howard County.

A *governmental agency* includes its public officials, employees, agents, and volunteers.

- (2) *Authority to enter into agreements.* The County may cooperate with and enter into agreements with governmental agencies in order to provide comprehensive risk management in the most economical manner.
 - (3) *Coverage.* The comprehensive risk management program shall compensate for injury or death of persons or damage to property resulting from the negligent or wrongful acts within the scope of their official duties of public officials, agents, volunteers, or employees of the governmental agency, shall provide protection against physical loss or damage to property of the governmental agency, and shall provide for the defense of claims. An agreement may provide for some or all of the coverage include din the comprehensive risk management program established by the County.
- (b) *Length of Agreements—Cancellation.* Agreements for pooled comprehensive risk management shall expire at the end of each fiscal year. The County or the governmental agency shall give at least six months' notice of intent not to renew the agreement.

(C.B. 57, 1986; C.B. 51, 1990; C.B. 7, 1993; C.B. 65, 1995; C.B. 95, 1995; C.B. 53, 2008, § 1; C.B. 13, 2018, § 1)

Sec. 23.103. - Immunity.

No provision of this title shall constitute or be interpreted as a waiver of the right of the County or of an agency or of officers, employees or agents to raise the defense of sovereign or governmental immunity, or charitable immunity, or public official immunity or any other immunity or defense to which the County or agency or the officers, employees or agents are entitled.

(C.B. 55, 1986; C.B. 65, 1995)

SUBTITLE 2. - RISK MANAGEMENT FUND

Sec. 23.200. - Establishment of fund; funding; financial administration.

There is a risk management fund to implement the comprehensive risk management program.

The risk management fund shall be financed by annual contributions from the County and from each governmental agency which has entered into an agreement with the County for pooled comprehensive risk management. The annual contributions shall reflect the principles of incurred claims accounting and shall be computed by considering the premium cost, claim expense, operating expense, interest income and maintenance of a reserve fund. Accrued interest shall remain as part of the fund. Funds appropriated to the risk management fund shall be nonreverting. The Director of Finance shall be responsible for the financial administration of the fund.

(C.B. 57, 1986; C.B. 65, 1995)

Sec. 23.201. - Risk management program committee; membership.

There is a Risk Management Program Committee. Its permanent voting members shall be the Chief Administrative Officer, who shall be its Chairperson, the County Solicitor, the Director of Finance, and the representative of any governmental agency which pays annual contributions amounting to ten percent or more of the total annual contributions to the risk management fund. When a decision is being made regarding the defense or settlement of a legal action or the payment of a lawful judgment on behalf of a governmental agency which has entered into an agreement with Howard County for pooled comprehensive risk management, a representative of that governmental agency shall be a voting member of the Committee. All representatives of governmental agencies which have entered into

agreements with the County for pooled comprehensive risk management may have a representative participate as a nonvoting member of the Committee.

(C.B. 57, 1986; C.B. 117, 1989; C.B. 65, 1995; C.B. 17, 1996)

Sec. 23.202. - Duties of Risk Management Program Committee.

The Committee shall:

- (a) Set policy regarding the operation of the risk management fund.
- (b) Defend, compromise and pay claims asserted against the County or a governmental agency which has entered into an agreement with the County for pooled comprehensive risk management.
- (c) Provide protection against physical loss or damage to the property of the County or a governmental agency which has entered into an agreement with the County for pooled comprehensive risk management.
- (d) Employ actuaries, adjusters and other experts.
- (e) Provide for the direct and indirect expenses of legal representation and defense.
- (f) Adopt regulations.
- (g) Provide effective and efficient administration and operation of a comprehensive risk management program.

(C.B. 57, 1986; C.B. 65, 1995)

SUBTITLE 3. - DEFENSE OF ACTIONS AGAINST PUBLIC OFFICERS AND EMPLOYEES

Sec. 23.300. - Purpose.

The purpose of this subtitle is to define the role of County Government in the defense of its officers, agents and employees in legal actions related to their employment and in the defense of officers, agents and employees of governmental agencies which have entered into agreements with the County for pooled comprehensive risk management. This subtitle does not address the defense of actions against officers, agents and employees of the Howard County Board of Education or the Howard County Community College. Defense of actions against officers, agents and employees of those governmental agencies is addressed in subtitles 4 and 5 of this title.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.301. - Definitions.

Words and phrases used in this subtitle have their usual meanings, except that:

- (a) *Agency* includes:
 - (1) Any board, commission, department, office or institution of County Government; or
 - (2) Any board, commission, department, office or institution of any governmental entity within Howard County which has entered into an agreement with the Howard County Government for pooled comprehensive risk management pursuant to section 23.100 of the Howard County Code. *Agency* does not include the Howard County Board of Education nor the Howard County Community College.

(b) *Employee(s), agents and officer(s)* includes:

- (1) Current and former employee(s), agents and officer(s) of the Howard County Government; and
- (2) Current and former employee(s), agents and officer(s) of any governmental agency within Howard County which has entered into an agreement with the Howard County Government for pooled comprehensive risk management pursuant to subsection 23.100(b) of the Howard County Code. employee(s), agent(s) and officer(s) does not include current and former employee(s), agent(s) and officer(s) of the Howard County Board of Education nor of the Howard County Community College.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.302. - Reserved.

Editor's note— Formerly § 23.302; renumbered § 23.103 by C.B. 65, 1995.

Sec. 23.303. - Responsibility for authorizing defense; payment of judgment.

(a) *Defense:*

- (1) The Risk Management Program Committee shall authorize legal defense for current and past Howard County Executive(s) and Howard County Councilmembers for any claims arising from acts or omissions occurring in the performance of their official duties.
- (2) The Risk Management Program Committee shall provide legal counsel in a suit or claim brought against officers, agents and employees of Howard County, Maryland, or a governmental agency's officers, agents and employees for acts or omissions during the course of employment if the County Solicitor determines that the factual allegations show that:
 - a. The act or omission was within the scope of employment of the officers, agents and employees or in their official responsibilities for Howard County or the governmental agency; and
 - b. The officers, agents or employees were acting within their authorized official capacity.

(b) *Responsibility for Paying Judgment:*

- (1) *Compensatory damages; judgments for negligence.* The Risk Management Program Committee shall authorize the payment of judgments for compensatory damages up to the maximum limits of liability set forth in section 5-403 of the courts and judicial proceedings of the Annotated Code of Maryland against officers, agents or employees for damages resulting from tortious acts or omissions committed by the officers, agents or employees acting within the scope of their employment.
- (2) *County Solicitor determines no malice; jury finding of malice.* If the County Solicitor, pursuant to section 23.304 of the Howard County Code, determines that the officer, employee or agent was not acting with malice, the Risk Management Program Committee, with the approval of the County Executive, may pay an award of compensatory damages above the limits of liability set forth in subsection 5-403(a) and an award of punitive damages, notwithstanding the jury's finding of malice.
- (3) *Finding of malice; suit to collect from officer, agent or employee.* If the actions of the agent or employee are found by a court or a jury to have been malicious, the Risk Management Program Committee, with the approval of the County Executive, may authorize a suit against the officer, agent or employee to collect any damage award the County is required by law to pay.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.304. - Requirement for County Solicitor to provide defense.

- (a) *Initiation of Process.* The County Solicitor may become involved in the case upon written request of the officer, agent or employee, or to protect the interests of the County or an agency.
- (b) *Investigation.* Before undertaking the defense of an officer, agent or employee, the County Solicitor shall investigate the facts upon which the legal action or special proceeding is based to determine whether the officer's, agent's or employee's acts or omissions were within the scope of his/her employment and whether they were malicious.
- (c) *Approval Required.* Based upon the results of the investigation and the recommendations of the Risk Management Program Committee, the County Executive may authorize the County Solicitor to defend officers, agents and employees. The County Solicitor may not defend officers, agents and employees without the approval of the County Executive.
- (d) *Investigation and Defense May Be Delegated.* The County Solicitor may delegate the investigation and defense to an assistant County Solicitor or to outside counsel. In a criminal case, the County Solicitor shall appoint outside counsel.
- (e) *Costs of Outside Counsel.* The County Solicitor may employ outside counsel if the solicitor determines that it is impracticable or uneconomical for the County Solicitor or an assistant County Solicitor to provide the legal services or that the County Solicitor would have an actual or potential conflict of interest in providing these services. At the request of the governmental agency, the Risk Management Program Committee may authorize the County Solicitor to employ outside counsel to investigate and defend a claim against the governmental agency, its officers, agents or employees. The outside counsel shall cooperate with the County Solicitor in the investigation, defense and settlement of the claim. The compensation of the outside counsel shall be paid by the risk management fund.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.305. - Confidentiality.

Except for information obtained during the investigation, any information obtained by the County Solicitor or the Solicitor's designee shall be confidential and shall not be revealed unless by order of a court.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.306. - Special verdict.

The County Solicitor, the Solicitor's designee, or outside counsel shall request the court to require a special verdict in the form of written findings which determine:

- (a) Whether the officer, agent or employee was acting within the scope of his/her employment;
- (b) Whether the alleged act or omission was malicious;
- (c) Whether the officer, agent or employee could legally claim any common law or statutory immunity.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.307. - Requirement to repay the risk management fund for costs of defense.

Before the County Solicitor undertakes the defense of an officer, agent or employee, the officer, agent or employee shall sign an agreement which provides that the officer, agent or employee understands that if the information provided during the investigation undertaken pursuant to subsection 23.304(b) of this subtitle was not complete and true or was misleading, or if the official, agent or employee otherwise fails to cooperate in the defense, the County:

- (a) May withdraw as counsel to the official, agent or employee with leave of court; or
- (b) May charge the official, agent or employee for continued defense; and
- (c) May seek reimbursement from the employee for any judgment the County may be required, by law, to pay, consistent with the County's obligations under State law.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.308. - Settlement obligations.

- (a) Before the County Solicitor undertakes the defense of an officer, agent or employee, the officer, agent or employee shall sign an agreement which provides that the County Solicitor shall compromise or settle a claim on behalf of the risk management fund only after notifying the officer, agent or employee of the proposed settlement and of its terms and after giving the individual the opportunity to suggest additional terms that are in the interest of the employee and the County.
- (b) The agreement shall also provide that the County shall obtain the written consent of the officer, agent or employee to the settlement of a claim if either:
 - (1) The proposed settlement will not provide him/her with a general release; or
 - (2) The County intends to ask the officer, agent or employee to repay any of the cost of the settlement or of the legal costs.
- (c) The agreement shall further provide that if the officer's, agent's or employee's consent is required and the officer, agent or employee does not consent to the compromise or settlement, the County Solicitor may treat the failure to consent as a failure to cooperate, pursuant to section 23.307 of this subtitle.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.309. - Responsibility for costs of officer, agent or employee.

- (a) *Risk Management Fund Pays.* If the County Solicitor decides not to undertake the defense of an officer, agent or employee and the court decides that the officer's, agent's, or employee's acts or omissions were within the scope of his/her employment, the risk management fund shall pay the costs of the defense, including court costs and attorneys' fees, except in cases where the court orders the plaintiff to pay these costs.
- (b) *Plaintiff Pays.* If the court finds for the officer, agent or employee and there is reason to believe that the action or proceeding was instituted in bad faith or without substantial justification, the Risk Management Program Committee may authorize the County Solicitor, assistant County Solicitor, outside counsel or private counsel for the officer, agent or employee to petition the court to require the plaintiff to pay the risk management fund or the officer, agent or employee, as the case may be, the costs of defending the case, including court costs and attorneys' fees.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.310. - Payment of judgment or settlement.

- (a) *Officers, Agents and employees Whose Judgment or Settlement May Be Paid:*
- (1) *Judgments.* The amount of any judgment may be paid on behalf of those officers, agents or employees whose acts or omissions were within the scope of their employment in accordance with section 23.303.
 - (2) *Settlements.* The Risk Management Program Committee may authorize payment of a settlement if, in the opinion of the Committee:
 - (i) The officer, agent or employee was acting within the scope of employment or is likely to be found by a court or jury to have been acting within the scope of employment; and
 - (ii) The costs of the litigation, the risks of judgment adverse to the officer, agent or employee and other relevant factors indicate that settlement is appropriate under the circumstances.
- (b) *Risk Management Fund.* Any costs, judgments or settlements authorized by the Committee to be paid, shall be paid by the risk management fund.
- (c) *Repayment by Official, Agent or Employee.* The County may collect from the official, agent or employee any amounts paid in compensatory damages for acts or omissions of the individual within the scope of his/her employment, when it is found that the official, agent or employee acted with actual malice.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.311. - Retroactivity.

The application of this subtitle to the officers, agents and employees of any agency shall be retroactive to the date when the agency entered into an agreement with the Howard County Government for pooled comprehensive risk management pursuant to section 23.100 of the Howard County Code.

(C.B. 55, 1986; C.B. 65, 1995)

SUBTITLE 4. - DEFENSE OF ACTIONS AGAINST OFFICERS, AGENTS AND EMPLOYEES OF THE HOWARD COUNTY BOARD OF EDUCATION

Sec. 23.400. - Purpose.

The purpose of this subtitle is to define the role of County Government and the risk management program in the defense of Board of Education officers, agents and employees in legal actions related to their employment. The provisions of this subtitle shall be effective during the life of an agreement between the Howard County Government and the Howard County Board of Education for pooled comprehensive risk management pursuant to the provisions of subtitle 1 of this title. This subtitle is intended to provide the self-insurance coverage authorized by subsection 4-105(c) of the Education Article of the Annotated Code of Maryland, as amended from time to time. Nothing in this subtitle is intended to be inconsistent or in conflict with any State law or regulation pertaining to the Howard County Board of Education.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.401. - Definitions.

Words and phrases used in this subtitle have their usual meaning except that "employee(s), agent(s) and board member(s)" includes current and former employee(s), agent(s) and board member(s) of the Board of Education.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.402. - Immunity.

This subtitle shall not be read to be a waiver of the defense of sovereign immunity or of any other immunity defense available by law to the Board, its employees, agents, or officials.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.403. - Reserved.

Editor's note— C.B. 65, 1995, reserved § 23.403 in its entirety. Formerly, § 23.403 pertained to actions against County board employees and derived from C.B. 55, 1986.

Sec. 23.404. - Responsibility for providing defense; payment of judgment.

- (a) *Defense.* The risk management program shall provide for defense of claims against the Board of Education, its members, public officials, agents and employees arising from acts or omissions committed within the scope of employment or authorized official capacity and without malice.
- (b) *Responsibility for Paying Judgment.* A claim or judgment against a board member, agent or employee for compensatory damages up to the maximum limits of liability set forth in section 5-353 of the courts and judicial proceedings article of the Annotated Code of Maryland or up to any lesser amount provided in the agreement between the Board of Education and the County shall be satisfied from the risk management fund if the board member, agent or employee was acting within the scope of employment or authorized official capacity and without malice.

(C.B. 55, 1986; C.B. 65, 1995)

State Law reference— Tort immunity of county board of education, Ann. Code of Md., Courts and Judicial Proceedings article, § 5-518.

Sec. 23.405. - Requirement for County Solicitor to provide defense.

- (a) *Initiation of Process.* The County Solicitor may become involved in the case upon written request of the Board, board member, agent or employee, or to protect the interests of the County or an agency.
- (b) *Investigation.* Before undertaking the defense of a board member, agent or employee, the County Solicitor shall investigate the facts upon which the legal action or special proceeding is based to determine whether the member's, agent's or employee's acts or omissions were within the scope of his/her employment and whether they were malicious.
- (c) *Approval Required.* Based upon the results of the investigation and the recommendations of the Risk Management Program Committee, the County Executive may authorize the County Solicitor to defend the board member, agent or employee. The County Solicitor may not defend board members, agents and employees without the approval of the County Executive.
- (d) *Solicitor Coordinates Defense; Initiation of Process.* The County Solicitor coordinates the provision of defense on behalf of the risk management program. Upon written request, the County Solicitor may undertake the defense of the Board of Education, its public officials, agents and employees, with the recommendation of the Risk Management Program Committee and the approval of the County Executive.

- (e) *Other Legal Counsel.* The Board of Education may direct its legal counsel to undertake the defense of any claim against the Board of Education, its public officials, employees and agents. Upon recommendation of the County Solicitor, this defense shall be funded from the risk management fund in accordance with the professional services policy established by the risk management committee. Legal counsel for the Board of Education shall consult with and advise the County Solicitor as to the status of each claim.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.406. - Special verdict.

The County Solicitor, the solicitor's designee, outside counsel or the legal counsel for the Board of Education shall request the court to require a special verdict in the form of written findings which determine:

- (a) Whether the board member, agent or employee was acting within the scope of employment; or
- (b) In the case of an employee or agent, whether the alleged act or omission was malicious.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.407. - Requirement to repay the risk management fund for costs of defense.

Before the County Solicitor or outside counsel undertakes the defense of a board member, agent or employee, the board member, agent or employee shall sign an agreement which provides that the board member, agent or employee understand that if the information provided during the investigation was not complete and true or was misleading; or if the board member, agent or employee otherwise fails to cooperate in the defense the County Solicitor:

- (a) May withdraw as counsel to the board member, agent or employee with leave of court or request other counsel provided under subsection 23.405(e) to withdraw; or
- (b) May charge the board member, agent or employee for continued defense; and
- (c) May seek reimbursement from the employee for any judgment the Board or the risk management fund may be required to pay.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.408. - Settlement obligations.

- (a) Before the County Solicitor or other counsel selected by the Board undertakes the defense of a board member, agent or employee, the board member, agent or employee shall sign an agreement which provides that the claim shall not be compromised or settled without first notifying the board member, agent or employee of the proposed settlement and of its terms and after giving the individual the opportunity to suggest additional terms that are in the interest of the employee and the Board.
- (b) The agreement shall also provide that the Board of Education shall obtain the written consent of the board member, agent or employee to the settlement of a claim if either:
 - (1) The proposed settlement will not provide him/her with a general release; or
 - (2) The Board of Education intends to ask the board member, agent or employee to repay of the cost of the settlement or of the legal costs.
- (c) The agreement shall further provide that if the board member's, agent's or employee's consent is required and the officer, agent or employee does not consent to a compromise or settlement

recommended by the County Solicitor or other counsel and approved by the Risk Management Program Committee, the County Solicitor or outside counsel may treat the failure to consent as a failure to cooperate pursuant to section 23.407 of this subtitle.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.409. - Responsibility for costs of board member, agent or employee.

- (a) *Risk Management Fund Pays.* If a decision is made not to undertake the defense of the Board, a board member, agent or employee and the court finds that the acts or omissions of the board member, agent or employee were within the scope of employment or authorized official capacity and, in the case of an employee or agent, were not malicious, the costs of the defense, including court costs and attorneys' fees, shall be paid from the risk management fund except in cases where the court orders the plaintiff to pay these costs.
- (b) *Plaintiff Pays.* If the court finds for the board member, agent or employee and there is reason to believe that the action or proceeding was instituted in bad faith or without substantial justification, the Risk Management Program Committee may authorize the County Solicitor, assistant County Solicitor, other counsel or private counsel for the board member, agent or employee to petition the court to require the plaintiff to pay the risk management fund or the board member, agent or employee, as the case may be, the costs of defending the case, including court costs and attorneys' fees.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.410. - Payment of judgment or settlement.

- (a) *Judgments.* The amount of any judgments against board members, agents and employees shall be paid from the risk management fund up to the limits set forth in the agreement between Howard County Government and the Howard County Board of Education.
- (b) *Settlements.* The Risk Management Program Committee may approve proposed settlements and shall authorize payment of settlements negotiated and approved on behalf of the Board, its members, officials, agents and employees, up to the limits set forth in the agreement between the Howard County Government and the Howard County Board of Education, if, in the opinion of the Committee:
 - (1) The Board member, agent or employee was acting within the scope of employment or is likely to be found by a court or jury to have been acting within the scope of employment; and
 - (2) The costs of the litigation, the risks of a judgment adverse to the officer, agent or employee, and other relevant factors indicate that settlement is appropriate under the circumstances.
- (c) *Repayment by Board Member, Agent or Employee.* The Board of Education may collect from the official, agent or employee any amounts paid in compensatory damages for acts or omissions of the individual within the scope of his/her employment, when it is found that the board member, agent or employee acted with actual malice.

(C.B. 55, 1986; C.B. 65, 1995)

SUBTITLE 5. - DEFENSE OF ACTIONS AGAINST OFFICERS, AGENTS AND EMPLOYEES OF THE HOWARD COUNTY COMMUNITY COLLEGE

Sec. 23.500. - Purpose.

The purpose of this subtitle is to define the role of County Government and the risk management program in the defense of Howard County Community College officers, agents and employees in legal actions related to their employment. The provisions of this subtitle shall be effective during the life of an agreement between the Howard County Government and the Howard County Community College for pooled comprehensive risk management pursuant to the provisions of subtitle 1 of this title.

This subtitle is intended to provide the self-insurance coverage authorized by subsection 16-206(c) of the education article of the Annotated Code of Maryland, as amended from time to time. Nothing in this subtitle is intended to be inconsistent or in conflict with any State law or regulation pertaining to the Howard County Community College.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.501. - Definitions.

Words and phrases used in this subtitle have their usual meaning, except that *employee(s)*, *agent(s)* and *board member(s)* includes current and former employee(s), agent(s) and board member(s) of the Howard County Community College. *Board* means the Board of trustees of Howard County Community College; and *board members*, *agent(s)* and *employee(s)* includes current and former members, agent(s) and employee(s) of the Board of trustees of Howard County Community College.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.502. - Claim of immunity.

This subtitle shall not be read to be a waiver of the defense of sovereign immunity or of any other immunity defense available by law to the Board, its employees, agents or officials.

(C.B. 55, 1986; C.B. 65, 1995)

State Law reference— Tort immunity of community colleges, Ann. Code of Md., Courts and Judicial Proceedings article, § 5-519.

Sec. 23.503. - Responsibility for providing defense; payment of judgment.

- (a) *Defense.* The risk management program shall provide for defense of claims against the Board of trustees of the Community College, its members, public officials, agents and employees, arising from acts or omissions committee within the scope of employment or authorized official capacity.
- (b) *Responsibility for Paying Judgment.* A claim or judgment against a board member, agent or employee of the Community College shall be satisfied from the risk management fund, up to the limit established by law or up to any lesser amount that may be set in the agreement between the Community College and the County, for damages resulting from tortious acts or omissions committed by the board member, agent or employee acting within the scope of employment or authorized official capacity and without malice.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.504. - Requirement for County Solicitor to provide defense.

- (a) *Initiation of Process.* The County Solicitor may become involved in the case upon written request of the Board, board member, agent or employee, or to protect the interests of the County or an agency.

- (b) *Investigation.* Before undertaking the defense of a board member, agent or employee, the County Solicitor shall investigate the facts upon which the legal action or special proceeding is based to determine whether the member's, agent's or employee's acts or omissions were within the scope of his/her employment and whether they were malicious.
- (c) *Approval Required.* Based upon the results of the investigation and the recommendations of the Risk Management Program Committee, the County Executive may authorize the County Solicitor to defend the board member, agent or employee. The County Solicitor may not defend board members, agents and employees without the approval of the County Executive.
- (d) *Solicitor Coordinates Defense; Initiation of Process.* The County Solicitor coordinates the provision of defense on behalf of the risk management program. Upon written request, the County Solicitor may undertake the defense of board members, agents or employees with the recommendation of the Risk Management Program Committee and approval of the County Executive.
- (e) *Other Legal Counsel.* The Community College may direct its legal counsel to undertake the defense of any claim against the Community College, its public officials, employees and agents. Upon recommendation of the County Solicitor, the defense shall be funded from the risk management fund in accordance with the professional services policy established by the Risk Management Program Committee. Legal counsel for the Community College shall consult with and advise the County Solicitor as to the status of each claim.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.505. - Special verdict.

The County Solicitor, the solicitor's designee, outside counsel or counsel for the Community College shall request the court to require a special verdict in the form of written findings which determine:

- (a) Whether the board member, agent or employee was acting within the scope of employment; or
- (b) Whether the alleged act or omission was malicious.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.506. - Requirement to repay the risk management fund for costs of defense.

Before the County Solicitor or outside counsel undertakes the defense of a board member, agent or employee, the board member, agent or employee shall sign an agreement which provides that the board member, agent or employee understands that if the information he/she provided during the investigation was not complete and true, or was misleading, or if the board member, agent or employee otherwise fails to cooperate in the defense the County Solicitor:

- (a) May withdraw as counsel to the board member, agent or employee with leave of court or request other counsel provided under section 23.504 to withdraw; or
- (b) May charge the board member, agent or employee for continued defense; and
- (c) May seek reimbursement from the employee for any judgment the Community College may be required, by law, to pay, consistent with its obligations under State law.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.507. - Settlement obligations.

- (a) Before the County Solicitor or other counsel selected by the Board undertakes the defense of a board member, agent or employee, the board member, agent or employee shall sign an agreement

which provides that the claim shall not be compromised or settled without first notifying the board member, agent or employee of the proposed settlement and of its terms and after giving the individual the opportunity to suggest additional terms that are in the interest of the employee and the Community College.

- (b) The agreement shall also provide that the Community College shall obtain the written consent of the board member, agent or employee to the settlement of a claim if either:
 - (1) The proposed settlement will not provide him/her with a general release; or
 - (2) The County intends to ask the officer, agent or employee to repay any of the costs of the settlement or of the legal costs.
- (c) The agreement shall further provide that if the board member's, agent's or employee's consent is required and the board member, agent or employee does not consent to a compromise or settlement recommended by the County Solicitor or other counsel and approved by the Risk Management Program Committee, the County Solicitor or other counsel may treat the failure to consent as a failure to cooperate pursuant to section 23.506 of this subtitle.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.508. - Responsibility for costs of board member, agent or employee.

- (a) *Risk Management Fund Pays.* If a decision is made not to undertake the defense of the Board or a board member, agent or employee and the court finds that the acts or omissions were within the scope of employment or authorized official capacity the costs of the defense, including court costs and attorneys' fees shall be paid from the risk management fund, except in cases where the court orders the plaintiff to pay these costs.
- (b) *Plaintiff Pays.* If the court finds for the board member, agent or employee and also finds that the action or proceeding was instituted in bad faith or without substantial justification, the Risk Management Program Committee may authorize the County Solicitor, assistant County Solicitor, other counsel or private counsel for the board member or employee to petition the court to require the plaintiff to pay the Risk Management Fund or the Board member, agent or employee, as the case may be, the costs of defending the case, including court costs and attorneys' fees.

(C.B. 55, 1986; C.B. 65, 1995)

Sec. 23.509. - Payment of judgment or settlement.

- (a) *Judgments.* The amount of any judgments against Board members, agents and employees shall be paid from the Risk Management Fund up to the limits set forth in the agreement between the Howard County Government and the Howard County Community College.
- (b) *Settlements.* The Risk Management Program Committee may approve payment of proposed settlements and shall authorize payment from the risk management fund of settlements negotiated and approved on behalf of the Board, its members, officials, agents and employees, up to the limits set forth in the agreement between the Howard County Government and the Howard County Community College, provided that, in the opinion of the Committee:
 - (1) The Board member, agent or employee was acting within the scope of employment or is likely to be found by a court or jury to have been acting within the scope of employment; and
 - (2) The costs of the litigation, the risks of a judgment adverse to the board member, agent or employee and other relevant factors indicate that settlement is appropriate under the circumstances.

- (c) *Repayment by board member, agent or employee.* The County may collect from the board member, agent or employee any amounts paid in compensatory damages for acts or omissions of the individual within the scope of his/her employment, when it is found that the Board member, agent or employee acted with actual malice.

(C.B. 55, 1986; C.B. 65, 1995)

TITLE 24 - CIVIL PENALTIES¹¹

Footnotes:

--- (1) ---

State Law reference— Civil penalties authorized, Ann. Code of Md. art. 25A, § 5(A)(5).

SUBTITLE 1. - CIVIL FINES AND PROCEDURES

Sec. 24.100. - Purpose.

This subtitle implements the authority contained in article 25A of the Annotated Code of Maryland to provide for the enforcement of County laws and regulations by civil fines.

(C.B. 31, 1985)

Sec. 24.101. - Definitions.

Words and phrases used in this subtitle shall have their usual meanings except as specified below:

I. *Civil violation:*

A violation of the County Code or of a regulation adopted pursuant to the County Code, which is punishable by a civil fine.

II. *Enforcement official* is the individual in an agency or department charged with enforcing its laws and regulations, generally the Department or agency head or his/her designated representative.

III. *Enforcing agency* means the Department or agency charged with enforcing a law or regulation.

IV. *Person* means an individual, partnership, joint venture, corporation, association, or organization.

V. *Repeated violation* means a recurring violation of the same provision of the County Code or regulation.

(C.B. 31, 1985)

Sec. 24.102. - Establishment of civil penalties.

An enforcing agency may impose a civil fine pursuant to the provisions of this subtitle as an alternative enforcement measure for violations of the Howard County Code or regulations adopted pursuant to the Code.

(C.B. 31, 1985)

Sec. 24.103. - Applicability; nonexclusive remedy.

I. *Applicability*. The provisions of this subtitle shall apply unless Howard County laws and regulations provide otherwise.

II. *Nonapplicability to Animal Control Law*. The provisions of this subtitle do not apply to civil citations issued pursuant to subtitle 3, "animals," of title 17, "public protection services," of the Howard County Code.

III. *Nonexclusive Remedy*. Nothing in this subtitle shall prevent an enforcing agency from seeking other remedies provided by law or regulations, such as injunctions or criminal prosecution.

IV. *Nonapplicability to Violations of the Subdivision and Land Development Regulations or the Howard County Zoning Regulations*. The provisions of this subtitle do not apply to citations or notices of violations issued under title 16, subtitle 16 of this Code.

(C.B. 31, 1985; C.B. 11, 1986; C.B. 3, 2008, § 6)

Sec. 24.104. - Duties of the County Solicitor.

The County Solicitor may prosecute all civil violations under this subtitle. The County Solicitor may institute proceedings on behalf of the County enforcement officials in any court of competent jurisdiction to enforce payment of the civil fines imposed pursuant to this subtitle.

(C.B. 31, 1985)

Sec. 24.105. - Determination of violation; notice of violation.

Unless laws and regulations provide other procedures, an Enforcement Official shall use the following procedure to determine that a violation has occurred and to notify the violator.

I. *Investigation:*

The Enforcement Official shall investigate the alleged violation to determine whether a violation exists or has occurred.

II. *Notice of Violation:*

If the Enforcement Official believes that a violation exists or has occurred and if law or regulation requires the issuance of a notice of violation, the Official shall issue a notice of violation to the person responsible for the violation. If a notice of violation is not required by law or regulation, the Enforcement Official may issue a notice at his/her discretion.

The Enforcement Official need not issue a violation notice for a repeated violation for which a citation has been issued. The notice shall describe the violation and shall give the person a reasonable time to abate the violation or to prevent future violations.

III. *Right of Appeal:*

The person charged with the violation may appeal the issuance of a violation notice only if such an appeal is authorized by law or regulation.

(C.B. 31, 1985)

Sec. 24.106. - Issuance of citation.

Unless law provides otherwise, the following provisions regarding citations shall be used:

I. *Continuing Violations:*

Each day that a violation continues after issuance of a notice of violation or citation shall be a separate violation. An inspection which indicates that a violation continues to exist shall be prima facie proof of a continuing violation which has existed since the last inspection.

II. *Authority to Issue Citation:*

(a) *After issuance of a notice of violation:*

If a violation continues after the reasonable time stated in the notice of violation and the person charged has neither made good-faith efforts to abate, correct or legalize the violation nor appealed the violation, the enforcement official may issue a citation to the person charged with the violation.

(b) *When notice of violation is not required:*

If law or regulation does not require the issuance of a notice of violation, the Enforcement Official may issue a citation when he/she determines that a violation exists or has occurred.

III. *Content of Citation:*

The citation shall contain:

- (a) Certification by the enforcement official attesting to the best of his/her knowledge that a violation exists or has occurred;
- (b) The name and address of the person charged;
- (c) The nature of the violation;
- (d) The time when the violation occurred and the place;
- (e) The amount of the fine;
- (f) The manner, location and time in which the fine may be paid; and
- (g) Notice informing the person of the right to stand trial for the violation.

IV. *Delivery of Citation:*

The Enforcement Official shall mail a copy of the citation to the last known address of the person charged. Instead of mailing, the enforcement official may deliver the citation personally to the person charged. In addition, a copy of the citation may be posted in a conspicuous place on the property where the violation exists or has occurred.

V. *Enforcement Official to Retain Copy:*

The Enforcement Official shall retain a copy of the citation.

VI. *Citation Not Appealable:*

The issuance of a citation is not appealable to any County Board or Commission.

(C.B. 31, 1985)

Sec. 24.107. - Fines.

- I. *Amount of Fine.* Unless another amount for a specific violation has been established by law or regulation, the civil fine shall be in the amount shown below:

Class of	Minimum	Maximum
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Offense	Fine	Fine
A	\$500.00	\$1,000.00
B	250.00	500.00
C	100.00	250.00
D	50.00	100.00
E	25.00	50.00

II. *Payment of Fines.* All fines are due and payable by the date indicated in the citation. The fine shall be payable to and collected by the Director of Finance of Howard County.

(C.B. 31, 1985)

Sec. 24.108. - Election to stand trial.

- I. *Right to Stand Trial.* A person who receives a citation may elect to stand trial for the alleged violation.
- II. *Notice Requirement.* At least five days before the due date of the fine, the person cited shall file with the Director of Finance a notice of intent to stand trial.
- III. *Notice to District Court; Scheduling of Case.* Upon receipt of a notice of intent to stand trial, the Director of Finance shall send a copy of the notice and a copy of the citation to the district court. Upon receipt of the citation, the district court shall schedule the case for trial and notify all parties of the trial date.
- IV. *Money Collected.* All fines, penalties or forfeitures collected by the district court for violations shall be sent to the Director of Finance of Howard County.

(C.B. 31, 1985)

Sec. 24.109. - Default.

- I. *Formal Notice.* If the person charged with the violation has not paid the fine by the due date and has not filed a notice of intent to stand trial, the Office of Finance shall send a formal notice of the alleged violation to the last known address of the person charged.
- II. *Additional Fine.* If the fine is not paid within 15 days of the date of the formal notice, the person shall pay an additional fine, not to exceed the original fine.
- III. *Adjudication.* If the fine is not paid within 35 days of the date of the formal notice, the Director of Finance may request the district court to adjudicate the case. The district court shall schedule the case for trial and summon the defendant to appear for trial.
- IV. *Civil Matter.* Adjudication of a violation is not a criminal conviction, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(C.B. 31, 1985)

Sec. 24.110. - Manner of prosecution.

In a proceeding before the district court under this subtitle:

I. *Burden of Proof Evidentiary Standards:*

- (a) *Burden.* It shall be the burden of the County to prove by a preponderance of the evidence that the defendant committed the violation, except in zoning violations where it shall be the burden of the County to prove by clear and convincing evidence that the defendant committed the violation.

II. *Right to Counsel:*

A defendant may be represented by a counsel of his/her own selection at his/her own expense.

III. *Notify Defendant of Charges:*

The court shall ensure that the defendant has received a copy of the charges and that he/she understands those charges.

IV. *Pleas; Cross-Examination; Witnesses:*

(a) *Plea:*

A defendant may enter a plea of guilty or not guilty.

(b) *Witnesses:*

The defendant may testify on his/her own behalf. The defendant may produce evidence and witnesses in his/her own behalf.

(c) *Cross-examinations:*

The defendant may cross-examine witnesses who appear against the defendant.

V. *Verdict of Court:*

The court shall give a verdict of guilty or not guilty of a County violation or the court may, before judgment, place the defendant on probation as the law permits in the trial of a criminal case.

VI. *Fine:*

The court may, at its discretion, suspend or defer the payment of any fine it imposes and may set conditions for the suspension or deferral.

VII. *Failure to Pay Fine:*

If a defendant willfully fails to pay the fine imposed by the court, the willful failure may be treated as a criminal contempt of court punishable by the court as is provided by law.

VIII. *Right to File Motion:*

A defendant who has been found guilty of a County violation has the same rights to file a motion for a new trial or a motion for a revision of a judgment as law or rule provides in the trial of a criminal case. The motions shall be made in the same manner as is now provided in the trial of criminal cases.

IX. *Court Costs:*

If the district court finds that a person has committed a civil violation, the person shall also be liable for the court costs of the proceedings in district court. A defendant shall not be liable for payment to the criminal injury compensation fund.

(C.B. 31, 1985; C.B. 62, 2003, § 1)

Sec. 24.111. - Severability.

If a court holds that part of this subtitle is invalid, the invalidity does not affect other parts.

(C.B. 31, 1985)

TITLE 25 - REVENUE AUTHORITY¹¹

Footnotes:

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Editor's note— Sections 1—3 of C.B. 69, 2005 enacted a new Title 25 as herein set out. Former Title 25 was titled as General Services and only contained reserved sections.

SUBTITLE 1. - HOWARD COUNTY REVENUE AUTHORITY

PART I. - STATE PROVISIONS

Sec. 25.101. - Definitions.

- (a) In this act the following words have the meanings indicated.
- (b) *Board* means the Board of Directors of the Howard County Revenue Authority.
- (c) *County* means Howard County.
- (d) *Plan* means the document that:
 - (1) Is prepared by the Revenue Authority and approved by the County Executive and the County Council; and
 - (2) Outlines or presents a strategy for the activities of the Revenue Authority.
- (e) *Revenue Authority* means the Howard County Revenue Authority.

(C.B. 69, 2005, § 2)

State Law reference— 2005 Laws of Maryland, Ch. 95.

Sec. 25.102. - Authority to establish; purpose; local legislation; applicable law; conveyance of County property; assignments; advances; budget; revenue bonds; authorities; taxation; prohibitions; financial report; records; dissolution.

- (a) (1) Howard County, Maryland, may establish by local legislation a revenue authority in the County. The Revenue Authority shall be known as the Howard County Revenue Authority, shall have perpetual existence as a corporation, shall be deemed to be performing an essential

public function, and shall also be considered to be a public body and an instrumentality of the County.

- (2) The purpose of the Revenue Authority is to finance or operate cultural, recreational (excluding golf courses), and parking facilities.
- (b) (1) The County may enact, by local legislation, the provisions of each section required by this act and provisions to supplement the provisions of the required sections, if not in conflict with the required sections.
- (2) The local legislation, if enacted, shall:
 - (i) Except as provided in sections 3 and 4 of this act (section 25.103 and section 25.104 of this Code), specify the organization and membership of the Revenue Authority;
 - (ii) Specify the purposes, as set forth in subsection 2(a)(2) of this act (subsection 25.102(a)(2) of this Code), of the Revenue Authority;
 - (iii) Specify the powers to be exercised by the Revenue Authority;
 - (iv) Provide for the exercise of all powers, authority, rights, and obligations required by this act; and
 - (v) Specify any other matters relating to the Revenue Authority as the County may determine.
- (c) (1) Except as provided in paragraphs (2) and (3) of this subsection and subsection 3(e)(2) of this act (subsection 25.103(e)(2) of this Code), the provisions of the County Charter or other County law regarding the duties, powers, or organization of the Revenue Authority do not apply to the Revenue Authority unless the County expressly provides by law that the Charter provision or law applies to the Revenue Authority.
- (2) The Revenue Authority shall be subject to section 2.125 et seq. of the Howard County Code or any successor provisions at law and to section 10.611, et seq. of the State government article of the Annotated Code of Maryland.
 - (3) The Board, officers, Executive Director, and employees of the Revenue Authority shall be subject to the Howard County Public Ethics Law, section 22.200, et seq. of the Howard County Code, or any successor provision of law.
- (d) (1) The County Executive, with the approval of the County Council, may convey to the revenue authority the County's title to any lands, streets, alleys, buildings, facilities, or other public places, on payment to the County of the reasonable value of such properties.
- (2) The Revenue Authority and the County Executive shall determine the value of the property with the approval of the County Council.
 - (3) Payment shall be made in cash or in bonds of the Revenue Authority at par value.
 - (4) Proceeds from the conveyance of any County property to the Revenue Authority under this section shall be applied by the County to:
 - (i) The repayment of County general obligation debt or revenue obligations issued to finance or refinance the acquisition or development of the property conveyed; or
 - (ii) The acquisition or development of capital projects of the County.
- (e) (1) Subject to paragraph (2) of this subsection, the County Executive, with the approval of the County Council, may assign to the revenue authority any rates, rentals, fees, or charges now being or hereafter received by the County, such assignment to be made for the purpose of providing additional security for any bonds to be issued under this act or for such other purposes as may be agreed to between the Revenue Authority and the County.
- (2) The County may not pay or otherwise transfer to the Revenue Authority as rates, rentals, fees, or charges, money from the general funds of the County to pay for financing public property to be occupied or used by the County for governmental purposes.

- (f)
 - (1) The County Council may advance to the Revenue Authority from the general funds of the County, sums to be used by the Revenue Authority to defray expenses for investigation, engineering and architectural studies, opinions, and compensation of employees and counsel, that may be incurred prior to the sale of its revenue bonds.
 - (2) Advances shall be repaid out of the first proceeds of the sale of revenue bonds by the revenue authority following any such advance.
 - (3) The advances may be made in accordance with subsection (h) of this section.
- (g) The budget for the Revenue Authority and any proposal by the Revenue Authority to sell bonds is subject to approval by the County Executive and the County Council.
- (h)
 - (1) The revenue bonds, certificates, or other evidences of indebtedness issued under the provisions of this subtitle may not be deemed to constitute a debt of the County or a pledge of the faith and credit of the County or of the State of Maryland or any political subdivision of the State of Maryland.
 - (2) The revenue bonds, certificates, or other evidences of indebtedness shall be payable from the funds of the Revenue Authority provided from revenues of the project or projects of the Revenue Authority.
 - (3) All revenue bonds shall contain a statement on their face to the effect that the full faith and credit of the County, State, or political subdivision of the State of Maryland is not pledged to pay such bonds or the interest thereon.
 - (4) Except as otherwise provided in paragraph (5) of this subsection, the issuance of the revenue bonds, certificates, or other evidences of indebtedness under the provisions of this subtitle may not directly, indirectly, or contingently obligate Howard County to levy or pledge any form of taxation or any appropriation for their payment.
 - (5) The County Executive may, with the approval of the Council, collaterally agree to provide sufficient moneys from the general fund of the County to pay any deficiency in the debt service requirements of such bonds for any year in which there is a deficit.
 - (6) An advance of moneys from the general fund of the County shall be repaid from the receipts, rentals, or revenues of the authority in the next succeeding year in which such receipts, rentals, or revenues exceed debt service requirements and operating expenses.
 - (7) An advance of moneys from the general fund of the County under any agreement or agreements shall not exceed, but shall be limited and restricted to, a maximum amount established by local legislation or, in the absence of local legislation, a maximum payment by the County of \$25,000.00 for any one year.
- (i)
 - (1) Revenue bonds issued by the Revenue Authority authorized by this subtitle are hereby made securities in which all public officers and public agencies of the State and its political subdivisions, and all banks, trust companies, savings and loan associations, investment companies, and others carrying on a banking business, all insurance companies and insurance associations and others carrying on an insurance business, all Administrators, executors, guardians, trustees, and other fiduciaries, and all other persons may legally and properly invest funds, including capital, in their control or belonging to them.
 - (2) Revenue bonds issued by the Revenue Authority are hereby made securities that may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.
- (j) The Revenue Authority established by the County may issue revenue bonds, notes, or other evidences of indebtedness.
- (k) The bonds, notes, and other evidences of indebtedness issued by the Revenue Authority established by the County, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, shall be exempt at all times from

taxation by the State, or by any of its counties, municipal corporations, or public agencies of any kind.

- (l) The bonds, notes, and other evidences of indebtedness issued by the Revenue Authority established by the County shall be exempt from the provisions of Article 31, sections 9, 10, and 11 of the Annotated Code of Maryland, or any successor provision.
- (m) The Revenue Authority established by the County may acquire real and personal property and interests in real and personal property and may pledge, mortgage, encumber, sell, lease, transfer, or convey any interest in its real and personal property to the County or any person.
- (n) Earnings of the Revenue Authority established by the County may not enure to the benefit of private persons.
- (o) Within 90 days after the end of the County's fiscal year, the Revenue Authority shall send the County Executive, the County Council, and the County Delegation to the General Assembly an annual financial report:
 - (1) Concerning:
 - (i) The activities of the Revenue Authority during the fiscal year; and
 - (ii) The Revenue Authority's financial standing at the end of the fiscal year; and
 - (2) Containing the audit report required under subsection (p)(2) of this section.
- (p)
 - (1) The Revenue Authority shall keep records consistent with sound business practices and accounting records using generally accepted accounting principles.
 - (2) The Revenue Authority shall have its books and records audited at the conclusion of each fiscal year.
 - (3) The books and records of the Revenue Authority shall be subject to audit, examination, and inspection at any reasonable time by the County Executive and the County Council or their designees.
 - (4) In addition to any financial audit required by this subsection, the County may conduct financial or management audits.
- (q) In the event of dissolution of the Revenue Authority established by the County, the title to all property financed by the proceeds of bonds, notes, or other evidences of indebtedness issued by the Revenue Authority shall revert to the County.
- (r)
 - (1) It is the intent of this subtitle that the Revenue Authority established by the County be a "constituted authority" within the meaning of the Internal Revenue Code of 1986, as amended, and the relevant regulations, rulings, and procedures.
 - (2) The powers of the Revenue Authority shall be construed to give effect to this intent.

(C.B. 69, 2005, § 2)

State Law reference— 2005 Laws of Maryland, Ch. 95.

Sec. 25.103. - Board of Directors; qualifications; membership terms; removal; officers; meetings; compensation.

- (a) On enactment of local legislation by the County establishing a Revenue Authority, there is a Board of Directors of the Revenue Authority, which shall manage the affairs of the authority and exercise all its corporate powers.
- (b) The Board shall have no more than seven voting members appointed by the County Executive with the approval of the County Council.

- (c) (1) Board members shall either be residents of Howard County or persons with business interests in the County.
- (2) Board members shall be selected for known leadership, experience, and interest in the well-being of the County and shall represent a cross section of the County.
- (3) Employees of the County, employees of the Revenue Authority, or elected officials of the County are not eligible to serve as board members.

- (d) (1) (i) Board members shall serve staggered terms of four years, as required in legislation enacted by the County.
 - (ii) At the end of a term, a board member continues to serve until a successor is appointed and qualifies.
- (2) A board member who is appointed to complete an unexpired term serves for the rest of that term or until a successor is appointed and qualifies.
- (3) A member may not be reappointed after having served eight or more consecutive years immediately before appointment.
- (e) (1) A member may be removed for incompetence, misconduct, or failure to perform the duties of the position.
- (2) Removal shall be pursuant to the provisions of section 903 of the Howard County Charter.
- (f) (1) The Board shall elect one of its members as chair, one as Vice-Chair, and one as Secretary-Treasurer, to serve two-year terms.
- (2) An officer may serve an unlimited number of terms during the officer's membership on the Board.
- (g) (1) A majority of the members of the Board constitute a quorum for the purpose of conducting business.
- (2) The affirmative vote of a majority of the members is required before the Board may take action.
- (3) The Board shall meet at least once a month at the times and places that it determines and more often at the call of the chair.
- (h) The Board members shall receive no compensation for their services except reasonable and necessary expenses (including travel expenses) incurred in the discharge of their duties as provided in the Revenue Authority's budget.

(C.B. 69, 2005, § 2)

State Law reference— 2005 Laws of Maryland, Ch. 95.

Sec. 25.104. - Executive Director; authority to hire consultants.

- (a) (1) Subject to the approval of the Board, the County Executive shall nominate one or more candidates for Executive Director, who shall be the Chief Administrative Officer of the Revenue Authority.
- (2) The Executive Director:
 - (i) Shall serve at the pleasure of the Board and the County Executive; and
 - (ii) May be removed from office either by the County Executive with the concurrence of the Board or by a two-thirds vote of the Board.

- (3) The duties, responsibilities, and compensation of the Executive Director shall be determined by the Board.
 - (4) The Executive Director shall appoint or employ any additional professional, technical, or clerical staff necessary to carry out the Revenue Authority's duties, and shall determine their qualifications, duties, and compensation.
- (b) The Board may engage any necessary accountants, engineers, financial advisors, or other consultants.

(C.B. 69, 2005, § 2)

State Law reference— 2005 Laws of Maryland, Ch. 95.

Sec. 25.105. - Powers and authority.

- (a) The powers granted to the Revenue Authority may not be construed to authorize the revenue authority to:
- (1) Preempt or supersede the regulatory authority of any State or County department or agency; or
 - (2) Engage in any activity which is beyond its stated purpose or powers.
- (b) In addition to other powers granted to it under this subtitle or by local legislation enacted by the County, the Revenue Authority has the following powers:
- (1) To develop and annually update the plan for the County;
 - (2) To implement the plan for the County;
 - (3) To make, amend, and repeal bylaws, rules, and regulations in a manner consistent with this act and in compliance with the provisions of the Howard County Administrative Procedures Act;
 - (4) To have a seal and alter the seal at its pleasure;
 - (5) To purchase, lease, hold, or obtain options on real or personal property or interest in real or personal property as these are necessary for the efficient regular operation of the Revenue Authority;
 - (6) To acquire real or personal property or interest in real or personal property by gift, grant, bequest, devise, or other means;
 - (7) To sell, lease, transfer, exchange, assign, pledge, or dispose of any real or personal property or any interest in real or personal property as these are necessary for the efficient regular operation of the Revenue Authority;
 - (8) To receive and accept any contribution, gift, or grant from any public or private source;
 - (9) To establish and appoint advisory groups and committees to assist in carrying out the duties of the Revenue Authority;
 - (10) To exercise any power possessed by private corporations in performing similar functions, which is not in conflict with Federal, State, or County law; and
 - (11) To do all things necessary and convenient to carry out the powers and duties set forth in this act.

(C.B. 69, 2005, § 2)

State Law reference— 2005 Laws of Maryland, Ch. 95.

Sec. 25.106. - Updating the existing plan; plan requirements.

- (a) On or before October 30 of each year, the Revenue Authority shall submit a plan for an update to the existing plan to the County Executive for the County Executive's approval.
- (b) The plan:
 - (1) Shall include an annual work program for the next fiscal year with a proposed level of funding;
 - (2) Shall be consistent with the general plan, the prevailing zoning map and regulations, and the subdivision and land development regulations for the County; and
 - (3) Shall promote the quality of life of the County residents.

(C.B. 69, 2005, § 2)

State Law reference— 2005 Laws of Maryland, Ch. 95.

PART II. - LOCAL PROVISIONS.

Sec. 25.107. - Revenue Authority established.

The Howard County Revenue Authority is hereby established pursuant to Chapter 95 of the Laws of Maryland, 2005 and Part I of Subtitle I of Title 25 of this Code.

(C.B. 69, 2005, § 3)

Sec. 25.108. - Number of members on the Board of Directors.

There is a Board of Directors of the Revenue Authority that shall have five voting members appointed by the County Executive and approved by the County Council.

(C.B. 69, 2005, § 3)

Sec. 25.109. - Submission of budget request to the County.

The Revenue Authority shall submit any operating budget request to the County Executive on or before a date set by the County Executive.

(C.B. 69, 2005, § 3)

Sec. 25.110. - Condemnation.

The Revenue Authority may not exercise the power of eminent domain to condemn property.

(C.B. 69, 2005, § 3)

Sec. 25.111. - Severability.

If any provision of this subtitle or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity shall not affect other provisions or any other application of this subtitle which can be given effect without the invalid provision or application, and for this purpose the provisions of this subtitle are severable.

(C.B. 69, 2005, § 3)

TITLE 26 - ECONOMIC DEVELOPMENT

SUBTITLE 1. - ECONOMIC DEVELOPMENT AUTHORITY¹¹

Footnotes:

--- (1) ---

Editor's note— Subtitle 1, §§ 26.100—26.110 is derived from 1993 Laws of Maryland ch. 356. The headings were added editorially for ease of reading and were not part of the legislation as passed.

Sec. 26.100. - Definitions.

- (a) In this subtitle the following words have the meanings indicated:
- (b) *Authority* means the Howard County Economic Development Authority.
- (c) *Board* means the Board of Directors of the Howard County Economic Development Authority.
- (d) *County* means Howard County.
- (e) *Economic development plan or plan* means the document that:
 - (1) Is prepared by the Authority and approved by the County Executive; and
 - (2) Outlines or presents a strategy for promoting economic development in the County.

(1993, ch. 356)

Sec. 26.101. - Establishment and purpose.

- (a) *Establishment*. There is a body corporate and politic known as the Howard County Economic Development Authority.
- (b) *Essential Public Function*. In carrying out the powers and duties conferred by this subtitle, the Economic Development Authority is performing an essential public function.
- (c) *Purpose*. The purpose of the Economic Development Authority is to:
 - (1) Develop and implement an economic development plan for Howard County;
 - (2) Promote economic development, relieve conditions of unemployment, and encourage new job creation in Howard County;
 - (3) Encourage the location of new industry, commerce and business for a balanced economy in the County;
 - (4) Assist in the retention of existing business and industry in the County and increase its commerce; and
 - (5) Generally promote the economic health, welfare, and quality of life of the residents of Howard County.

(1993, ch. 356)

Sec. 26.102. - Board of Directors.

- (a) *Establishment.* There is a Board of Directors of the Authority, which shall manage the affairs of the Authority and exercise all its corporate powers.
- (b) *Number of Board Members; Appointment:*
 - (1) The Board shall have 13 voting members appointed by the County Executive with the approval of the County Council.
 - (2) The Chairman of the Mid-Maryland Private Industry Council shall designate a Howard County private sector representative from the Council to be an ex officio nonvoting member.
- (c) *Qualifications of Board Members:*
 - (1) Board members shall either be residents of Howard County or persons with business interests in the County.
 - (2) Board members shall be selected for known leadership, experience, and interest in the economic well-being of the County and shall represent a cross section of the County.
 - (3) Employees of the County, employees of the Authority, or elected officials of the County are not eligible to serve as board members.
- (d) *Terms of Office:*
 - (1) (i) Except for the ex officio nonvoting member, board members shall serve staggered terms of four years, as required by the terms provided for members of the Board of July 1, 1993.
 - (ii) At the end of a term, a board member continues to serve until a successor is appointed and qualifies.
 - (2) A board member who is appointed to complete an unexpired term, serves only for the rest of that term or until a successor is appointed and qualifies.
 - (3) A member may not be reappointed after having served eight or more consecutive years immediately before appointment.
- (e) *Removal from Office:*
 - (1) A member may be removed for incompetence, misconduct, or failure to perform the duties of the position.
 - (2) Removal shall be pursuant to the provisions of section 903 of the Howard County Charter.
- (f) *Officers of the Board:*
 - (1) The Board shall elect one of its members as Chair, one as Vice-Chair, and one as Secretary-Treasurer, to serve two-year terms.
 - (2) Officers may be reelected for an unlimited number of terms during their membership on the Board.
- (g) *Quorum; Meetings:*
 - (1) Seven members of the Board, excluding the ex officio nonvoting member constitute a quorum for the purpose of conducting business.
 - (2) The affirmative vote of at least seven members is required before the Board may take action.
 - (3) The Board shall meet at least once each month at the times and places that it determines and more often at the call of the chair.
- (h) *Compensation.* The Board members shall receive no compensation for their services except reasonable and necessary expenses (including travel expenses) incurred in the discharge of their duties as provided in the Authority's budget.

(1993, ch. 356; 1996, ch. 268)

Sec. 26.103. - Executive Director.

(a) *Appointment; Staff:*

- (1) Subject to the approval of the Board, the County Executive shall nominate one or more candidates for Executive Director, who shall be the Chief Administrative Officer of the Authority.
- (2) The Executive Director:
 - (i) Shall serve at the pleasure of the Board and the County Executive; and
 - (ii) May be removed from office either by the County Executive with the concurrence of the Board or by a two-thirds vote of the Board.
- (3) The duties, responsibilities, and compensation of the Executive Director shall be as determined by the Board.
- (4) The Executive Director shall appoint or employ any additional professional, technical, or clerical staff necessary to carry out the Authority's duties, and shall determine their qualifications, duties and compensation.

(b) *Staff and Services:*

- (1) The Board may use in-kind services of the County departments and agencies for needs associated with implementation of the economic development plan.
- (2) The Board may engage any necessary accountants, engineers, financial advisors, or other consultants.

(1993, ch. 356)

Sec. 26.104. - Torts, claims, ethics.

- (a) *Local Government Employees.* The Board, officers, Executive Director, and employees of the Economic Development Authority are local government employees for the purposes of title 5, subtitle 4 of the courts article of the Annotated Code of Maryland (the Local Government Tort Claims Act).
- (b) *Good-Faith Exercise of Powers.* No claim may arise against and no liability may be imposed on a Board member for a statement made or action taken in good-faith exercise of the powers granted and duties imposed under this subtitle.
- (c) *Howard County Public Ethics Law.* The Board, officers, Executive Director, and employees of the Authority are local officials for the purposes of title 6 of article 40A of the Annotated Code of Maryland and are therefore subject to the Howard County Public Ethics Law [section 22.200 et seq.].
- (d) *Conflict of Interest:*
 - (1) A Board member may not participate in a decision related to the approval of a contract if the Board member has any interest, direct or indirect, in the project or contract under consideration by the Authority.
 - (2)
 - (i) If a Board member has an interest in a project or contract which is under consideration by the Authority, the Board member shall disclose the interest in writing to the other members of the Authority and the disclosure shall be entered into the minutes of the Authority.
 - (ii) Failure to disclose an interest shall constitute misconduct in office.

(1993, ch. 356)

Sec. 26.105. - Financial reports and records.

- (a) *Annual Financial Report.* Subject to section 22.1000 of the County Code, within 90 days after the end of the County's fiscal year, the authority shall send the County Executive and the County Council an annual financial report:
- (1) Concerning:
 - (i) The activities of the Authority during the fiscal year;
 - (ii) The Authority's financial standing at the end of the fiscal year; and
 - (iii) Recommendations for the improvement and advancement of the economic welfare of the County; and
 - (2) Containing the audit report required under subsection (b)(2) of this section.
- (b) *Records:*
- (1) The Authority shall keep records consistent with sound business practices and accounting records using generally accepted accounting principles.
 - (2) The Authority shall have its books and records audited at the conclusion of each fiscal year.
 - (3) The books and records of the Authority shall be subject to audit, examination and inspection at any reasonable time by the County Executive or County Council or their designees.
 - (4) In addition to any financial audit required by this section, the County may conduct financial or management audits.

(1993, ch. 356; 1994, ch. 35; 1996, ch. 268; C.B. 43, 2018, § 1)

Sec. 26.106. - Powers of the Authority.

- (a) *Restrictions.* The powers granted to the Authority may not be construed to authorize the Authority to:
- (1) Engage in any speculative land transactions;
 - (2) Preempt or supersede the regulatory authority of any State or County department or agency;
 - (3) Participate in the zoning process; or
 - (4) Engage in any activity which is beyond its stated purpose or powers.
- (b) *Powers.* The Authority has the following powers:
- (1) To develop and annually update the economic development plan for the County;
 - (2) To implement the economic development plan for the County;
 - (3) To make, amend, and repeal bylaws, rules and regulations in a manner consistent with this subtitle and in compliance with the provisions of the Howard County Administrative Procedure Act [appendix B];
 - (4) To coordinate the industrial development bond program and other financing programs to assist economic development in the County;
 - (5) To cooperate and coordinate efforts with the private industry council in maximizing employment and economic development opportunities;
 - (6) To cooperate and coordinate with the Agricultural Land Preservation Board in promoting and enhancing the agricultural industry in the County;
 - (7) To sue and be sued;

- (8) To have a seal and alter the seal at its pleasure;
- (9) To have perpetual succession;
- (10) To make and execute contracts and other legal instruments necessary or convenient to the exercise of its powers and as necessary for the efficient regular operation of the Authority;
- (11) To purchase, lease, use, hold, or obtain options on real or personal property or interest in real or personal property as these are necessary for the efficient regular operation of the Authority;
- (12) To acquire real or personal property or interest in real or personal property by gift, grant, bequest, devise, or other means;
- (13) To sell, lease, transfer, exchange, assign, pledge or dispose of any real or personal property or any interest in real or personal property as these are necessary for the efficient regular operation of the Authority;
- (14) To apply for and accept any loans, grants or assistance of any kind from the Federal, State, or local government or from any private source including high-technology grants for technology development in maximizing new and existing economic development opportunities;
- (15) To receive and accept any contribution, gift, or grant from any public or private source;
- (16) To establish and appoint advisory groups and committees to assist in carrying out the duties of the Authority;
- (17) To contract for the use of services, equipment, or space needs from governmental agencies;
- (18) To exercise any power possessed by private corporations in performing similar functions, which is not in conflict with Federal, State or County law; and
- (19) To do all things necessary and convenient to carry out the powers and duties set forth in this subtitle.

(1993, ch. 356)

Sec. 26.107. - Appropriation to implement economic development plan.

(a) *Submission of Plan; Nature of Plan:*

- (1) On or before October 30 of each year the Authority shall submit an economic development plan or an update to the existing plan to the County Executive for the Executive's approval.
- (2) The economic development plan:
 - (i) Shall include an annual work program for the next fiscal year with a proposed level of funding;
 - (ii) Shall be consistent with the general plan, the prevalent zoning map and regulations, and the subdivision and land development regulations of the County;
 - (iii) Shall foster a strong, stable economy in the County by supporting existing businesses and attracting targeted new business;
 - (iv) Shall promote the quality of life of the County residents; and
 - (v) May not include or encourage the promotion of speculative land transactions by the Authority.

(b) *Submission of Budget Request to County Executive:*

- (1) On or before March 1 of each year and in a form approved by the County, the Authority shall submit to the County Executive an operating budget request to implement the approved economic development plan.

- (2) The operating budget request shall include funding solely for implementing the annual work program portion of the approved economic development plan.
- (3) The operating budget request shall not include any requested funding for speculative land transactions or for any loan program funded solely by the County.
- (c) *County Executive's Budget Includes Appropriation to Implement Economic Development Plan.* The proposed budget of the County Executive for the next fiscal year shall include an appropriation to implement the annual work program portion of the approved economic development plan.
- (d) *County Council Appropriates Funds.* In acting upon the proposed budget of the County Executive for the next fiscal year, the County Council shall, consistent with its Charter powers in approving the budget, review and approve an appropriation of funds to implement the annual work program portion of the approved economic development plan.
- (e) *Reduction of Appropriation During Fiscal Year.* Notwithstanding the provisions of this section or any other provision of this subtitle, the County may reduce an appropriation to implement the annual work program portion of the approved economic development plan during a fiscal year if:
 - (1) Revenues for the current fiscal year are anticipated to be substantially below the revenue included in the County's current fiscal year budget; or
 - (2) The County experiences any other financial hardship or economic condition that requires the County to reduce expenditures authorized in its current fiscal year budget.

(1993, ch. 356)

Sec. 26.108. - General provisions.

- (a) *Open Meetings; Public Documents.* The Authority and its officers and employees are subject to sections 10.611 through 10.628 of the State Government article (the Public Information Act).
- (b) *Public Body.* For purposes of applying for, receiving, and entering into agreements in connection with grants, insurance, or other forms of financial assistance, the Authority shall be considered a public body.
- (c) *Pensions.* For purposes of article 73B (pensions) of the Annotated Code of Maryland, the Authority shall be considered a municipal corporation.
- (d) *Taxation.* The Authority is exempt from taxation by the State and the County.

(1993, ch. 356)

Sec. 26.109. - Local legislation.

- (a) The County may enact legislation concerning the Authority if the legislation is consistent with this subtitle.
- (b) The powers conferred by this subtitle may be exercised by the Authority pursuant to and in accordance with:
 - (1) Local law enacted by Howard County; or
 - (2) A contract or contracts with the County.

(1993, ch. 356)

Sec. 26.110. - Severability.

If any provisions of this subtitle or the application thereof to any person or circumstances is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect the other provisions or any other application of this subtitle which can be given effect without the invalid provision or application, and for this purpose the provisions of the subtitle are declared severable.

(1993, ch. 356)

SUBTITLE 2. - ECONOMIC DEVELOPMENT GRANT ASSISTANCE PROGRAM²

Footnotes:

--- (2) ---

Editor's note— C.B. 7, 1993 renumbered former §§ 13.1300—13.1909 as subtitle 2 of a newly created title 26.

Sec. 26.200. - Purpose.

The purposes of the Economic Development Grant Assistance Program are:

- (a) To develop the economic strength of the County through efficient use of public and private resources;
- (b) To foster cooperation and partnership between the public and private sectors in the area of economic development;
- (c) To encourage private organizations to support the economic development of the County by providing financial and/or educational resources for new and expanding businesses;
- (d) To identify and develop resources available for the support of developing businesses; and
- (e) To assist the County by providing incentives for private organizations to promote industrial, commercial and economic development, especially of new and desirable industries.

(C.B. 100, 1992; C.B. 7, 1993)

Sec. 26.201. - Establishment.

There is an Economic Development Grant Assistance Program administered by the County Executive or the County Executive's designee. The designee may be the Economic Development Authority if the Authority agrees to accept this responsibility.

(C.B. 100, 1992; C.B. 7, 1993)

Sec. 26.202. - Definitions.

- (a) *Budget* means the annual operating budget approved by the County Council pursuant to article VI of the Howard County Charter.
- (b) *Authority* means the Howard County Economic Development Authority.
- (c) *County Executive* means the County Executive of Howard County or the County Executive's designee.
- (d) *Sponsor* means an organization which:

- (1) The Internal Revenue Service has qualified as exempt under subsection 501(c)(3) of the Internal Revenue Code;
- (2) Has a primary goal of promoting and advancing economic growth and employment opportunities in Howard County;
- (3) Operates a grant and/or loan program in Howard County for small businesses and start-up businesses which cannot qualify for commercial bank loans; and
- (4) Funds its grant and/or loan program substantially with private funds.

(C.B. 100, 1992; C.B. 7, 1993)

Sec. 26.203. - Regulations.

The County Executive shall develop rules and regulations for the administration of the Economic Development Grant Assistance Program, including criteria for the approval of applications and the awarding of financial and in-kind grants.

(C.B. 100, 1992; C.B. 7, 1993)

Sec. 26.204. - Source of funds or in-kind assistance.

- (a) The County Executive may provide assistance to sponsors in the form of grant funds or in-kind assistance.
- (b) Funds or the cost of in-kind assistance granted by the County Executive shall have been appropriated to the Economic Development Grant Assistance Program in the County Executive's budget.

(C.B. 100, 1992; C.B. 7, 1993)

Sec. 26.205. - Application process.

- (a) *Preapplication Process.* Sponsors are encouraged to consult with the County Executive in developing and implementing their programs. The County Executive will be available for advice and consultation throughout the process.
- (b) *Submission of Application.* A sponsor shall submit an application for the Economic Development Grant Assistance Program for the next fiscal year to the County Executive by January 1 of the current fiscal year. The application shall include:
 - (1) The name and address of the sponsor;
 - (2) The name and phone number of a contact person in the sponsor's organization;
 - (3) Proof of the sponsor's qualification as a 501(c)(3) organization;
 - (4) A description of the sponsor and its economic development program;
 - (5) The sponsor's history in relation to economic development in the County, including the names and addresses of businesses which have been assisted;
 - (6) The amount of the grant or the amount and type of in-kind assistance which the sponsor is requesting from the County;
 - (7) The specific program(s) where the grant funds or in-kind assistance will be used, including criteria for businesses to receive grants or loans.

(C.B. 100, 1992; C.B. 7, 1993)

Sec. 26.206. - Granting of funds or in-kind assistance.

- (a) *Review by Executive.* The County Executive, after reviewing the application, shall determine the amount of money or in-kind assistance, if any, to grant during the next fiscal year to each sponsor who has applied.
- (b) *Special Factors to be Considered in Determining Grants or In-Kind Assistance.* In making determinations, the County Executive shall consider the ultimate economic and social benefits to be gained, including the provision of services and funds to viable businesses which would otherwise not be adequately capitalized and to businesses which have been historically under-utilized such as enterprises owned by minorities, women, and persons with disabling conditions.
- (c) *Grant Agreement.* If the County Executive decides to grant funds or in-kind assistance to a sponsor, a grant agreement shall be executed between the County and the sponsor setting out the amount and terms of the grant or in-kind assistance.

(C.B. 100, 1992; C.B. 7, 1993)

Sec. 26.207. - Reporting requirement.

A sponsor who receives a grant of funds or in-kind assistance from the Economic Development Grant Assistance Program in any fiscal year shall provide the County with a financial report by the next October 1 following the end of that fiscal year. In addition, the sponsor's financial records shall be available for inspection by the County during the course of the fiscal year and for three years thereafter.

(C.B. 100, 1992; C.B. 7, 1993)

Sec. 26.208. - Conditions.

As a condition of the County's financial or in-kind assistance, the sponsor agrees to:

- (a) Make its programs available to developing commercial and industrial businesses;
- (b) Encourage and support minority-owned businesses and businesses owned by disabled or disadvantaged persons so that they may become independent and viable contributors to the County's economy;
- (c) Encourage development of businesses that will generate additional employment opportunities in Howard County;
- (d) Encourage participating businesses to seek appropriate training and education to enable them to succeed; and
- (e) Educate businesses to become aware of and utilize the resources provided by other government and community organizations.

(C.B. 100, 1992; C.B. 7, 1993)

Sec. 26.209. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 100, 1992; C.B. 7, 1993)

SUBTITLE 3. - ECONOMIC DEVELOPMENT INCENTIVE FUND AUTHORIZATION

Sec. 26.300. - [Issuer fees established.]

- (a) In this subtitle, *revenue bonds* means bonds authorized under the Maryland Economic Development Revenue Bond Act.
- (b)
 - (1) Howard County may establish, by law, an issuer fee for issuing or refinancing revenue bonds pursuant to the Maryland Economic Development Revenue Bond Act.
 - (2) An issuer fee established under this subsection:
 - (i) May be in addition to any application fee; but
 - (ii) May not exceed the limits specified in this section.
 - (3) In enacting a law establishing an issuer fee, Howard County may exempt from the fee certain categories of revenue bonds.
 - (4) Revenues from the issuer fee may only be used for the purposes and in the manner specified in this subtitle.
- (c)
 - (1) An issuer fee may not exceed:
 - (i) For revenue bonds providing initial financing, an amount equal to one-eighth of one percent per annum of the outstanding principal balance of the bonds (not to exceed \$10,000,000.00), discounted at the bond yield to the date of issue of the bonds; or
 - (ii) For revenue bonds used to refund existing revenue bonds one-fourth of one percent of the principal amount of the bonds.
 - (2) The issuer fee may not exceed an amount that is in excess of the amount allowed under the arbitrage limitations under the Internal Revenue Code and regulations adopted under the Internal Revenue Code.
- (d) If the County establishes an issuer fee, the Director of Finance shall place all revenue collected through the fee in the economic development incentive fund.

(1996, Ch. 640)

Editor's note— Sections 26.300 and 26.301 is derived from 1996 Laws of Maryland ch. 640. The catchlines were added editorially for ease of reading and were not part of the legislation as passed. Section 26.301 was amended by 2000 Laws of Maryland, ch. 193.

Sec. 26.301. - Nonreverting special revenue funds established.

- (a) If the County establishes an issuer fee under section 26.300 of this subtitle, there is established a nonreverting special revenue fund known as the economic development incentive fund.
- (b) The economic development incentive fund consists of:
 - (1) Issuer fees established under section 26.300 of this subtitle; and
 - (2) Other money appropriated to the fund through the County's budgetary process.
- (c) The economic development incentive fund may be used:
 - (1) To retain, expand, or relocate existing businesses in the County;
 - (2) To encourage and support the creation of new businesses in the County; and

- (3) For purposes consistent with items (1) and (2) of this subsection, as part of a matching requirement to obtain funding or financing from a State agency or entity affiliated with State government or to enhance State Government grants.
- (d) Howard County may enact a local law to administer the use of money from the economic development incentive fund.

(1996, Ch. 640; 2000, Ch. 193)

Note— See the editor's note following § 26.300.

Sec. 26.302. - Establishment and amount of issuer fee; application fee.

- (a) *Issuer Fee Established.* There is an issuer fee imposed by the County for issuing or refinancing revenue bonds pursuant to the Maryland Economic Development Revenue Bond Act.
- (b) *Application Fee; Amount of Issuer Fee:*
 - (1) *Application fee:*
 - (i) The fee established by resolution of the County Council pursuant to section 22.600 of the County Code shall be paid upon application for the issuance or refinancing of revenue bonds pursuant to the Maryland Economic Development Revenue Bond Act.
 - (ii) The application fee under this paragraph is nonrefundable.
 - (2) *Issuer fee.* Subject to paragraph (3) of this subsection, the issuer fee under this subsection is:
 - (i) For revenue bonds providing initial financing, an amount equal to one-eighth of one percent per annum of the outstanding principal balance of the bonds (not to exceed \$10,000,000.00), discounted at the bond yield to the date of issue of the bonds, minus the application fee paid; or
 - (ii) For revenue bonds used to refund existing revenue bonds, one-fourth of one percent of the principal amount of the bonds, minus the application fee paid.
 - (3) *Limit on issuer fee.* If the issuer fee established under this subsection exceeds the amount allowed under subsection 26.300(c)(2) of this subtitle, the issuer fee shall be the greatest amount that does not exceed the amount allowed under that section.
- (c) *Payment of Fee.* The issuer fee applies to all bonds for which the closing is held after September 1, 1996. The issuer fee shall be paid at the time of closing, unless the County agrees to accept the fee in installments.

(C.B. 55, 1996)

Sec. 26.303. - Administration of economic development incentive fund.

The Howard County Economic Development Authority shall:

- (1) Administer the economic development incentive fund established under section 26.301 of this subtitle;
- (2) Develop an application form and procedures for administration of the fund; and
- (3) Subject to section 22.1000 of the County Code, report annually to the County Executive and the County Council on the activities of the fund.

(C.B. 55, 1996; C.B. 43, 2018, § 1)

TITLE 27 - TECHNOLOGY AND COMMUNICATIONS

SUBTITLE 1. - DEPARTMENT OF TECHNOLOGY AND COMMUNICATION SERVICES

Sec. 27.100. - General provisions.

General provisions regarding the Department of Technology and Communication Services are set forth in subtitle 2, "administrative departments and offices" of title 6, "County Executive and Executive Branch" of the Howard County Code.

(C.B. 16, 1996)

Sec. 27.101. - Department of Technology and Communication Services.

- (a) *Head.* The Director of Technology and Communication Services shall be the head of the Department of Technology and Communication Services.
- (b) *Qualifications of Director of Technology and Communication Services.* The Director of Technology and Communication Services shall be appointed on the basis of managerial and administrative skills and experience as well as knowledge of information processing and communications systems.
- (c) *Duties and Responsibilities.* As provided in this subsection, the Department of Technology and Communication Services shall plan, implement, and maintain the computer, information, and communications systems serving County Government, and shall perform such other functions as may be prescribed by the County Executive or by law.
 - (1) *Information systems services.* The Department shall provide cost-effective and efficient information systems services to all agencies of County Government, and shall:
 - (i) Establish and maintain major information systems processing services;
 - (ii) Plan overall information systems processing capability to satisfy user requirements;
 - (iii) Research to ensure that new processing developments in information systems applications, equipment and techniques are evaluated for possible use by the County;
 - (iv) Coordinate the purchasing of all information services systems equipment;
 - (v) Comply with industry standards for conduct of information systems operations and the development and installation of applications; and
 - (vi) Perform such other functions as may be prescribed by the County Executive or by law.
 - (2) *Central communications.* The Department shall provide central communications services and telephone and radio equipment for the County, and shall:
 - (i) Acquire and inventory of all telephone and audio equipment;
 - (ii) Install and maintain the telephone system, including installation of new telephones or relocation of existing telephones;
 - (iii) Install and maintain the radio communications system, including all fixed, mobile and portable radios and associated facilities;
 - (iv) Provide technical advice to telephone and radio system users;
 - (v) Manage contracts associated with telephone or radio equipment and/or services;
 - (vi) Manage the radio maintenance fund for communication equipment;
 - (vii) Bill departments and agencies for telephone use costs; and
 - (viii) Prepare telephone use reports:

- (3) *Records management.* The Department shall provide records management services for the County, and shall:
 - (i) Establish standards and procedures for the management of County records.
 - (ii) Manage a records storage center.
 - (iii) Subject to approval by the Chief Administrative Officer, select the method to be used for preserving County records that are designated for permanent retention.
 - (iv) Review each department's records retention and disposal schedules and submit them to the required State agencies for approval.
- (4) *Cable television.* The Department shall, through the Cable Administrator, implement the provisions of the Howard County Cable Television Systems Franchise Act (title 14, subtitle 4 of the Howard County Code).
- (5) *Automated mapping geographic information systems.* The Department shall manage the County's automated mapping geographic information systems, and may, under title 10, subtitle 9 of the State Government article of the Annotated Code of Maryland, implement a program to sell system products to the public.

(C.B. 16, 1996; C.B. 60, 2001, § 1)

TITLE 28 - DOWNTOWN COLUMBIA

SUBTITLE 1. - DOWNTOWN COLUMBIA PARTNERSHIP

Sec. 28.100. - Legal authority, findings, purpose, and legislative intent.

- (a) *Authority.* This subtitle is enacted in accordance with Article 25A, § 5(FF) of the Maryland Code and the Downtown Columbia Plan, a general plan amendment.
- (b) *Findings.* The Howard County Council finds that a Downtown Columbia Partnership is required to carry out portions of the Downtown Columbia Plan.
- (c) *Purposes.* The purposes of the Downtown Columbia Partnership are:
 - (1) Promotion;
 - (2) Marketing; and
 - (3) The provision of security, maintenance, or amenities within the District.
- (d) *Intent.* The powers conferred on the Downtown Columbia Partnership are intended to be broadly construed so that the Downtown Columbia Partnership can carry out its purposes under the Downtown Columbia Plan and this title.

(C.B. 24, 2012, § 1)

Sec. 28.101. - Definitions.

In this title, the following words have the meaning indicated:

- (a) *Board of Directors.* Board of Directors means the Board of Directors of the Downtown Columbia Partnership.
- (b) *CEPPA.* CEPPA means the Community Enhancements, Programs, and Public Amenities specified in the Downtown Columbia Plan.

- (c) *Community Developer.* Community developer means the entity or group of entities serving in the capacity of community developer of downtown Columbia as described in the Downtown Columbia Plan.
- (d) *County.* County means Howard County, Maryland.
- (e) *District.* District means the Downtown Columbia Management District specified in this title.
- (f) *Downtown Columbia Housing Fund.* Downtown Columbia Housing Fund means a separate, nonlapsing fund received from various sources by the Downtown Columbia Partnership and made available to provide affordable housing assistance as an amenity within the District as described in the Downtown Columbia Plan, the Downtown CEPPA implementation chart, and this title.
- (g) *Downtown Columbia Partnership.* Downtown Columbia Partnership means the Downtown Columbia Partnership created in this title and described in the Downtown Columbia Plan.
- (h) *Downtown Columbia Plan.* Downtown Columbia Plan means the Downtown Columbia Plan enacted by Council Bill 58-2009.

(C.B. 24, 2012, § 1)

Sec. 28.102. - Downtown Columbia Management District established.

- (a) *Established.* There is a Downtown Columbia Management District.
- (b) *Jurisdictional Boundaries.* The District consists of the area specified in section 103A.(41) of the Howard County Zoning Regulations and the pathways required by CEPPA 12 and CEPPA 18.

(C.B. 24, 2012, § 1)

Sec. 28.103. - Downtown Columbia Partnership established.

- (a) *Established.* There is a Downtown Columbia Partnership.
- (b) *Status.* The Downtown Columbia Partnership:
 - (1) Is an independent entity that is not within the executive or legislative branches of County Government;
 - (2) Is a public instrumentality of the County;
 - (3) Is the commercial district management authority for Downtown Columbia;
 - (4) May exercise its powers to the extent not inconsistent with Article 25A, Section 5(FF) of the Maryland Code or this title; and
 - (5) Performs tasks of benefit to the Downtown Columbia Management District.

(C.B. 24, 2012, § 1)

Sec. 28.104. - Charter provisions inapplicable.

In accordance with the authority granted to the County by Article 25A, § 5(FF) of the Annotated Code of Maryland provisions of the Howard County Charter that are inconsistent with this subtitle are inapplicable to the Downtown Columbia Partnership.

(C.B. 24, 2012, § 1)

Sec. 28.105. - Board of Directors of the Downtown Columbia Partnership.

- (a) *Composition.* The Downtown Columbia Partnership shall have a Board of Directors that consists of seven members. Four members shall be ex officio members and three members shall be as set forth in subsection (d) of this section.
- (b) *Qualifications.* Each member of the Board of Directors shall:
 - (1) Reside or work in Howard County; and
 - (2) Have knowledge, training, or experience related to the responsibilities of the Downtown Columbia Partnership.
- (c) *Ex Officio Members.*
 - (1) The following persons or their designees are ex officio members of the Board of Directors:
 - (i) The highest ranking officer of the community developer that is responsible for Downtown Columbia and initial operating funding of the partnership;
 - (ii) The General Manager of the mall in Columbia;
 - (iii) The President of the Columbia Association; and
 - (iv) The County Executive.
 - (2) The Downtown Columbia Partnership bylaws shall provide that each member of the Board of Directors, including each ex-officio member, has the same voting rights.
 - (3) Except for the community developer, if a private entity declines to have a representative to serve as an ex officio member of the Board of Directors, a replacement shall be appointed by the County Executive and confirmed by the County Council.
- (d) *Additional Members.* The three additional members shall be as follows:
 - (1) Until 500,000 square feet gross leasable area of new commercial uses are developed, three representatives from the community developer shall serve on the Board of Directors.
 - (2) Upon the development of 500,001 square feet gross leasable area of new commercial uses:
 - (i) One member of the Board of Directors shall represent the membership required by CEPPA 25 of the Downtown Columbia Plan; and
 - (ii) Two members of the Board of Directors shall be appointed by the County Executive, confirmed by the County Council, and shall:
 - a. Own or operate a business located in the district;
 - b. Own commercial property located in the district; or
 - c. Reside in or in close proximity to the district.
- (e) *Term.*
 - (1) The term of an appointed member of the Board of Directors is three years but a member shall serve until a successor is appointed and qualifies.
 - (2) Except as provided in paragraph (3) of this subsection, an appointed member may be reappointed at the end of a term.
 - (3) An appointed member who has served two consecutive terms may be reappointed if at least one year has elapsed since the end of the member's second term.
 - (4) There is no limit on the total number of terms that an appointed member may serve.
 - (5) A member appointed pursuant to subsection 28.105(d)(2)(ii) of this section may be removed for any reason by:

- (i) The County Executive, subject to the approval of the County Council; or
 - (ii) The County Council, subject to approval of the County Executive.
- (6) An appointed member who is absent for three consecutive regular meetings of the Board of Directors, unless excused by vote of the Board of Directors, shall be deemed to have resigned.
- (f) *Compensation.* The members of the Board of Directors shall serve without compensation but may be entitled to reimbursement for expenses in accordance with the bylaws of the Downtown Columbia Partnership.
- (g) *Quorum; Meetings.*
- (1) Six members of the Board of Directors is a quorum.
 - (2) The Board of Directors shall meet at least six times a year at the times and places it designates.
- (h) *Procedures.* The Board of Directors may establish rules of procedure.
- (i) *Duties.* The Board of Directors shall direct the program, management, and finances of the Downtown Columbia Partnership.

(C.B. 24, 2012, § 1)

Sec. 28.106. - Bylaws.

- (a) (1) Within six months of its establishment, the Board of Directors shall adopt bylaws for the Downtown Columbia Partnership.
- (2) The Board of Directors shall submit the bylaws to the County Council for approval.
- (3) By resolution, the County Council may approve the bylaws with or without amendments.
- (4) If the County Council fails to take action on the bylaws within 120 days of receiving them, the failure to take action constitutes approval of the bylaws.
- (b) The bylaws may contain any legal provision not inconsistent with this title to manage the affairs of the Downtown Columbia Partnership.
- (c) The bylaws shall:
 - (1) Set ethical standards and disclosure requirements for members of the Board of Directors, members of Advisory Committees, and employees of the Downtown Columbia Partnership in order to protect against any conflict of interest or other impropriety. The ethical standards and disclosure requirements shall include:
 - (i) A provision prohibiting self-dealing and collusive practices;
 - (ii) A provision for the disclosure of a financial or similar interest of any person in any matter before the partnership including the establishment of conditions under which that person is disqualified from participating in decisions or other actions in which there is a conflict between the person's official duties and private interests; and
 - (iii) Appropriate remedies against violation, including removal of Board Members or termination of employment.
 - (2) Provide for surety bonds or similar instruments to protect against misappropriation of funds;
 - (3) Provide for reasonable and appropriate insurance for the activities of the Downtown Community Partnership; and
 - (4) Provide for transparency in accordance with section 28.120 of this title.

(C.B. 24, 2012, § 1)

Sec. 28.107. - Duties.

The Downtown Columbia Partnership shall:

- (1) Fulfill the responsibilities assigned to it by the Downtown Columbia Plan, including the responsibilities assigned to it by the CEPPAS;
- (2) Market the District as a vibrant, economically robust, and desirable place to live, work, and play;
- (3) Beautify the District and maintain open spaces and amenity areas including the pathways required by CEPPA 12 and CEPPA 18;
- (4) Contract with the Downtown Columbia Housing Foundation as described in this title to provide affordable housing assistance as an amenity within the District in accordance with the Downtown Columbia Plan, the Downtown CEPPA Implementation Chart and section 28.116 of this title;
- (5) Utilize at least 50 percent of the revenue collected pursuant to CEPPA 25 for the implementation of transportation initiatives in the shuttle feasibility study or other direct transit services within the district;
- (6) Facilitate the implementation of the community framework for environmental sustainability in accordance with the environmental sustainability program as described in the Downtown Columbia Plan;
- (7) Coordinate with the Columbia Association, the County, property owners, and others for programming spaces that are intended for public use in the District;
- (8) Promote and contract with the County Office of Transportation to implement the Transportation Demand Management Plan in accordance with the Downtown Columbia Plan; and
- (9) Promote public safety and provide security patrols.

(C.B. 24, 2012, § 1)

Sec. 28.108. - Coordination with County units.

When addressing an issue within an area subject to County Government oversight, the partnership shall coordinate with the appropriate unit of County Government.

(C.B. 24, 2012, § 1)

Sec. 28.109. - Advisory Committees to the Downtown Columbia Partnership.

(a) *Downtown Columbia Partnership Advisory Committee.*

- (1) There is a Downtown Columbia Partnership Advisory Committee.
- (2) The Downtown Columbia Partnership Advisory Committee shall have 11 members. Six members shall be ex officio members and five members shall be selected by the County Council as set forth in subsection (a)(2)(ii) of this section.
 - (i) The following persons or their designees are ex officio members of the Downtown Columbia Partnership Advisory Committee:
 - a. The President of Howard Community College:

- b. The Chief Executive Officer of Howard County General Hospital;
 - c. The Chief Executive Officer of Howard County Economic Development Authority;
 - d. The Chairperson of Howard County Revenue Authority;
 - e. The President of the Howard County Chamber of Commerce; and
 - f. The chair of the Town Center Village Board.
- (ii) To serve as members of the Downtown Columbia Partnership Advisory Committee, the County Council shall select the following additional members:
- a. Two individuals from a list of four residents living in or in close proximity to the District submitted by the County Executive;
 - b. One owner or general manager of a business located within the District having fewer than 25 employees; and
 - c. One owner of property located in the District who has obtained a building permit for downtown revitalization pursuant to section 125 of the Howard County Zoning Regulations; and
 - d. One individual representing the membership required by CEPPA 25 of the Downtown Columbia Plan.
- (3) Committee members selected pursuant to paragraph (2)(ii) of this subsection shall serve for a period of two years. The County Council may reappoint committee members.
- (4) The Downtown Columbia Partnership Advisory Committee shall advise the Board of Directors of the Downtown Columbia Partnership on all matters concerning the management and operation of the Downtown Columbia Partnership. Subject to section 22.1000 of the County Code, by April 1 of each year, the Committee shall advise the County Council on the partnership's previous calendar year's activities.
- (5) Members of the downtown Columbia Partnership Advisory Committee shall serve without compensation.
- (6) (i) Advisory Committee members shall be given the same notice of the place, day, and time of Board meetings provided to members of the Board of Directors pursuant to the partnership's bylaws.
- (ii) During every meeting of the Board of Directors, a representative of the Downtown Columbia Partnership Advisory Committee shall be provided with an opportunity to comment on all matters pending before the Board.
- (7) The books and records of the Downtown Columbia Partnership are subject to examination and inspection at any reasonable time by the Downtown Columbia Partnership Advisory Committee.
- (b) *Additional Advisory Committees.*
- (1) The Board of Directors may create additional Advisory Committees.
 - (2) The Board of Directors shall determine the number of members of each additional Advisory Committee.
 - (3) (i) The Board of Directors shall appoint members to additional Advisory Committees.
 - (ii) A member of the Board of Directors may be appointed to an additional Advisory Committee.
 - (iii) The Board of Directors shall designate the Chairperson of an additional Advisory Committee.
 - (4) The Board of Directors shall set the term of each member of an additional Advisory Committee.
 - (5) The members of an additional Advisory Committee shall serve without compensation.

- (6) An additional Advisory Committee shall advise the Board of Directors on the matters specified by the Board of Directors.

(C.B. 24, 2012, § 1; C.B. 43, 2018, § 1)

Sec. 28.110. - Staff to the downtown partnership.

- (a) *Executive Director.* The Board of Directors shall hire an Executive Director for the Downtown Columbia Partnership who has training or experience in managing a downtown district or similar entity.
- (b) *Other Employees.* The Downtown Columbia Partnership may employ or contract with the County or other persons as necessary to carry out the activities of the Downtown Columbia Partnership.
- (c) *Status.* Employment with the Downtown Columbia Partnership does not make the Executive Director or an employee:
- (1) A County employee; or
 - (2) A member of a County retirement or pension system.
- (d) *Compensation.* The Board of Directors shall set the compensation of the Executive Director and the other employees of the Downtown Columbia Partnership, and shall establish such conditions of employment it considers appropriate.

(C.B. 24, 2012, § 1)

Sec. 28.111. - Ethics.

The Board of Directors, the Executive Director of the Downtown Columbia Partnership, and employees of the Downtown Columbia Partnership are not subject to the Howard County Public Ethics Law.

(C.B. 24, 2012, § 1)

Sec. 28.112. - Powers of the Downtown Columbia Partnership.

- (a) *Property.* The Downtown Columbia Partnership may acquire, hold, use, encumber, and dispose of both real and personal property and other property rights necessary to achieve its purpose, including acquisition by purchase or lease.
- (b) *Contracts.* The Downtown Columbia Partnership may make contracts for any purpose related to its duties set forth in section 28.107 of this title.
- (c) *Suits.* The Downtown Columbia Partnership may sue and be sued.
- (d) *Contributions.* The Downtown Columbia Partnership may accept grants, gifts, or other contributions.
- (e) *Bank Accounts.* The Downtown Columbia Partnership may establish commercial bank accounts, with any earnings on funds accruing to the Downtown Columbia Partnership.
- (f) *Borrow Funds.* The Downtown Columbia Partnership may borrow funds in order to carry out its purposes under the Downtown Columbia Plan and this title.
- (g) *Publicity.* The Downtown Columbia Partnership may publicize its activities and sell advertising.
- (h) *Other Actions.* The Downtown Partnership may take other necessary or convenient actions to:
- (1) Perform tasks that benefit the District; and

- (2) Carry out this subtitle and the Downtown Columbia Plan.

(C.B. 24, 2012, § 1)

Sec. 28.113. - Limitations.

The Downtown Columbia Partnership may not:

- (1) Condemn property or exercise any power of eminent domain;
- (2) Issue bonds;
- (3) Pledge the faith or credit of the County;
- (4) Exercise any police or general governmental powers;
- (5) Except as provided in section 28.112(a) of this title, purchase, sell, or construct or, as a landlord, lease office or retail space;
- (6) Compete with the private sector except as authorized in this title; or
- (7) Sue the County or its employees and officials.

(C.B. 24, 2012, § 1)

Sec. 28.114. - Funding.

(a) *In General.* The Downtown Columbia Partnership is funded by:

- (1) The payments that it receives for providing goods or services;
- (2) Assessments or taxes as provided by law;
- (3) Payments required by the CEPPAS; and
- (4) Payments from any other source.

(b) *Uses.* Money that the Downtown Partnership receives under this section shall be used only for the purposes of this subtitle.

(c) *Budget Process.*

- (1) The annual operating budget for the coming year for the Downtown Columbia Partnership must be approved by a majority of the members of the Board of Directors prior to December 1 of each year.
- (2) Subject to section 22.1000 of the County Code, each year by December 1, the Board of Directors shall submit the Downtown Columbia Partnership's approved operating budget for the coming calendar year to the County Executive, the County Council, and the Community Developer.
- (3) (i) Subject to the automatic termination set forth in paragraph (3)(ii) of this subsection, the Community Developer, in accordance with CEPPA 6, shall submit quarterly payments to the Downtown Columbia Partnership by January 1, April 1, July 1, and October 1, respectively, of each year to cover the partnership's initial operating expenses. In each year the Community Developer is required to make quarterly payments, the total of the payments shall be the difference between the total approved operating budget and other operating revenue. The quarterly payments are in addition to the CEPPAS and other obligations imposed on the Community Developer by the Downtown Columbia Plan, and do not constitute compliance by the Community Developer with the CEPPAS and other obligations, except for the obligation to fund the initial operating expenses of the Downtown

Columbia Partnership. The Community Developer is still required to fully comply with the requirements of the Downtown Columbia Plan.

- (ii) The Community Developer's obligation to fund the initial operating expenses of the Downtown Columbia Partnership under CEPPA 6 and paragraph (3)(i) of this subsection automatically terminates on the date the partnership receives the first payment under section 28.115(e) of this title from the owner of the property for which the County issues a building permit for the 500,000th square foot of gross leasable area of new commercial uses.
- (d) The Community Developer's obligation to fund the initial operating expenses of the Downtown Columbia Partnership under CEPPA 6 and paragraph (3)(1) shall not be required of any other owner of property in the District who does not develop commercial uses pursuant to section 125a.9 of the Howard County Zoning Regulations.

(C.B. 24, 2012, § 1; C.B. 43, 2018, § 1)

Sec. 28.115. - Payments required by CEPPAS.

- (a) The Downtown Columbia Plan provides for certain payments by the Community Developer, owners of property developed with commercial uses, and developers of residential property. The Community Developer and the County agreed to the nature and amounts of these payments during the Downtown Columbia Plan approval process, and the payments are dedicated to funding the Downtown Columbia Partnership, which is tasked with duties described in the Downtown Columbia Plan and this subtitle. The purpose of this section is to implement the payment requirements of the Downtown Columbia Plan. In no case shall the obligation to make such payment be triggered:
 - (1) By the development or construction of downtown arts, cultural and community uses, downtown community commons, or downtown parkland; or
 - (2) When the development of an individual parcel of land shown on a plat or deed recorded among the County land records as of April 6, 2010 consists only of up to a total of 10,000 square feet of commercial floor area and no other development.
- (b) Initial operating funding of the Downtown Columbia Partnership. The Community Developer shall fund the initial start-up costs of the Downtown Columbia Partnership.
- (c) Initial funding for Downtown Columbia Housing Fund; additional funding.
 - (1) The Community Developer shall provide \$1,500,000.00 in initial funding for the Downtown Columbia Housing Fund upon:
 - (i) The issuance of the first building permit; and
 - (ii) The expiration of all applicable appeal periods associated with the building permit or, if an appeal was filed, upon the issuance of a final decision of a court upholding the issuance of the building permit.
 - (2) The Community Developer shall provide \$1,500,000.00 in additional funding for the Downtown Columbia Housing Fund upon:
 - (i) The issuance of the building permit for the 400th residential unit; and
 - (ii) The expiration of all applicable appeal periods associated with the building permit or, if an appeal was filed, upon the issuance of a final decision of a court upholding the issuance of the building permit.
- (d) *Downtown Circulator Shuttle*. As required by CEPPA 23, prior to issuance of a building permit for the 5,000,000th square foot of gross building area of development, the Community Developer shall provide \$1,000,000.00 towards the initial funding of the downtown circulator shuttle as described in the Downtown Columbia Plan.

- (e) *Commercial Revitalization.* Pursuant to the Downtown Columbia Plan:
- (1) In accordance with CEPPA 25, owners of property in the District developed with commercial uses pursuant to section 125a.9 of the Howard County Zoning Regulations shall provide an annual payment of \$0.25 per square foot of gross leasable area or net floor area for hotels calculated in accordance with the Building Owners and Managers Association (BOMA) standards as certified by an architect on plans submitted with an application for a building permit and approved by the County;
 - (2) Beginning April 6, 2011, the payment required by paragraph (1) of this subsection shall annually adjust based on the Consumer Price Index for all Urban Consumers (CPI-U) for the Washington-Baltimore area published by the Bureau of Labor Statistics of the United States Department of Labor; and
 - (3)
 - (i) The initial payment shall be paid prior to issuance of occupancy permits for the buildings and shall be pro-rated monthly based on the calendar year;
 - (ii) Subsequent payments shall be due on or before January 1 of each year following the year of initial payment.
- (f) *Reserved.*
- (g) *Affordable Housing—Commercial Uses.* Pursuant to the Downtown Columbia Plan:
- (1) In accordance with CEPPA 27, owners of property in the District developed with commercial uses pursuant to section 125a.9 of the Howard County Zoning Regulations shall provide an annual payment of \$0.05 per-square foot of gross leasable area or net floor area for hotels calculated in accordance with the Building Owners and Managers Association (BOMA) standards as certified by an architect on plans submitted with an application for a building permit and approved by the County;
 - (2) Beginning April 6, 2011, the payment required by paragraph (1) of this subsection shall annually adjust based on the Engineering News-Record Building Cost Index; and
 - (3)
 - (i) The initial payment shall be paid prior to issuance of occupancy permits for the buildings and shall be pro-rated monthly based on the calendar year;
 - (ii) Subsequent payments shall be due on or before January 1 of each year following the year of initial payment.
- (h) *Collection; Enforcement.*
- (1)
 - (i) Before the County issues an occupancy permit for a building subject to subsections (e) and (g) of this section, the owner shall satisfy the Department of Inspections, Licenses and Permits that payments required by those subsections have been made.
 - (ii) Payments under subsection (f) of this section are contingent upon the expiration of all applicable appeal periods associated with each building permit without an appeal being filed, or if an appeal is filed upon the issuance of a final decision of the courts upholding the-issuance-of the permit.
 - (2) Failure to make payments required by this title:
 - (i) Shall be certified to the Director of Finance of the County;
 - (ii) Shall be a lien on property belonging to the person or business required to make payment;
 - (iii) Shall be collectible in the same manner as any civil money judgment or debt may be collected; and
 - (iv) Shall accrue penalties at the same rate and in the same manner as the accrual of interest and penalties for unpaid real property taxes.
- (i) Payments required by this section shall be made to the Downtown Columbia Partnership.

- (j) As provided in the Downtown Columbia Plan, the owner of commercial property located in the District is not required to make the payments implemented by subsections (e) and (g) of this section unless the owner develops or redevelops the property in accordance with the downtown revitalization provisions of section 125 of the Zoning Regulations.

(C.B. 24, 2012, § 1; C.B. 55, 2016, § 1)

Sec. 28.116. - Affordable housing.

- (a) *Affordable Housing Terms Defined.* For purposes of this section, the following words have the meanings indicated:

- (1) *Affordable housing unit.* Affordable housing unit means a dwelling unit that is made available for sale or rent below market rate to households of eligible income.
- (2) *Households of eligible income* means:
 - (i) As to dwelling units that are State or Federally funded, individuals or households who meet the income requirements of the State or Federal program involved; or
 - (ii) As to other developments, individuals, or households who lack sufficient income or assets to enable them to purchase or rent decent, safe, and sanitary dwellings without overcrowding.
 - (iii) The determination of income levels may vary with respect to the elderly, the disabled, other persons with special needs, or particular units or programs.

- (b) *Foundation.* The Downtown Columbia Housing Foundation is the entity selected as the foundation under subtitle 2 of this title.

- (c) *Fund.*

- (1) There is a Downtown Columbia Community Housing Fund.
- (2) The fund consists of:
 - (i) Money collected under sections 28.115(c) and (g) of this title;
 - (ii) Money received from any public or private source, including a gift, grant, or legacy;
 - (iii) Investment earnings of the fund; and
 - (iv) Repayments of principal or interest on loans made from the fund.
- (3) The fund is a separate, nonlapsing fund that may not be commingled with any other Downtown Columbia Partnership Fund.
- (4) The Downtown Columbia Partnership shall contract with the Downtown Columbia Housing Foundation to administer the fund for the purpose of providing affordable housing assistance as an amenity within the district as described in the Downtown Columbia Plan, the Downtown CEPPA Implementation Chart, and this title.
- (5) The Downtown Columbia Housing Foundation is responsible for decisions concerning the use of the fund and shall administer the fund for a reasonable fee, which shall not exceed five percent of the fund or \$100,000.00, whichever is less.

- (d) *Uses of Fund.* The Downtown Columbia Housing Foundation shall use the fund to make affordable housing more available in Downtown Columbia by making awards from the fund to:

- (1) Assist for-profit and nonprofit developers to acquire, build, rehabilitate, or preserve affordable housing units;
- (2) Contribute to the payment of predevelopment or operating expenses of affordable housing units;

- (3) Assist nonprofit entities to acquire, build, rehabilitate, or preserve special needs housing;
 - (4) Provide rental assistance enabling a household of eligible income to pay rent for the family's primary residence;
 - (5) Make loans enabling a household of eligible income to purchase the family's primary residence; and
 - (6) Provide eviction prevention and foreclosure assistance.
- (e) *Withdrawal of Recognition of Foundation.* The contract under subsection (c)(4) of this section shall provide that if the Downtown Columbia Housing Foundation's recognition under subtitle 2 of this title is terminated for any reason:
- (1) The foundation shall preserve all money in the fund and immediately transfer it to the Downtown Columbia Partnership;
 - (2) The foundation shall provide a full accounting of the fund to the Downtown Columbia Partnership; and
 - (3) The Downtown Columbia Partnership shall have immediate access to all books and records of the foundation.

(C.B. 24, 2012, § 1)

Sec. 28.117. - Transportation.

- (a) *In General.* The Downtown Columbia Partnership:
- (1) Shall support the transportation initiatives outlined in the shuttle feasibility study called for in the Downtown Columbia Plan; and
 - (2) Shall promote and implement the transportation demand management plan called for in the Downtown Columbia Plan.
 - (3) Shall contract with the County office of transportation provider to carry out this section.
- (b) *Use of Funds.* The Downtown Columbia Partnership shall use at least 50 percent of the revenue collected pursuant to section 28.115(e) of this title to implement:
- (1) Transportation initiatives in the shuttle feasibility study; or
 - (2) Other direct transit services in Downtown Columbia.

(C.B. 24, 2012, § 1)

Sec. 28.118. - Reports and records.

- (a) *Reports.* Subject to section 22.1000 of the County Code, by April 1 of each year, the Downtown Columbia Partnership shall send the County Executive and the County Council an annual report including:
- (1) The activities of the Downtown Columbia Partnership for the previous calendar year;
 - (2) The results of an annual independent audit conducted by a certified public accountant, including a copy of any accompanying management letter;
 - (3) The efforts of the Downtown Columbia Partnership to include minorities and local businesses when procuring goods and services; and
 - (4) Recommendations for the improvement and advancement of the District; and
 - (5) Information about any determination of income levels under section 28.116(a)(2) of this title.

- (b) *Records.* The Downtown Columbia Partnership shall keep records consistent with sound business practices and keep accounting records using generally accepted accounting principles.
- (c) *County Audit.*
 - (1) The books and records of the Downtown Columbia Partnership are subject to audit, examination, and inspection at any reasonable time by the County Executive or County Council or their designees.
 - (2) In addition to any financial audit required by this section, the County may conduct performance or management audits.

(C.B. 24, 2012, § 1; C.B. 43, 2018, § 1)

Sec. 28.119. - Procurement.

- (a) *In General.* Except as otherwise provided in Article 25a, Section 5(ff) of the Maryland Code, the Downtown Columbia Partnership is not subject to the County Purchasing Code.
- (b) *Cooperation with County.* To the extent practical, the Downtown Columbia Partnership shall purchase goods and services cooperatively with the County under title 4 of the Howard County Code.
- (c) *Cooperation with Community Developer.* To the extent practical, the Downtown Columbia Partnership shall cooperate with the Community Developer to achieve budget efficiencies including staffing, office space, and other resources. The Downtown Columbia Partnership shall not compensate the Community Developer or any of its employees until the Community Developer's obligation to fund the initial operating expenses of the Downtown Columbia Partnership in accordance with CEPPA 6 and section 28.114(c)(3)(ii) of this title terminates.

(C.B. 24, 2012, § 1)

Sec. 28.120. - Maryland Open Meetings and Public Information Acts.

- (a) *Open Meetings Act.* The Downtown Partnership shall comply with the Maryland Open Meetings Act in the same manner that a political subdivision is required to comply.
- (b) *Public Information Act.* The Downtown Partnership shall provide access to its records and documents in the same manner that a political subdivision is required to provide access under the Maryland Public Information Act.

(C.B. 24, 2012, § 1)

Sec. 28.121. - Legal advisor.

- (a) *In General.* Once 500,001 square feet of gross leasable area of new commercial uses in the District has been developed, the County Solicitor is the legal advisor to the Downtown Columbia Partnership
- (b) *Notification.* The County Solicitor shall be notified of any legal action brought by or against the Downtown Columbia Partnership.
- (c) *Outside Counsel.* This section does not prohibit the Downtown Columbia Partnership from hiring additional legal counsel approved by the County Solicitor.

(C.B. 24, 2012, § 1)

Sec. 28.122. - Liability.

The County is not liable in contract or tort for acts or omissions of the Downtown Columbia Partnership or its agents and employees. Each contract executed by the Downtown Columbia Partnership shall so provide that the County is not liable.

(C.B. 24, 2012, § 1)

Sec. 28.123. - Local Government Tort Claims Act.

As a commercial district management authority, the Downtown Columbia Partnership is a "local government" as that phrase is used in the Local Government Tort Claims Act. The Downtown Columbia Partnership is the real party in interest under the Maryland Rules of Procedure and for purposes of the Local Government Tort Claims Act.

(C.B. 24, 2012, § 1)

Sec. 28.124. - Termination of Downtown Columbia Partnership.

- (a) *Perpetual Existence.* Except as otherwise provided in this section, the Downtown Columbia Partnership has perpetual existence.
- (b) *Termination.* By ordinance adopted by the County Council and approved by the County Executive, the Downtown Columbia Partnership may be terminated.
- (c) *Contracts; Services.* If the Downtown Columbia Partnership terminates, all of its contracts and services terminate unless expressly assumed and maintained by the County.
- (d) *Assets.* If the partnership is terminated as provided in this section, any assets remaining after all liabilities and obligations of the corporation are satisfied shall be distributed to the County.

(C.B. 24, 2012, § 1)

Sec. 28.125. - Severability.

If any provision of this title or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity shall not affect other provisions or any other application of this title that can be given effect without the invalid provision or application, and for this purpose the provisions of this title are severable.

(C.B. 24, 2012, § 1)

SUBTITLE 2. - DOWNTOWN COLUMBIA HOUSING FOUNDATION

Sec. 28.200. - Purposes.

The County Council of Howard County, Maryland, declares that:

- (1) A Downtown Columbia Housing Foundation is needed to fulfill the vision of the Downtown Columbia Plan, a general plan amendment, for a full-spectrum and diverse mix of housing, ensuring that low-, moderate- and middle-income families have an opportunity to live in Downtown Columbia;

- (2) It is necessary and appropriate for the County Government to complement, assist, encourage and promote the establishment and recognition of an entity to serve as the Downtown Columbia Housing Foundation described in the Downtown Columbia Plan; and
- (3) Development of additional housing units in Downtown Columbia must provide increased housing opportunities for residents at different income levels and should provide a range of housing choices.

(C.B. 24, 2012, § 1)

Sec. 28.201. - "Foundation" defined.

In this subtitle, "foundation" means the Downtown Columbia Housing Foundation recognized by the County Council under this subtitle.

(C.B. 24, 2012, § 1)

Sec. 28.202. - Foundation—Assistance.

The County Government may and should provide assistance to a foundation as a not-for-profit entity organized for the purpose of providing affordable housing under section 28.116 of this title.

(C.B. 24, 2012, § 1)

Sec. 28.203. - Membership and organization.

(a) *In General.* The foundation:

- (1) Shall be a not-for-profit; and
- (2) Should include representation from private entities, County and other public agencies, the community developer, organizations, and individuals who are generally able to promote the purposes specified in this subtitle.

(b) *Conflict of Interest.* To avoid conflicts of interest, or the appearance thereof, the bylaws of the foundation shall provide that any of its members who are connected with, or are officers of, an entity requesting funding from the foundation shall abstain from voting on funding for such organizations.

(C.B. 24, 2012, § 1)

Sec. 28.204. - Recognition; effect of recognition; withdrawal of recognition.

(a) *Application for Recognition.* Subject to section 22.1000 of the County Code, an organization seeking recognition as the foundation under this subtitle shall submit to the County Council an application that includes:

- (1) A copy of its articles of incorporation and bylaws;
- (2) A listing of its officers and directors;
- (3) A summary of the relevant background and experience of the board of directors of the organization that demonstrates success in financing affordable housing and managing housing assistance programs;
- (4) A statement of the general nature of, and the manner in which the foundation proposes to provide affordable housing in Downtown Columbia;

- (5) A description of the methods to be followed to carry out the program described in section 28.205 of this subtitle, including procedures for Advisory Committees and public participation.
- (b) *Recognition.* By resolution, the County Council may recognize, with or without conditions, the applicant as the Downtown Columbia Housing Foundation:
 - (1) Based on the submissions made under this section;
 - (2) After receiving the recommendations of the County Executive; and
 - (3) After a public hearing.
- (c) *Annual Progress.*
 - (1) As a condition of continued recognition under this subtitle, the foundation shall:
 - (i) Establish an adequate system for maintaining and updating its program in accordance with this title and the Downtown Columbia Plan, with reasonable annual goals and priorities;
 - (ii) Subject to section 22.1000 of the County Code, submit an annual written report to the County Council, the County Executive, and the Downtown Columbia Partnership that describes progress and problems in carrying out the program required by this subtitle; and
 - (iii) Include in the report the financial standing of the fund, the ways the fund has been used in the past year, and the projected uses of the fund.
 - (2) The report required by this subsection shall be available to the public.
- (d) *Effect of Recognition.*
 - (1) While it is envisioned that the Downtown Columbia Partnership shall contract with the foundation to provide affordable housing under the Downtown Columbia Plan, neither the contractual arrangement nor recognition of the foundation relieves the partnership of any responsibility under the Downtown Columbia Plan.
 - (2) Recognition of the foundation as provided in this subtitle does not make the foundation a public instrumentality of the County.
- (e) *Withdrawal of Recognition.* By resolution and after a public hearing, the County Council may withdraw its recognition of the foundation if the County Council determines that the foundation has ceased to meet the requirements of this subtitle or conditions imposed by the Council in the resolution recognizing the applicant as the foundation.

(C.B. 24, 2012, § 1; C.B. 43, 2018, § 1)

Sec. 28.205. - Program.

The foundation shall develop and carry out a program of services and financial assistance that may include but is not limited to:

- (1) Creating a flexible model that aspires to make new housing in the district affordable to individuals earning across all income levels;
- (2) Creating an effective, flexible means of providing a full spectrum of housing for Downtown Columbia;
- (3) Conducting meaningful discussions with land purchasers in Downtown Columbia to encourage full spectrum housing in each and every neighborhood;
- (4) Funding new construction;
- (5) Acquiring housing units;
- (6) Preserving existing homes;

- (7) Financing rehabilitation of rental housing;
- (8) Developing senior, family or special needs housing;
- (9) Providing predevelopment, bridge, acquisition and permanent financing; and
- (10) Offering eviction prevention and foreclosure assistance.

(C.B. 24, 2012, § 1)

Sec. 28.206. - Audit.

The fund is subject to audit and the books and records of the foundation are subject to inspection and examination at any reasonable time by the County Auditor.

(C.B. 24, 2012, § 1)

Sec. 28.207. - Support from County Government.

Within the limits of available funds, the County Government may provide administrative and financial support to the foundation.

(C.B. 24, 2012, § 1)

APPENDIX A - RULES OF PROCEDURE FOR THE COUNTY COUNCIL OF HOWARD COUNTY, MARYLAND¹¹

Footnotes:

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Editor's note— The rules of procedure are set out herein as adopted by the County Council on November 3, 1975, following a public hearing held on October 27, 1975.

Rule 1.001 - General.

These rules of procedure for the County Council are adopted under authority of section 208 of the Howard County Charter.

- (a) *Types of Meetings.* The Council shall hold regular legislative meetings and such other meetings, hearings, and work sessions as may be provided by law or required for the orderly conduct of business. All such meetings shall be open to the public. The Council may meet in closed session as permitted by the State Open Meetings Act. Any closed meeting, except a meeting that is closed to discuss a personnel issue, may be attended by any Councilmember, Special Assistant to a Councilmember, and appropriate County professional staff member unless the Council expressly further restricts attendance.
- (b) *Time of Meetings:*
 - (1) *Legislative session days.* The Council may sit up to 45 days in each year for the purpose of introducing and enacting legislation. Except as otherwise provided in this paragraph, the Council shall meet regularly on the first Monday in each month.

- (i) If the first Monday is a County Government holiday or a day on which Rosh Hashanah, Yom Kippur, Eid Ul Fitr or Eid Ul Adha is observed, then the meeting shall be held on the next succeeding day which is not one of these days.
 - (ii) There shall be no legislative session in August, except for an emergency legislative session, unless the Council provides by resolution for a session in August.
 - (iii) During a Council election year no legislative session, except for an emergency legislative session, shall be held neither during the month of November nor during the month of December until a majority of the members of the Council shall be qualified.
 - (iv) The Council may be called into emergency legislative session either by the County Executive or by a majority of the members of the Council on any day as directed by the Chairperson.
 - (v) At any session prior to any scheduled session, the Council may determine by an affirmative vote of two-thirds of its members not to sit at any regularly scheduled session.
 - (vi) If in advance of any scheduled meeting the Chairperson determines that a quorum will not be present, the Chairperson may cancel and reschedule the meeting as soon as practicable.
- (2) *Nonlegislative meeting days.* The Council shall meet for nonlegislative purposes, such as reviewing the County budget as proposed by the County Executive and conducting public hearings, legislative work sessions, monthly meetings and other meetings on such matters as may properly come before the Council on any day as directed by the Chairperson, but the Council shall be prohibited from holding meetings which include an opportunity for public testimony on any day on which Rosh Hashanah, Yom Kippur, Eid Ul Fitr, or Eid Ul Adha is observed.
- (3) Meeting times:
- (i) *Legislative Session Days.* A regular legislative session day shall convene on the date set at 7:00 p.m. or as determined by council majority. Emergency legislative sessions and annual legislative sessions shall convene at such times as directed by the Chairperson. Legislative session days shall continue 24 hours from the time the session is convened; the Council may recess from time to time or adjourn at any time during the 24 hours.
 - (ii) Nonlegislative meetings. Public hearings shall convene at 7:00 p.m. and work sessions shall convene at 4:30 p.m. on the date set, unless otherwise directed by the Chairperson.
- (c) *Place of Meetings.* The place of meeting of the Council shall be the Council hearing room at Ellicott City, Maryland, provided, however, that at the discretion of the Chairperson or at request of three Council members, legislative sessions, work sessions or public hearings may be held at such locations as the Chairperson may provide. To participate in a legislative session, a member must be present in person except that a member may participate in an emergency legislative session by telephone or other teleconferencing technology.
- (d) *Notice of Meetings.* The Administrator to the County Council shall give such legal notice as is required by law of all Council meetings and hearings, and shall provide information to the news media and the general public as to the agenda and matters pending before the Council. Additionally, the Administrator shall keep all Council Members adequately informed as to Council agenda, meetings, and other legislative matters.
- (e) *Public Participation.* Reasonable seating facilities shall be provided for the public and the news media at all public meetings. During public hearings upon pending legislation, the budget or other matters, a reasonable amount of time will be provided for members of the public to speak. The Council may allow members of the public to speak on legislation or other pertinent matters at work sessions of the Council.

The general public and representatives of the news media are expected and respectfully requested to maintain order and decorum in keeping with the dignity of the governmental process, and to refrain

from interfering with this process. The Chairperson or a majority of the Council may regulate the use of radio and television equipment to minimize interference with the meeting or hearing.

- (f) *Oath of Office.* The following oath of affirmation, administered by the Clerk of the Circuit Court for Howard County, shall be taken by each Councilmember, at a public meeting in a place to be determined by the Councilmembers after consulting with the Councilmembers-elect before entering upon his duties:

"I, _____, do swear (or affirm) that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of Councilmember of Howard County according to the Constitution and Laws of this State."

(Res. No. 135, 1980; Res. No. 45, 1989; Res. No. 50, 1992; Res. No. 140, 1994; Res. No. 146, 1994; Res. No. 13, 1996; Res. No. 133, 1999; C.B. 72, 2004; C.B. 81, 2004; Res. No. 11, 2011; Res. No. 10, 2018)

Rule 1.002 - Agenda.

- (a) *In General.* The Administrator shall prepare a written agenda for each legislative session and for each work-session or public hearing. The legislative agenda shall include the following:
- (1) Numbers and titles of all bills and resolutions to be introduced and the name or names of the Councilmember introducing each.
 - (2) Numbers and titles of all bills and resolutions to be called for final reading and vote.
 - (3) Numbers and titles of petitions properly before the Council for its consideration.
 - (4) Such other business as may properly come before the Council.
- (b) *Calendar.*
- (1) In accordance with Charter section 208(b)(2), there shall be no legislative session in August, except for an emergency legislative session, unless the Council provides by resolution for a session in August.
 - (2) At the legislative session in December, the Council:
 - (i) Shall elect officers;
 - (ii) May act on bills, resolutions, and other items already before it; and
 - (iii) Except for emergency legislation, shall not consider the introduction of new legislation.
 - (3) The Council shall not hold a public hearing during any month when no legislation is introduced.
- (c) *Additions to Agenda.*
- (1) The legislative agenda may remain open until 11 days prior to the legislative day and each Councilmember shall have the right to place thereon any proper matter of business.
 - (2) Legislation to be included on the agenda for introduction shall be prefiled with the Council Administrator no later than 2:00 p.m. on:
 - (i) The 11th day preceding the legislative day; or
 - (ii) The second day preceding the County holiday if the prefile deadline established in subsection (c)(2)(i) of this section falls on a day immediately before a County Government holiday.
 - (3) Once the agenda has been closed, it may be amended for additions by an affirmative vote of two-thirds of the Councilmembers.

- (4) In case of a duly called emergency session or emergency legislation, the 11-day period does not apply.
- (d) *Preparation of Nonlegislative Agenda.* The Administrator shall prepare a written agenda for each work-session or hearing which shall include the following:
 - (1) Numbers and titles of all bills and resolutions to be considered.
 - (2) Such other business as may properly come before the Council.
- (e) *Status of Bills.* The Administrator shall prepare an addendum to the agenda for each legislative meeting which shall show the status of all legislative enactments of the current session having been properly introduced but not yet having been finally disposed.
- (f) *Notice to Councilmember.* The Administration shall forward to each Councilmember a copy of each agenda, as compiled at least 72 hours prior to the meeting to which it pertains.

(Res. No. 140, 1994; Res. No. 133, 1999; Res. No. 113, 2014; Res. 111, 2016)

Rule 1.003 - Order of Business.

- (a) The regular order of business at all legislative sessions of the County Council shall be as follows:
 - (1) Chairperson's call to order.
 - (2) Presentations of honorary resolutions, commendations, memorials, and other nonlegislative matters, if any.
 - (3) Approval of journal.
 - (4) Approval of minutes.
 - (5) Unfinished business.
 - (6) Presentation and disposition of petitions.
 - (7) Introduction of Bills and Resolutions.
 - (8) Special orders of the day.
 - (9) Call for Bills and Resolutions for final reading and vote.
 - (10) Other business.
- (b) *Messages.* Messages from the Executive may be received at any time, except when a question is being put or the roll is being called.

(Res. No. 140, 1994; Res. No. 11, 2011)

Rule 1.004 - The Presiding Officer.

- (a) *The Council Shall Select a Chairperson and a Vice Chairperson.* The Chairperson shall be the presiding officer of the Council; in the absence of the Chairperson, the duly elected Vice Chairperson shall be the presiding officer. In the absence of both the Chairperson and the Vice Chairperson, a quorum being present, the Administrator shall call the Council to order and shall receive nominations and conduct an election for Chairperson pro tempore. The Vice Chairperson, or the Chairperson pro tempore, while acting as presiding officer shall have all the authority and voting rights of the Chairperson.
- (b) *Order and Decorum.* The Chairperson shall preserve order and decorum during the meetings and sessions of the Council. The Chairperson shall have general supervision over the Council Hearing Room and over the rooms, corridors and the lobbies adjacent thereto. In case of any disturbance or

disorderly conduct therein, the Chairperson shall have the power to order any such place to be cleared.

- (c) *Prerogative of the Chair.* The Chairperson may speak on points of order in preference to other members. The Chairperson shall decide on all points of order, and that decision shall be final unless an appeal therefrom is reversed on a ye and nay vote by a majority of the Council Members present. The Chairperson's title shall be called first whenever the roll of the Council is called and the Chair is entitled to vote on all questions except on an appeal from the Chair's decision on a question of order.

(Res. No. 140, 1994; Res. No. 11, 2011)

Rule 1.005 - Procedure in Debate.

- (a) *Recognition.* Every member desiring to introduce a bill or resolution, to present a petition or other matter, to make a report or a motion, or to speak on any matter, shall address the Chairperson. A member shall not proceed further until recognized by the Chair. If two or more Councilmembers seek recognition at the same time, the Chairperson shall determine which is entitled to the floor.
- (b) *Order During Debate.* Only members of the Council may participate in debate on any bill, resolution or motion or other matter pending before the Council, unless, upon request by any Councilmember, another person is recognized to speak by the Chairperson for the purpose of clarification or information. No Councilmember shall speak more than once upon any subject until every other Councilmember wishing to speak shall have spoken and every Councilmember shall confine himself to the subject under debate.
- (c) *Voting; Abstention.* No Councilmember shall vote on any question on which the Councilmember is prohibited from voting by the Howard County Public Ethics Law. Upon the motion of any member, the vote on any question or motion or other matter shall be taken by the yeas and nays and entered in the journal. Although it is the duty of every Councilmember who has an opinion on a question to express it by voting, a Councilmember may abstain, since no Councilmember can be compelled to vote.
- (d) *Roll Call.* In any roll call, the Administrator shall call the roll of the Council Members, in alphabetic order, after the Chairperson has been called.
- (e) *Third Reader.* A Councilmember may first explain a vote, then cast the vote. At the call for the vote any Councilmember may pass; however, after the roll has been completed by the Administrator, the Administrator shall again call those names of the Council Members who may have passed upon the first call. After all votes have been cast, the Chair thereupon may ask the Council if any one desires to change his vote. If there are any members changing their vote, the Administrator will so record the change of the Councilmember's vote.

(Res. No. 140, 1994; Res. No. 11, 2011)

Rule 1.006 - Introduction of bills, resolutions and petitions.

- (a) *Introduction of Bills or Resolutions.* Bills or Resolutions which have been prefiled as provided in subsection 1.002(a) of these rules may be introduced by any member at any meeting on call of bills or resolutions. Bills and Resolutions prefiled by the Administration shall be identified as introduced by "The Chairperson at the request of the County Executive." Bills or resolutions which have not been prefiled may be added to the agenda for introduction by an affirmative vote of at least two-thirds of the Council Members to amend the agenda. A bill or resolution as introduced shall be printed in the form herein provided. When a bill or resolution is introduced, the Administrator shall certify the copy introduced and shall maintain a file on all such original bills or resolutions. The Administrator shall cause copies thereof to be reproduced and made available to the Council Members and the news

media, and shall post one copy on the official bulletin board. Copies shall be made available to the public at reasonable cost. The Administrator shall provide for the notice required by law.

- (b) *Addition of Co-sponsors.* After a bill or resolution has been prefiled and before the end of the legislative session at which the bill or resolution is introduced, a Council Member may, with the consent of the original sponsor, direct the Administrator to add the Council Member as a co-sponsor. After the adjournment of the legislative session at which a bill or resolution is introduced, a co-sponsor may be added by amendment.
- (c) *Introduction of Petitions.* Petitions may be presented by the Administrator to the County Council upon application by any person entitled by law to petition the County Council. When a petition is presented, the Administrator shall certify the copy presented, shall give it a number, and shall maintain a file on all such petitions. The Administrator shall cause copies thereof to be reproduced and made available to the Council Members, the public, the news media, and shall post one on the official bulletin board. If the petition raises an issue requiring notice, the Administrator shall provide for the notice required by law.
- (d) *Form of Bills.* Each bill shall have printed on the first page thereof the form as provided in appendix A of these Rules. The Administrator shall attach to each bill following its enactment a page summarizing its final status, as provided in appendix B of these rules; for each resolution, a page shall be attached as provided in appendix C; for each petition a page shall be attached as provided in appendix D.
 - (1) *Title.* The title shall be succinct to the reference of the general subject of the bill.
 - (2) *Enacting clause.* The enacting clause shall read "Be it enacted by the County Council of Howard County, Maryland".
 - (3) *Numbering of sections.* Section of a bill shall be numbered in Arabic numerals.
 - (4) *Numbering of lines.* The lines of the text of a bill shall be consecutively numbered commencing at the top line of each page.

The Administrator may add to the first page of a bill the date or dates when the bill may fail due to inaction as provided by Charter Section 209(h).

(Res. No. 190, 1979; Res. No. 140, 1994; Res. No. 11, 2011; Res. No. 140, 2015; Res. No. 10, 2018)

Rule 1.007 - Consideration of bills.

- (a) *Reading of Bills.* Every bill, before it shall pass the Council, shall be read on three different occasions. Any bill may be rejected upon introduction by a vote of two-thirds of the members of the Council. Any bill may be withdrawn from consideration before a vote on its final passage by a vote of two-thirds of the members of the Council. On the first reading, a bill shall be read by number and title only when introduced or when read as a substantively amended bill following readvertisement and re-hearing as provided by these Rules. The public hearing shall be the second reading. On final reading, a bill shall be read by number and title only, except that any member may request on final reading that a bill be read once, section by section for amendment before vote on final passage, and, if amended, any member may request that a bill be read as amended before vote on final passage. If amended as to substance, the bill shall not be passed until the title is rewritten to reflect the substance of substantive amendments, a hearing is set on the substantive amendments, and proceedings are conducted as in the case of newly introduced bills. Amendments may be determined to be substantive by a majority vote of the Council upon motion of any member.
- (b) *Amendments .*
 - (1) Amendments to be prefiled shall be offered in printed form and shall be prefiled with the Council Administrator no later than 2:00 p.m. on:

- (i) The second working day preceding the legislative session day at which the amendment is to be voted upon; or
 - (ii) The second day preceding the County holiday if the prefile deadline established in subsection (b)(1)(i) of this section falls on a day immediately before a County Government holiday.
- (2) Upon receipt, the Administrator shall promptly cause all prefiled amendments to be distributed to Council Members and posted on the official Council bulletin board.
 - (3) Written amendments that have not been prefiled and any oral amendments may be offered for introduction at the legislative session only after an affirmative vote of two-thirds of the members of the Council present at the legislative session.
 - (4) Notwithstanding any other provision of this subsection, when an amendment is under consideration, a Council Member may offer an amendment to the amendment. However, an amendment to an amendment may not itself be amended.
- (c) *Call of Bills for Final Reading.* Vote on final passage shall be on roll call by taking of the yeas and the nays. If no member objects, the Council may enact more than one bill by a single combined roll call vote. The call of bills for final reading shall include those bills made a special order of the day.
 - (d) *Enrolled Copy.* After passage of a bill, the Administrator shall promptly prepare an enrolled copy in printed or typewritten form, which shall be presented to the County Executive for his approval within the time required by law. On enrolling, the Administrator shall have authority to correct obvious errors in section references, numbers and references to existing law, capitalization, spelling, grammar, headings and similar matters.
 - (e) *Veto.* When an act has been vetoed by the County Executive and is returned to the Council, the message containing the Executive's objections to the bill shall be entered at large upon the Council Journal. The Council shall proceed to reconsider the bill on the call of bills for final reading, after which the Chairperson shall put the question, "Shall the bill pass notwithstanding the objections of the Executive?" The vote of the Council shall be determined by the yeas and the nays and entered upon the journal, and the votes of at least two-thirds of the members elected to the Council shall be necessary to pass the bill over the Executive's veto.
 - (f) *Incorporation of Amendments.* The Administrator, at the request of any Councilmember, shall prepare a draft working copy of any bill which is placed on the table, incorporating into the text of the bill all passed or proposed amendments to that bill. Such draft working copies of bills shall serve solely as an aid to Councilmembers' understanding of the effect of amendments during their deliberations on whether amendments should be passed or reconsidered.

(Res. No. 190, 1979; Res. No. 33, 1989; Res. No. 43, 1989; Res. No. 104, 1991; Res. No. 140, 1994; Res. No. 11, 2011; Res. No. 113, 2014; Res. No. 10, 2018)

Rule 1.008 - Consideration of resolutions.

There shall be a first reading and a final reading of each resolution; provided, however, that any resolution may be rejected upon introduction by a vote of two-thirds of the members of the Council, and provided further that any resolution may be withdrawn from consideration before a vote on its final passage by a vote of two-thirds of the members of the Council. A resolution shall be read by number and title. A public hearing may be held on resolutions at the direction of the Chairperson or by motion approved by a majority of the Council. Vote on final passage shall be on roll call by the yeas and nays, and a majority of the votes of the members shall be necessary to pass the resolution. If no member objects, the Council may enact more than one resolution by a single combined roll call vote. An enrolled copy shall be prepared after final passage and certified a true copy by the Administrator. On enrolling, the Administrator shall have authority to correct obvious errors in section references and numbers, capitalization, spelling, grammar, headings and similar matters.

(Res. No. 190, 1979; Res. No. 104, 1991; Res. No. 140, 1994; Res. No. 11, 2011; Res. No. 10, 2018)

Rule 1.009 - Consideration of petitions.

Any petition shall be read by number and title before consideration and action by the Council.

(Res. No. 140, 1994; Res. No. 11, 2011)

Rule 1.010 - Motions.

- (a) *Statement of Motions.* When a motion has been made and seconded, the Chairperson shall State it and it may be withdrawn by the mover, with consent of the seconder.
- (b) *Motions on Questions under Debate.* When a question is under debate, no motion shall be received except a motion:
 - (1) To adjourn or to fix the time for adjournment;
 - (2) To lay on the table;
 - (3) To close debate (to move the question);
 - (4) To postpone to a certain time;
 - (5) To amend or to amend an amendment;
 - (6) To determine the substantive nature of an amendment;
 - (7) To postpone indefinitely; or
 - (8) To withdraw.

None of these motions shall be debatable except a motion to amend or to amend an amendment. Except as otherwise provided in these Rules, a majority of members present shall be required for an adoption of any motion.

- (c) *Dilatory Motions.* The Chairperson shall not entertain a motion for a dilatory purpose.
- (d) *Reading of a Bill or Resolution.* A motion may be entertained after approval of the journal that the reading of a shortened title of a bill or resolution shall constitute the second or third reading of the whole of the bill or resolution on the agenda of that day. Adoption of the motion does not prevent amendments to the bill or resolution or its title to be entertained.
- (e) *Reconsideration.* When a question has once been decided, a motion of reconsideration is in order if the bill, resolution, motion or matter upon which the vote was taken is still in the possession of the Council. No motion for reconsideration is in order unless made on the same day on which the original vote was taken, or at the next meeting or session of the Council thereafter. The motion for reconsideration may be made by any member who voted with the majority on the original question, and it shall be reconsidered upon the majority vote of all members present and voting. The vote on a motion to reconsider cannot itself be reconsidered. The motion is debatable only if the question proposed for reconsideration was debatable, and has the characteristics described in section 34 of Robert's Rules of Order.
- (f) *Lay on the Table.* When a question is under consideration, the motion to lay on the table may be used to postpone the question to a future legislative session day. The motion is not debatable and has the characteristics described in section 17 of Robert's Rules of order, except that when a question has been laid upon the table it shall not be taken up for consideration during the remainder of the legislative session day.

- (g) *Take From the Table*. If a motion has been laid on the table, the motion to take from the table may be used to bring back the motion before the Council. The motion is not debatable and has the characteristics described in section 34 of Robert's Rules of Order.
- (h) *Postpone to a Certain Time*. When a question is under consideration, the motion to postpone to a certain time may be used to postpone the question to a specified time during the same legislative session day, or until after a specified event occurs during the same legislative session day. The motion is debatable and has the characteristics described in section 14 of Robert's Rules of Order.
- (i) *Postpone Indefinitely*. When a question is under consideration, the motion to postpone indefinitely may be used to permanently postpone consideration of the question. The motion is debatable and has the characteristics described in section 11 of Robert's Rules of Order.
- (j) *Rescind*. When a motion has been previously decided, the motion to rescind may be used to change an action previously taken by the Council. The motion:
 - (1) May be made at any time;
 - (2) Is debatable;
 - (3) May be applied to an approved Bill or Resolution only if the original of the Bill or Resolution is still in the custody of the Council or Council Staff; and
 - (4) Has the characteristics described in section 35 of Robert's Rules of Order.
- (k) When a councilmember thinks that these rules are being violated, the member can make a point of order, thereby calling upon the Chairperson for a ruling and an enforcement of the rules. A point of order:
 - (1) Takes precedence over the pending question out of which it arises;
 - (2) Yields to a motion to lay the pending question on the table;
 - (3) Is in order when another has the floor, even interrupting a Council Member speaking if the point genuinely requires immediate attention;
 - (4) Does not require a second;
 - (5) Is not debatable, except that:
 - (i) The Chairperson may permit a Council Member to explain the point of order; and
 - (ii) If the Chairperson submits the point of order to a vote, it is debatable unless it relates to indecorum, relates to the order of business, or is made when the immediately pending question is not debatable.
 - (6) Must be raised promptly at the time the violation occurs.

(Res. No. 140, 1994; Res. No. 11, 2011; Res. No. 10, 2018)

Rule 1.011 - Council journal.

When a bill, resolution or other legislative matter is journalized for the first time, its title shall be entered in full. Thereafter, subsequent journal entries for any legislative matter may be made by number and an abbreviated title. All amendments shall be printed in the journal when proposed. The name of every Councilmember introducing a bill or a resolution or moving to amend a bill or resolution or other legislative matter shall be entered on the Journal. Every question or motion presented to the Council for decision, and the title of every bill or resolution or other legislative matter considered, shall be entered upon the journal.

(Res. No. 140, 1994; Res. No. 11, 2011)

Rule 1.012 - Conduct of public hearings.

- (a) *General.* The rules in this section apply to public hearings held upon pending legislation, the budget, and other matters subject to public hearings. Normally these hearings will be held in conjunction with regularly scheduled meetings, but they may be scheduled at other times by the Chairperson in accordance with these rules.
- (b) *Preliminary Action.*
 - (1) Upon convening the hearing, the Chairperson shall give a brief explanation of the purpose of the hearing and shall cause to be presented any information or data, including reading of the legislation by the Administrator and explanation of the legislation by the Councilmember or a representative of the administration, which is required before the public discussion begins.
 - (2)
 - (i) Subject to subparagraphs (ii) and (iii) of this paragraph, the time limit for oral testimony at the hearing is:
 - a. Three minutes per person, whether speaking as an individual or on behalf of an entity not included in subparagraph c below;
 - b. Three minutes for each representative of an entity with multiple representatives speaking on behalf of the entity; or
 - c. Five minutes for a single representative of a nonprofit organization or government board, commission, or task force regardless of the number of members or supporters who may testify as individuals.
 - (ii) Whenever multiple items of legislation are grouped together for purposes of hearing testimony, the chairperson may extend the limits for a person testifying once about all the items in the group.
 - (iii) To qualify as a representative of a nonprofit organization, or government board, commission, or task force, the representative shall submit written certification from the entity or a sworn affidavit that:
 - a. Demonstrates that the representative is authorized to offer testimony and take a position to support, oppose, or amend the legislation on behalf of the entity; and
 - b. Indicates the number of members in the entity.
 - (iv) A certification or affidavit required by this subsection (b)(2) of this Rule shall be submitted to the Administrator:
 - a. Electronically in advance of the hearing; or
 - b. In person at the hearing before giving testimony.
 - (3) Any individual wishing to testify shall sign up through a system provided by the Administrator. The system shall include an opportunity to sign up in advance of the hearing and an on-site sign up option that shall be available for the period that begins at least 30 minutes before the scheduled time of the hearing. The opportunity to sign up to testify ends at the time the hearing is scheduled to begin on the hearing's first day. The system shall require that each person provide:
 - (i) Name and city or town of residence; and
 - (ii) Telephone number, email address, or mailing address.
- (c) *Public Participation.* Any person desiring to speak on the matters or issues under consideration shall sign up under subsection (b)(3) of this Rule and shall proceed when recognized by the Chairperson. Upon initial recognition by the Chairperson, the person shall give the following information before speaking to the issue:
 - (1) Name.

- (2) Home city or town.
- (3) Persons or organization represented or that he or she is speaking as a private citizen.
- (4) Whether he or she is speaking for or against the subject matter under consideration.
- (d) *Questions by Council.* Any member, upon recognition by the Chair, may question any speaker or witness.
- (e) *Written Testimony.* Written testimony on bills may be submitted to the Council at any time following introduction.

(Res. No. 43, 1989; Res. No. 140, 1994; Res. No. 11, 2011; Res. No. 10, 2018; C.B. 100, 2019)

Rule 1.013 - Conduct during presentation of petitions.

- (a) *General.* When petitions are made to the Council, the persons or parties presenting shall have the opportunity to state their case by presenting witnesses, exhibits, and other evidence. At the option of the Chair, the Chair may require any person desiring to testify to take the following oath.

"Do you solemnly promise to speak truthfully in the testimony you are about to give?"

Witnesses shall be examined by the party producing them and the Chair shall allow a reasonable cross-examination by other parties in interest; in the discretion of the Chair, questions, on cross-examination shall be reduced to writing and put by the County Solicitor attending the Council.

Whenever confusion arises in the hearing room, or demonstrations of approval or disapproval are indulged in by the occupants of the hearing room, it shall be the duty of the Chair to enforce order on its own initiative without any point of order being made by a Councilmember; under circumstances of confusion and disorder, the Chair shall have the power, and it shall be the duty of the Chair, to order the hearing room cleared, and the Chair may, upon its own motion without a second or putting the matter to a vote, order the hearing adjourned to a fixed hour and date.

- (b) *Questions by Council.* Any member, upon recognition by the Chair, may question any speaker or witness.

(Res. No. 140, 1994; Res. No. 11, 2011)

Rule 1.014 - Rules, suspension and amendments.

- (a) *Suspension of Rules.* These rules may be suspended in whole or in part by a vote of four members of the Council, except where failure to observe the rules would be contrary to the requirements of the Charter or other law. Separate suspension of the rules shall be necessary for each proposition and an explanation shall be given by the maker of the motion as to why the rules need to be suspended. In no case shall these rules be suspended for the purpose of amending or repealing them at the meeting at which the suspension is effective.
- (b) The rules of procedure shall be adopted and amended by Council resolution after reasonable notice which gives interested parties an opportunity to submit data or views orally or in writing.
- (c) *Robert's Rules of Order, Revised.* The rules of parliamentary practice set forth in the latest published edition of Robert's Rules of Order, Revised shall govern the Council in all matters not provided for in these rules.
- (d) *Failure to Follow the Rules of Procedure.* A council action that is otherwise valid is not invalid because of the failure to follow these Rules of Procedure or the rules of parliamentary practice set forth in Robert's Rules of Order, Revised.

(Res. No. 21, 1993; Res. No. 140, 1994)

Rule 1.015 - Officers and employees of the Council.

- (a) *Administrator.* There shall be an Administrator to the Council whose duties shall be to keep minutes of its meetings, maintain its journal and provide such other administrative services as are required to assist the legislative process, including, but not limited to, those outlined in these Rules of Procedure. There shall also be additional clerical and staff assistance, full or part-time, as the Council may provide from time to time under the provisions of the Charter and subject to the budget. The Administrator shall have the duty and responsibility, and shall be accountable to the Chairperson, for the overall coordination, direction and supervision of the employees of the Council.
- (b) *County Solicitor.* The County Solicitor shall be the legal advisor and shall provide technical assistance for the development of legislation for the Council. The County Solicitor shall attend the Council in all its meetings and at all other times as the Chairperson may direct. With the approval of the Chairperson, the County Solicitor may delegate these duties, from time to time, to an Assistant County Solicitor.
- (c) *County Auditor.* There shall be a County Auditor who shall have such duties as the Charter provides and as the Council may, by resolution, establish.
- (d) *Other Assistance.* The Council may, by resolution or as provided in the County budget, employ such legal, financial, technical or other assistance as it may from time to time deem necessary.

(Res. No. 140, 1994)

Rule 1.016 - Tax increment financing.

- (a) *In General.* The County Council shall ensure that its consideration of legislation authorizing the issuance of bonds in accordance with the Maryland Tax Increment Financing Act complies with the requirements of this Rule.
- (b) *Required Provisions in Legislation.*
 - (1) The Council shall consider requiring the legislation to identify and describe the specific public improvements to be financed wholly or partly by the proceeds of the bonds authorized by the legislation.
 - (2) For the improvements identified in paragraph (1) of this subsection, the Council shall consider requiring the legislation to include:
 - (i) Detailed description of the improvements;
 - (ii) The current estimated cost of each of those improvements; and
 - (iii) Specification of which costs are being authorized for the potential use of bond proceeds.
- (c) *Specific Authorization.* If the Administration presents a high level of certainty about exactly which public improvements are planned to be financed by the proceeds of the bonds authorized by the legislation, the Council may choose to limit the authorization specifically to those improvements.
- (d) *Safeguards Required for Flexibility.* The Council may choose to define the scope of the public improvements to provide greater flexibility in the potential use of the bonds authorized by the bill. However, to ensure that tax increment revenues are spent in a transparent manner consistent with the Council's legislative intent, the Council shall consider that such flexibility may be accompanied by:

Appropriate requirements, safeguards, or notice provisions to ensure that, before bonds are issued, the Council will receive detailed information on final plans for the use of bond proceeds with sufficient time for the Council to review and evaluate any proposed changes and take legislative action if needed.

(Res. No. 149, 2017)

Rule 1.017 - Howard County Council policies and procedures.

The Howard County Council shall have policies and procedures in order to conduct the business of the Council. The policies and procedures shall be reviewed every four years after each newly elected council is sworn in. The policies and procedures may be amended by a majority vote of the Council after this review or at any other time during the term the Council wishes to amend the policies and procedures.

(Res. No. 149, 1997)

Appendix A

INTRODUCED _____
PUBLIC HEARING _____
COUNCIL ACTION _____
EXEC. ACTION _____
EFFECTIVE DATE _____

COUNTY COUNCIL
OF
HOWARD COUNTY, MARYLAND
19__ legislative session, legislative Day No. _____
bill No. _____

Introduced by: _____

Cosponsored by: _____

AN ACT

Introduced, read first time, ordered posted and public hearing scheduled.

By Order: _____, Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of bill having been published according to Charter, a public hearing was held on _____ and continued to _____ and concluded on _____.

_____, Administrator

bill No. _____

BY THE COUNCIL

Read the third time.

Passed _____ (With Amendments)

Failed of Passage _____

BY ORDER

_____, Administrator

Sealed with the County Seal and presented to the County Executive for his approval this _____ day of _____, 19__ at _____ o'clock _____m.

_____, Administrator

BY THE EXECUTIVE

Approved:

Date County Executive

(Res. No. 140, 1994)

Appendix B

BY THE COUNCIL

This bill, having been approved by the Executive and returned to the Council, stands enacted on _____, 19__.

Administrator

BY THE COUNCIL

This bill, having been passed by the yeas of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 19__.

Administrator

BY THE COUNCIL

This bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 19__.

Administrator

BY THE COUNCIL

This bill, having been passed by the Council and requiring no further action by the Executive, stands enacted on _____, 19__.

Administrator

BY THE COUNCIL

This bill, having not been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 19__.

Administrator

BY THE COUNCIL

This bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council, stands failed on _____, 19__.

Administrator

BY THE COUNCIL

This bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council,
is withdrawn from further consideration on _____, 19__.

Administrator

(Res. No. 140, 1994)

Appendix C

COUNTY COUNCIL
OF
HOWARD COUNTY, MARYLAND

19__ legislative session _____ Date _____
resolution No. _____

Introduced by: _____

Cosponsored by: _____

RESOLUTION

By the Council _____, 19__

Introduced, read first time

Public Hearing _____

By Order _____, Administrator

Adopted
Withdrawn
Failed

By the Council _____, 19__

Certified _____ Administrator

(Res. No. 140, 1994)

Appendix D

COUNTY COUNCIL
OF
HOWARD COUNTY, MARYLAND

19__ legislative session _____ Date _____
Petition No. _____

IN THE MATTER OF THE PETITION OF _____

FOR _____

To the Administrator, County Council of Howard County,

Under the Authority of _____ (PLL) _____ (Rule No.) _____ We, the undersigned citizens of Howard County, Maryland, hereby Petition the County Council of Howard County for the following:

- (1) That a resolution be adopted
- (2) (bill be introduced)
- (3)
- (4)

And for reasons therefor say:

/s/ _____

(Res. No. 140, 1994)

CODE COMPARATIVE TABLE - Public Local Laws

This is a chronological listing of the public local laws pertaining to the county which were used in this Code.

Public Local Law				
Year	Chapter	Article	Section	Section this Code
1860		13	22	10.200
			33	7.200
			34	7.201
1870	142			18.205
1880	423			12.300
1888		14	45	12.300
			47	10.200
			99	7.200

			100	7.201
			113	18.205
1892	280		1	18.300
			2	18.301
1894	496		101A	17.203
			101B	17.200
			101C	17.201
			101E	17.203
1896	317		5	20.103
			7	20.104
			11	20.105
1900	455		5	20.103
			7	20.104
1904	150			15.100
1908	344(p. 870)			20.104
1910	4		1(p. 905)	7.301
			2(p. 905)	7.302
1912	211			15.300
1918	17			17.201
	238		2—6	15.300—15.304

1924	323		1	7.301
			2	7.302
1930		14	32	18.300
			33	18.301
			51	7.301
			52	7.302
			74	12.300
			97	20.103
			99	20.104
			102	20.105
			116	10.200
			194	15.300
			195—198	15.301—15.304
			231	17.203
			232	17.200
			233	17.201
			235	17.203
			298	15.100
			227	7.200
			229	7.201

			252	18.205
1931	32			8.108
1933	4		99	20.104
	93			17.202
1935	229			17.201
	526		53—56	7.303—7.306
1936	27			17.201
1943	129			17.201
	397			20.103
	398		65B, C	20.100, 20.101
	399			20.104
	609			17.201
	648		291A	9.100
			291B	9.101
1945	195			17.100
	652		51	7.301
			52	7.302
1947	459		198B—H	17.101—17.107
	590		73B	18.400
			73C	18.401

	666		231	17.203
			232	17.200
			233	17.201
			235	17.203
1949	388			7.301
1951	131			3.102
			33B	3.100
			33C	3.101
			33E—G	3.103—3.105
1953	255			3.100
	520			14.200
1955	199			17.108
	516		65C	20.101
			99	20.104
	547		198J	13.100
			198K	13.101
			198L	13.102
			198M	13.102
				13-103, 13-104
1957	176		97	20.103

			99	20.104
	177		33B(6)	3.100
			33C	3.101
			33F	3.104
1957	235			20.102
	438			18.209
	516			20.103
1959	508			20.200
1961	406		1	17.108
	529			1.400
	634		1	17.203
	747			3.101
	770		2	7.400
	802		1	20.103
	877		1	13.200—13.213
1963	40			20.103
	269		1	19.100
	421			20.104
	764		1	17.203
	810			10.100

	825		17	17.108
				20.100—20.103
1964	16		1	13.100—13.104
1965	190			1.401
	237		1	7.301
				7.302
	515			20.401
				20.403, 20.404
			1	9.102
				15.101
				19.100
				20.405
	899			13.100
			1	13.101
	911		1	3.106
1966	109			8.400
	214			15.200—15.214
	600			8.200
	609			20.400
	740			18.206—18.208

1967	258			3.107
	330			17.108
	378			11.100
	625			13.214
	734			7.300
1968	256			20.401
				20.402—20.405
	388			10.200
1970	87		1	7.301—7.306
1974	847		1	7.307
1975	706		1	7.307
1978	496		1	20.404
	719		1	7.307
1981	202		1	19.100
1984	367			20.404
1988	630		1	20.404
1991	239		Added	16.1100
1992	285		1 Rpld	16.1100
			2 Added	20.1100
1993	356			26.100—26.110

1994	35	14	1		26.105(a)
1996	268	14	1		26.102(b)(1),
					(g)(1), (2)
					26.105(a)
1996	493		1		20.1100
1996	640	14	1	Added	26.300, 26.301
2000	193	14	1		26.301
	80				17.102
2004	420	14	1		20.142
2011	139	14	1		20.400
2013	510	14	1	Added	20.400(d)
2016	1	14	1	Added	20.400(e)
2017	148	14	1		20.300
2018	138	14	1		20.300
2019	744	14	1		20.142

CODE COMPARATIVE TABLE - Council Bills

This is a numerical listing of the Council bills of the County used in this Code.

Council Bill		
Year	Number	Section

		this Code
1969	1	16.202, 16.203
		16.300
		16.301—16.306
	3	16.200, 16.201
		16.204—16.209
	5	18.201—18.203
	7	17.300—17.306
	8	8.100—8.107
	10	16.400
	11	22.100
	12	22.101
	13	17.307
	17	18.100, 18.101
		18.102
		18.104—18.123
	19	3.300—3.302
	20	20.300—20.302
		20.303—20.311
		20.312—20.314

	21	1.100
		1.102—1.106
		1.107—1.122
	22	2.200—2.220
	24	4.100—4.118
	29	1.300, 1.301
	32	3.200—3.214
		3.211—3.214
	33	12.100—12.112
	35	1.200—1.211
	39	14.100—14.108
	40	18.204
1970	1	19.300—19.304
	4	18.402
	5	12.113—12.117
	6	3.400—3.404
	7	2.100—2.107
	9	3.300
		3.303—3.306
	10	16.500—16.516

	13	14.300—14.304
	15	14.110
	16	1.117
		1.118, 1.119
	18	1.210
		1.211
	19	22.200—22.202
	21	12.118
	23	16.210
	25	6.100
	28	17.109—17.113
1971	6	18.204
	7	15.400—15.403
	8	1.301
	10	1.117
	13	20.106
	14	17.301—17.304
	15	1.300
	18	1.211
	19	1.101

	20	3.302
	25	8.500—8.503
	26	1.117
	35	14.400—14.431
	36	19.101
	37	19.200, 19.201
	38	3.400—3.404
	40	1.301
1972	1	3.500—3.516
	6	14.500—14.509
	7	17.108
	13	14.103
	25	20.311A
	27	18.103
	28	18.210
	29	14.600—14.602
	33	1.101
	44	18.700
	45	18.114
	47	12.104

	49	20.311
	50	8.101, 8.103
		17.300, 17.303,
		17.305
	52	17.400
	53	18.124
	54	18.124
	62	13.106
1973	8	12.119
	11	20.106
	12	3.207, 3.210
	13	18.124
	14	18.124
	16	18.124
	17	18.124
	18	18.124
	19	18.124
	20	18.124
	21	18.124
	22	20.302A

	23	20.304
	24	18.101A
	25	16.600, 16.601
	33	7.300
	38	16.305
	41	8.401
	42	14.407
	46	8.600
		12.400—12.409
	48	1.300, 1.301
	56	22.101
	58	1.210
		1.211
	59	1.117
	60	1.106A
	62	18.124
	63	18.124
	64	18.124
	65	18.124
	66	18.124

	67	18.124
	69	22.415
	70	22.420
	71	22.400
	72	22.410
	74	22.300—22.304
1974	1	16.202
	2	1.402
	3	16.300A
	12	1.210, 1.211
	13	22.415
	18	6.100
	19	20.107
	21	4.200
	22	4.201
	24	4.201
	25	22.300—22.304
	28	18.124
	29	18.124
	30	18.124

	31	18.124
	33	18.124
	34	18.124
	35	18.124
	36	18.124
	37	18.124
	38	18.124
	39	1.119
	40	1.210, 1.211
	41	1.300, 1.301
	49	14.104, 14.105,
		14.107
		14.401, 14.402
	50	18.124
	53	3.501, 3.502,
		3.515
	54	16-202
	55	20.600
	56	20.500—20.503
1975	1	1.301

	6	1.210, 1.211
		1.300, 1.301
		7.500—7.503
	7	17.400—17.413
	11	16.202
	13	17.307—17.313
	14	1.300, 1.301
	15	1.117
	16	1.210, 1.211
	18	1.212
	19	21.101—21.167
		21.201—21.209,
		21.300
		21.400—21.405
		21.500—21.505
		21.600—21.602
		21.700—21.715,
		21.800
		21.900—21.924
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	40	18.124(ff)
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	43	1.300, 1.301
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	3 Rpld	22.410
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	19	10.400—10.410

	20	4.300—4.302
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	33	8.400, 8.401
	34	10.406
	35	3.209
	36	3.501(c)(2)(b)
	37	18.124(ll)
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	40	21.911
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	41	20.104
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	22	1.302(a),
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	26	1.117
	27	18.124(ppp)
	31	3.209
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	38	20.307
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	3	18.124(qqq)
	5	1.300(b),
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	8	1.300(b), 1.302(a)
	9	20.104(a)
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	22	16.108(41.1)—
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	31	1.300(c)(1),
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		(4), 1,303(h)
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	71	18.124(zzz)
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	29	18.124(aaaa)
	30	18.124(bbbb)
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	33	17.400, 17.401(h),
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	39	3.109(4)
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	28	1.300—1.305
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	43	22.500
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	81	1.302
	91	20.200
	92	17.114
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	Rpld	20.300—20.314
	4	21.1002
	6	6.100
	9	16.108(18), (65)(e),
		16.113(c)(3), (11)
	14 Rpld	10.300—10.310,
		22.200—22.202
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	17	19.201, 19.515
	18	3.108, 3.109(31)
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	27	1.210(7317), (7324),

		(7344), (7348), 1.211,
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		(7344), (7348)
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	37	3.300—3.311
	38	22.600(b)
	39	16.101(5),
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	42	13.600—13.603
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	47	16.137(a)(3)
1983	1 Rpld	4.100—4.118
	Added	4.100—4.111
	2 Rpld	12.200—12.213
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	3	18.125
	4	22.500—22.503
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	10	1.210(0121),
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		(5161), (5162),
		(6135), (6183),
		(6702), (6703),
		(7317), (7322),
		(7324),
		(7330)—(7334),
		(7710), (7725),
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		(6183), (6702),
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		(7322), (7330),
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		(3271),
		(5232), (6195),
		(6702), (6703)
	12	7.302
	13	20.800
	14	22.415
	21	22.600
	22	8.110, 8.111,

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	30	1.300, 1.305(3)
	39	15.502, 15.504,
		15.507(a), 15.508(d),
		15.509(c), (e), (f)
	40 Rpld	4.300—4.303
	Added	4.300—4.310
	41	18.604(q)
	42	18.211
	43	22.414
	44	3.502(a), (b)(1), (2),
		3.503(e), 3.505(a)(5),
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	46	12.105
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		20.312(5)(c), 20.313(5)
	Added	20.317, 20.318
	Rnbd	20.317 as

		20.319
	Added	20.900—20.911
	49	12.212III(d)
	58	22.204(c)
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	60	20.103
	61	16.201, 16.204—16.206
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	70	8.800—8.804
	71	16.500(i)(3)
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1984	4	20.103(c)
	10	1.117(h)
	Added	1.122
	Rnbd	1.122 as 1.123
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	11	1.601(n)
	12	16.514(c),
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	13	4.201(a), 4.202,
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	27	22.203(g)(6)(i)
	28	3.400, 3.402,
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		16.102(a)(1),
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		16.116(c), 16.119(b)(1)c,
		(2)c, 16.120(a)(2), (b)(1)q,
		(2)p, 16.121(c)(2), (3),
		(6)d, 16.137(a)(3)e,
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	29	3.209(a), (b), 3.210(j)
	30	1.402(e)(2), (g)(4)
	Rpld	1.402(e)(3),
		(g)(5)
	31	1.118(2), 1.119(4)
	33	3.307(6)
	38	14.411

	39	3.210
	40	1.210(7315),
		1.301(5723),
		(7315), (8735)
	41	1.302(7355)
	42	1.117(e)
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	52	Added
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		Rnbd
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		(D)—(W) as (F)—(Y)
		Amd
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		16.144, 16.146(1),
		16.148(a)(7), (b)(1)
	53	Rpld
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		20.312
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	58	21.912, 21.925,
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	59	16.121(b)(2)w, x,
		16.126
	60	20.109(f)(2)
	65 Rpld	3.100—3.109
	Added	3.100
	66 Rpld	8.100—8.138,
		17.300—17.325
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	67	20.200
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	70	1.106(c)(3)
	77	20.103(a)
	80	14.411(e)
	82 Rpld	3.200—3.213
	Added	3.200—3.217
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		(a), (b)(3),
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		15.509(c), (e)—(h)
	Added	15.601—15.605
	Rnbd	15.601 as
		15.606, 15.602
		as 15.608,
		15.603 as
		15.607
	6 Rpld	12.100—12.119

		15.200—15.214
	Added	12.100—12.112
	7 Added	5.100—5.104
	9 Rpld	3.400—3.404
	Added	3.400—3.409
	10 Amd	8.401(D), 8.405
	11 Rpld	18.300, 18.301
	16 Amd	16.400
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	18 Amd	1.210(1646),
		(1876), (3115),
		(3145), (5242),
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		(7315), (7322),
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		(7536)—(7539),
		(7552), (7554),
		(7768), (7772),

		(8111/8112),
		(8225), (8245),
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		(9221), (9222),
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		(0193), (0194),
		(1170),
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		(9535), (9909),
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		(9985)
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		(5345), (7317),
		(7725),
		(8221/8222),
		(8645)
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		(5242), (5246),
		(5721), (5722),
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		(7539), (7552),
		(7554), (7725),

		(8423), (8632),
		(9245), (9535),
		(9721)—(9723),
		(9915), (9954),
		(9956), (9975)
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		(1355),
		(3111)—(3113),
		(5190), (5255),
		(6130), (7728),
		(9909), (9917),
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	Rpld	1.301(5515),
		(5517), (5345),
		(7317), (8645)
	Rnbd	1.301(9917) as
		(9925)
		(9919) as (9923)
		(9935) as (9927)

	Amd	1.302(0195)
	Added	1.302(5246)
	Rpld	1.303(7175)
	Amd	1.304(5612)
	Added	1.305(3)
	Rnbd	1.305(3) as (4)
22	Amd	19.501, 19.504,
		19.505,
		19.508—19.510,
		19.512,
		19.514, 19.515
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28	Amd	1.211, 1.300,
		1.301, 1.305(4)
31	Added	24.100—24.111
32	Amd	3.100(ii)(2), (ac),
		(ag), 3.201(b),
		3.216, 3.309,
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		8.502, 8.600,

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		17.302(I)(f), (II)(f),
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		18.208, 18.401,
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		18.606, 18.907,
		19.201, 19.515,
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	34 Amd	3.502(a),
		(b)(1), (2),
		3.503(e)(2),
		3.505A(a), (b)
	35 Rpld	20.103
	Added	20.103
	37 Added	1.101A
	38 Amd	8.400
	Added	8.404
	Rnbd	8.404, 8.045 as
		8.405, 8.400
	40 Added	20.110
	41 Added	22.206(e)
	42 Amd	3.501(b), (4),
		3.502(e)
	43 Added	1.102(z-1)
	Amd	1.120(g)

	48	Rpld	15.100, 15.101
	49	Rpld	8.200
	52	Added	8.900
	53	Amd	18.122A(F)(8), (G)(3),
			(5), (6), (M)(1),
			(3), (11), (N)
	61	Amd	17.108
	62	Added	5.300
	64	Added	25.100—25.103
	66	Added	1.304(7915)
1986	1	Amd	5.200
	2	Amd	6.100
	4	Amd	16.301(c)
	7	Added	14.401(bb)
		Amd	14.407(b)
	8	Added	11.200—11.202
	9	Amd	12.204(IV), (VII), (X)
	10	Rpld	3.206(b)
		Rnbd	3.206(c)—(e)
			as (b)—(d)

	Amd	3.207(c), 3.213
11	Amd	17.301(XII),
		17.302(I)(f), (II)(f),
		17.303(II)(a),
		17.304(II)(a), (c),
		17.305(II)(c), (f),
		17.306(IV)(b)(9)g,
		(V), 24.103
13	Amd	16.113(c)(2)
18	Rpld	3.300—3.311
	Added	3.300—3.311
19	Amd	1.102(u),
		1.116(c)
20	Amd	1.121(b)
21	Amd	1.117(g)(5), (10)
22	Amd	1.114
24	Amd	20.314(4),
		20.315(3)
25	Amd	12.106(a)(3),
		(b)(5)

	26	Amd	4.401—4.406
	34	Amd	1.300, 1.305(4)
	36	Rpld	14.100—14.110
	40	Amd	14.100—14.110
			20.314(4), 20.315(3)
	48	Amd	1.101A(b)(1),
			(3), (4)
		Added	1.114(h)
		Amd	1.116(d)
		Added	1.116(g)—(i)
		Amd	1.117(b), (f)—(h)
		Added	1.117(j)(8)
		Amd	1.118
		Amd	1.119(3), (4)
		Added	1.119(9)
		Amd	1.121(b)
		Amd	1.300(P)
	49	Amd	15.509(e)
	55	Rpld	1.500—1.511
		Added	23.300—23.311,

			23.400—23.410,
			23.500—23.509
	56	Amd	22.500—22.503
	57	Rpld	23.100, 23.200
		Added	23.100—23.102,
			23.200—23.202
	58	Rpld	1.210(1874)
		Added	1.210(1875),
			(8161/8162),
			(8164), (8165)
		Amd	1.211, 1.301
	59	Amd	1.302, 1.303
	60	Amd	1.116(d)
		Amd	1.119(9)(a)
	64	Amd	1.402
1987	11	Amd	1.302(2), (5)
	12	Amd	16.113(b)(6)
	13	Amd	18.122A
	14	Amd	20.300—20.307,
			20.316

	17	Amd	16.137(d)
	18	Amd	2.207, 2.208,
			2.215, 16.303
	21	Amd	3.214(a), (b)
	27	Amd	1.210(0155),
			(0194), (1105),
			(1106), (1346),
			(3113), (3162),
			(7134), (7135),
			(7728), (7774),
			(8151), (8152),
			(8155), 1.211,
			1.301(1105),
			(1106), (1365),
			(3162), (7134),
			(7135),
			(7330)—(7332),
			(7530), (7728)
		Added	1.210(0744),
			(1107), (1180),

		(1327), (1336),
		(1345), (3101),
		(3102), (5210),
		(6601), (7136),
		(7530), (8730);
		1.301(0744), (1107),
		(1180), (1327),
		(1336), (1345),
		(3101), (3102),
		(5210), (6601),
		(7136), (8730)
	Rpld	1.301(0155)
	28 Amd	1.304(1144),
		(3324), (3326)
	Added	1.303(1710),
		(9618);
		1.304(3323)
	Rpld	1.304(1115),
		(1142)
	29 Amd	1.300, 1.305(4)

	34	Amd	16.300A
	37	Added	1.302(5446)
	43	Added	1.302(5933)
	44	Amd	1.101A(b),
			1.114(h),
			1.116(d), (i)(1)(i),
			1.117(e), (f), (g), (10),
			1.121(b)
		Added	1.116(j)
	45	Amd	1.300(Sch. H),
			(Sch. P), (Sch. F),
			1.305
	46	Amd	1.116(d)
	57	Amd	1.102(r)
	59	Added	4.402(e)
	61	Added	19.200(t)
		Amd	19.201(b)
	62	Amd	18.101,
			18.118
	64	Added	20.111

	72	Added	15.509(h)
		Rnbd	15.509(h) as (i)
	73	Amd	16.601(b)(1)
	75	Amd	1.302(65), (0205)
	78	Rpld	1.210(5170), (5210),
			(5246), (5265),
			1.211(5170), (5210),
			(5246), (5265)
		Added	1.300(36), (37)
		Rpld	1.301(5170), (5210),
			(5246), (5265)
		Amd	1.302
		Rpld	1.303(6385)
	79	Amd	1.101(a)(2)
	80	Amd	1.105(63)
1988	2	Amd	16.601(c)(2),
			(f)(4), (i)
	3	Rpld	15.506(a)(5)
		Amd	15.507(a),
			15.508(a)(3), (c)

	Rpld	15.5089(a)(5)
4	Amd	3.209(a), (b)
12	Amd	22.205(d)(7)
20	Amd	1.300
21	Amd	16.127(3)
23	Amd	1.116(e), (j),
		1.117(f), (g)
	Added	1.117(h)(7)
	Rnbd	1.117(h)(7) as (8)
24	Added	1.210(1373),
		(5183), (5411),
		(5725), (6156),
		(7125), (7335),
		(7531), (7533),
		(7535), (7712),
		(8103), (8104),
		(8424), (8465),
		(9125)
	Amd	1.210(5525),
		(5723), (6155),

		(7333), (7334),
		(7344), (7348),
		(7538), (8423),
		(8646), (9625),
		1.211,
		1.300(Sched. F),
		1.301(1373), (5183),
		(5411), (5525),
		(5725), (6155),
		(6156), (7125),
		(7333)—(7335),
		(7344), (7348),
		(7531), (7533),
		(7535), (7538),
		(7539), (7552),
		(7554), (7712),
		(7768), (7772),
		(7774), (8103),
		(8104), (8423),
		(8424), (8645),

		(9125), (9625)
	25 Amd	1.302(0302),
		(7776),
		1.304(7923)—(7926)
	26 Amd	22.600(a)
	29 Rpld	14.400—14.432
	Added	14.400—14.433
	30 Amd	16.601(f)(4)
	32 Amd	14.702
	36 Amd	1.101A(b)(1), (2)
	Added	1.106(c)(3)e
	Amd	1.114(h),
		1.116(d)(2)a, (g)(1),
		(j)—(2)(i), (iii)
	Added	1.116(k)—(m),
		1.117(b)(5)(iii),
		(e)(2)(ii)
	Amd	1.117(g)(10)(i), (iii)
	Added	1.117(i)(10)
	Amd	1.118(2),

		1.119(9)(a), (d),
		1.605(b)
	37 Amd	1.300(Sched. F)
	39 Amd	19.515(b)
	40 Added	12.400, 12.401
	41 Amd	12.212.iv
	42 Amd	3.402(c)
	43 Amd	12.106
	45 Rpld	12.600—12.609
	Added	12.600—12.612
	46 Amd	20.111
	47 Amd	16.120(b)(1)h
	Amd	16.120(b)(2)h
	Added	16.121(b)(2)y
	Added	16.148(a)(7)h
	56 Amd	1.302
	57 Added	20.112
	60 Rpld	3.100
	Added	3.100
	61 Added	16.108(74)

	Amd	16.700—16.705
62	Amd	Tit. 1(title)
	Added	1.100A, 1.101A
	Amd	1.101, 1.102(c),
		1.104(title), (a)1.114,
		1.202, 1.203,
		1.205, 1.207,
		1.209, 1.210(5125),
		(6183), (7747), (8195),
		1.301(5125), (6183)
		(7747), (8195), 1.302,
		3.100.II. 1, 5, 8, 9, 15,
		16, 22 (114.2), 24, 29,
		3.201(b), 3.202, 3.203
		(c)(5), 3.207, 3.209,
		3.214(c), (d), 3.215,
		3.216, 3.302(2)(a),
		3.303(1), 3.304(3), (4),
		(7)(a), (c), 3.306(3),
		3.307(6)(b), (c), 3.309,

		3.310, 3.400, 3.401(e),
		3.402(b), 3.403(c)(3)g,
		(e), 3.404(a), (b), (d), (e),
		3.405(b), 3.406, 3.407
		3.501(c)(8), 3.502(e), (f),
		3.504(a), 3.505A(b),
		3.507(f), 3.509(a), (b),
		3.511(a), (b), (d), 3.512
		(a), (b), 3.514(c), (d)
	Added	3.600, 3.601
	Amd	4.102(t),
		4.401(d), Tit. 6(title),
		Tit. 6, Subtit. 1(title)
	Added	6.200—6.210,
		6.300—6.333,
		6.400—6.404
	Amd	7.500—7.503,
		8.406, 12.101,
		12.202—12.205,
		12.400, 12.500(a)—(c),

		(d)(14), (15), 12.501,
		Tit. 12, subtit. 7(title),
		12.701, 12.702
	Added	12.900—12.902
	Amd	13.400—13.402,
		13.500—13.502
	Rpld	14.101.1
	Rnbd	14.101.II—X as I—IX
	Amd	14.101—14.106,
		14.109, 14.200, 14.428
		14.503, 14.504(a),
		(c)—(f),
		14.505, 15.400,
		15.504, 16.116(c),
		16.117(e), 16.143(1)(b),
		16.500(b), 16.501(e),
		16.601
	Added	16.800, 16.801,
		16.900, 17.100A,
		17.100B

	Amd	17.114
	Added	17.200A
	Amd	17.300—17.307,
		17.400(f), 17.401,
		17.402
	Added	18.1000,
		18.1001, 18.1100,
		19.600, 19.601,
		19.700, 20.1000
	Amd	21.1200, 21.1202
	Added	22.400A
	Amd	22.203(a)—(f)
	Rpld	25.100—25.103
	63 Amd	18.402
	66	Tit. 16,
		Subtit. 1(note)
	Amd	16.102(Intro. ¶),
		(b)(1), 16.102(c),
		16.108, 16.112,
		16.113(b), 16.115(c),

		16.116, 16.117
	Added	16.119(b)(1)l,
		16.120(b)(1)w,
		16.120(b)(2)u,
		16.121(b)(2)q
	Rnbd	16.121(b)(2)q—y
		as r—z
	Amd	16.121(d),
		16.126(3)
	Added	16.129(8)
	Amd	16.134
	Added	16.143—16.150
	67 Amd	2.207(b), 16.303
	68 Amd	16.203(a),
		16.204
	69 Amd	16.305
	70 Amd	18.112, 18.202
	72 Amd	18.101,
		18.125(5)(d)
	75 Amd	22.600(a)

1989	5	Amd	4.102(h), (ac),
			4.103(k),
			4.106(a)(3), 4.108(a)
	6	Added	11.300
	7	Amd	6.300
	8	Amd	1.106(a), (c)
	9	Added	15.509(j),
			15.604(d)
	13	Amd	17.100B
	17	Amd	15.503,
			15.504(h)(6),
			15.506(a), 15.507
		Added	15.508(f)
		Amd	15.603, 15.605
	21	Amd	5.100—5.104
	22	Amd	12.110(b)—(d)
		Added	12.111
		Rnbd	12.111, 12.112 as
			12.112, 12.113
	23	Added	17.401(d)(13)

	Added	17.500—17.504
24	Amd	20.112
25	Amd	16.117(a), (c)
27	Amd	1.102(y)
	Added	1.102(d), (o), (ii)
	Rnbd	1.102(d)—(m)
		as (e)—(n),
		(n)—(z) as (p)—(bb),
		(z-1) as (cc),
		(aa)—(ee) as (dd)—(hh),
		(ff)—(jj) as (jj)—(nn)
	Amd	1.109(b)(2), (3),
		1.116, 1.118, 1.119,
		1.206, 1.210(0191),
		(0192), (0194),
		(1644), (1744),
		(5521), (5523),
		(7539), (7552),
		(7554), (8645),
		(9113), (9546),

		(9581), (9582),
		(9721), (9723),
		(9725)
	Added	1.210(1177),
		(1340), (5410),
		(5522), (8453),
		(9615), (9722)
	Rpld	1.210(1107),
		(1365), (1625),
		(1630), (5851),
		(9545), (9585),
		(9911)
	Amd	1.211,
		1.300—1.305
	33(Res.) Amd.	App. A,
		§ 5.206(b)
	35 Added	18.112(f)
	38 Amd	1.302(8430),
		14.402(d),
		14.427(b)(5),

		14.431(b)(7),
		3.204(b), 3.205(b),
		3.207(c), 3.213(c)
	43 Added	16.1000—
		16.1012
	43(Res.) Amd.	App. A,
		§§ 5.200(b)
		5.206(a), 5.211(b)
	Added	App. A,
		§§ 5.206(f),
		5.211(f)
	44 Rpld	13.100—13.103
	Added	13.100—13.132
	45 Amd	15.507,
		15.508(a)
	48 Amd	14.109.l
	49 Added	1.02(5521/5522)
	Amd	1.116(e)(2),
		1.210(5161/5162)
	Rnbd	1.210(5723)

	as	(5523), (9546)
	as	(9545)
	Amd	1.210(9581),
		(9582),
		1.300(Sch. F),
		(Sch. 11),
		1.301(3101),
		(3102)
	Added	1.301(7322),
		(7324)
	Amd	1.301(7538),
		(7539), (8165),
		(9625), (9956)
	Rnbd	1.302(5720)
	as	(5720)
	Added	1.302(6620)
	Rnbd	1.304(5560),
		(5561)
	as	(5650), (5651),
		(5563)

		as	(5653), (5565)
		as	(5655), (5567)
		as	(5657), (5569)
		as	(5659)
		Amd	1.304(6125)
	50	Amd	1.101B
		Rpld	1.10(c)(3)e,
			1.114(h), 1.116(d)(7),
			(g)—(i), (j)(4),
			(k)—(m), 1.117(b)(5),
			(e)(2), (l)(12), (g)(10),
			(h)(8), (i)(10), (j)(8),
			1.121(b)(1)—(4),
			1.605(b)(2)
	63	Amd	1.300(Sch. C),
			1.301(7315),
			(7330)—(7332)
	65	Amd	3.507(a)
	66	Added	6.334, 6.500
		Rpld	19.300—19.304

	67	Added	6.335, 12.1000
	69	Rpld	17.300—17.307
		Added	17.300—17.310
	82	Added	13.700—13.708
	88	Amd	1.117(j)(3)
	89	Rpld	3.300—3.311
		Added	3.300—3.309
	90	Amd	3.501(b)(3)
		Rpld	3.501(b)(4)
		Amd	3.502(a),
			3.503(e)(2)
		Added	3.503(j), (k)
		Amd	3.505(a)(6)
		Added	3.505(a)(7)
		Amd	3.511(d),
			3.512(a), (c)
		Added	3.514(b)
		Rnbd	3.514(b)—(r)
		as	(c)—(s)
	91	Amd	3.403(c)(3)h,

		(d)(1)
	94 Rpld	16.300—16.306
	Added	16.300—16.303
	95 Rpld	2.200—2.218
	Added	2.200—2.213
	98 Added	16.1002(c)(11)
	104 Amd	16.1002(c)(5)
	105 Added	18.402(i)
	106 Amd	3.503(b),
		3.505A(b)
	107 Amd	5.200
	108 Amd	6.100
	115 Added	13.800—13.815
	116 Added	13.900—13.910
	117 Amd	1.302(j)(5210),
		6.200(a), 6.201(d)
	Added	6.201(i), 6.211
	Rpld	6.401(d)(7),
		6.403
	Added	6.403, 6.405

	Rpld	17.100A(d)(1)
		(vi), (2)
	Amd	18.1001(c)(4),
		(7), (11),
		23.100, 23.201
	Added	25.100, 25.101
	118 Amd	1.400, 1.401,
		4.105(a)
1990	9 Amd	21.123, 21.710
		21.902
	10 Rpld	App. B, §§
		2.100—2.117
	Added	App. B, §§
		2.100—2.124
	11 Amd	1.110(d)(4)
	13 Added	16.103(b)
	Rnbd	16.03(b), (c)
	as	(c), (d)
	Amd	16.900(i)
	Added	16.900(j)(2)(iii)

	28	Added	21.1300—
			21.1304
	29	Added	1.102(o)
			(1343/1344),
			(1731/1732)
		Amd	1.210
			(1341/1342)
		Rpld	1.210(1344)
		Added	1.210
			(1343/1344), (1423)
		Amd	1.210(1435)
		Added	1.210(1642)
		Amd	1.210(1644),
			(1731/1732),
			(1875), (1876),
			(3115)
		Rpld	1.210(3162)
		Amd	1.210(3164),
			(3166)
		Added	1.210(3171)

	Rpld	1.210(5145)
	Amd	1.210(5165)
	Added	1.210(5195)
	Amd	1.210(5235)
	Added	1.210(5524), (5845)
	Amd	1.210(6130)
	Added	1.210(6182),
		(6184), (7143)
	Amd	1.210(7145)
	Added	1.210(7155),
		(7323)
	Amd	1.210(7531),
		(7533), (7535),
		(7536), (7538),
		(7539), (7539),
		(7552), (7554),
		(7710)
	Added	1.210(7714)
	Amd	1.210(7725)
	Added	1.210(7726)

	Amd	1.210(7728)
	Added	1.210(7754)
	Amd	1.210
		(8101/8102),
		(8103/8104),
		(8131/8132),
		(8135), (8145),
		(8147),
		(8151/8152),
		(8155)
	Rpld	1.210(8157)
	Amd	1.210(8165),
		(8175), (8177),
		(8265), (8631),
		(8632), (8646),
		(8735),
		(8835),
		(9234)
	Added	1.210(9235)
	Amd	1.210(9255),

		(9582)
	Added	1.210(9616)
	Amd	1.210(9621),
		(9919), (9952),
		(9954), 1.211,
		1.301(1341), (1342),
		(1423), (1642),
		(1644), (1875),
		(3164), (3173),
		(5235), (7145),
		(7728), (8165),
		(8177), (8185),
		(8265), (8846),
		(8735), (9952),
		(9954)
	Rpld	1.301(1342)—
		(1344), (3162),
		(5145),
		(6130), (8157),
		(9255), (9919)

	Added	1.301(1343),
		(1344), (1423),
		(1642), (3171),
		(5195), (5524),
		(5845), (6130),
		(6182)—(6184),
		(7143), (7155),
		(7323), (7714),
		(7726), (7754),
		(9235), (9255),
		(9616), (9919)
	Rpld	1.303(6182),
		(6184)
	Amd	1.303(7751),
		1.304(1135)
	Added	1.304(1167)
	30 Added	18.204
	40 Amd	1.118(1),
		1.119(4)(a), (b)
	Rpld	1.119(4)(c)

	Rnbd	1.119(4)(d),
		(e) as (c), (d)
	Amd	1.300
51	Added	13.1001—
		13.1022
	Amd	22.205(a)(3),
		23.102(a)
55	Amd	16.100(F)
	Added	16.100(i)
	Rnbd	16.1001(i)—(p)
		as (j)—(q)
	Amd	16.1005(d)(2)
57	Added	3.100.II.18A
58	Amd	21.1302
59	Amd	1.110(e)(1)
60	Amd	1.211
61	Amd	16.1007(d), (e)
	Added	16.1007(f),
		16.1007A
62	Added	16.1002(c)(12)

	63	Amd	1.101B(b)(1),
			1.300.P,
			1.301(7762), (7764),
			(7766), (7767)
	93	Added	20.113
	99	Amd	3.214(a), (b)
	100	Amd	13.103(a)
	101	Amd	18.902(c)(5),
			18.903(d), (e)
1991	5	Amd	20.103
	10	Amd	16.118(1)—(9),
			16.119(c), (d),
			16.120(a)(3), (4),
			16.121(a), 16.143(4)
	12	Amd	Tit. 12,
			subtit. 10(note),
			16.1000(b)(2)
		Added	16.1001(o)
		Rnbd	16.1001(o)—(q)
			as (p)—(r)

	Amd	16.1001(p)(3),
		16.1002(a)
29	Amd	14.415(a)
32	Amd	3.400,
		3.403(c)(3)e(iv)
38	Amd	20.103(b)
40	Amd	14.412(h)
41	Amd	1.116(c)
42	Amd	1.116(j)
43	Amd	1.300(Sch. G),
		1.301
44	Added	1.118(1)
	Rnbd	1.118(1)–(3)
		as (2)–(4)
47	Amd	17.500, 17.501
	Added	17.502
	Rnbd	17.502–17.504
		as 17.503–17.505
	Amd	17.505
	Added	17.506

	50	Amd	18.122B(A),
			(B)(7), (9), (12),
			(C)(1), (7)(g)
	51	Added	4.201A
	53	Amd	21.402
	54	Amd	1.105(3),
			1.110(d)(1), 1.111
		Rpld	1.121(a)—(c)
		Added	1.121(a)—(i)
		Rnbd	1.121(d) as (j)
		Amd	1.204
		Rpld	1.209
	55	Amd	14.503(b)(1)
	56	Amd	3.204(d)(1), (2),
			3.205(d)(1),
			3.206(d)(1), (2),
			3.207(c),
			3.209(a), (b), (d), (e),
			3.213(c),3.214(b)(2),
			3.215

	61	Added	13.1100—13.1112
	62	Rpld	1.118(1)
		Rnbd	1.118(2)—(4)
			as (1)—(3)
	63	Added	1.106(j)
		Amd	1.116(f)
	65	Added	4.110
		Rnbd	4.110, 4.111
			as 4.111, 4.112
	66	Added	20.109(j)
	67	Amd	16.207(b)
	68	Amd	1.302(c)
		Added	1.302(j)(6230)
	69	Amd	14.702(a)
		Rpld	14.702(c)
		Amd	14.706(a)(8),
			14.709
	72	Amd	1.300(2)(R2)
	73	Amd	1.101B(b)(2)
		Rnbd	1.210(7530)

		as (7520)
	Added	1.210(7530)
	Rpld	1.210(7531)
	Rnbd	1.210(7532)
		as (7531), (7534)
		as (7532)
	Amd	1.210(7533)
	Added	1.210(7534),
		(7535)
	Amd	1.210(7536)
	Rnbd	1.210(7535)
		as (7537)
	Rpld	1.210(7537)
	Amd	1.210(7538),
		1.211, 1.300(2)F,
		1.301(7520),
		(7530)—(7537),
		1.401(c)(7530)—(7537)
	Amd	App. C(Fire)
	89 Amd	20.200

	90	Added	17.600—17.612
	91	Amd	12.1000(b),(c), (e)
	92	Amd	1.101B(b)(3),
			1.300(2)C,
			App. C(AFSCME 3080)
	99	Amd	1.101B(b)(4),
			1.300(2)H,
			App. C(AFSCME 3085)
	100	Amd	1.101B(b)(1),
			1.300(2)P, App. C(Police)
	104(Res.)	Amd	App. A, §§
			5.206(c), 5.207
	105	Added	1.304(1752),
			(7927)
	106	Amd	1.304(7751)
	111	Amd	22.203(c)
	113	Amd	1.110(b)(1)
		Added	1.117(intro ¶)
		Amd	1.117(b)(2),
			(g)(2)—(4), (6), (8),

		(h)(1), 2(iii), (v)
	114 Amd	20.1001(c)(3)
	117 Added	19.800, 19.801
	125 Added	16.515(e)
	127 Amd	12.401(b),
		(c), (h)(3)
	129 Amd	20.113
	132 Added	20.114
	136 Added	1.102(r)
	Rnbd	1.102(r)—(nn)
		as (s)—(oo)
	Added	1.117(j)(intro ¶), (k)
	137 Amd	13.300, 13.301
	138 Amd	12.200.II, III
	Added	12.201.III, VI,
		VII, IX, XVI
	Amd	12.202.VII, VIII,
		IX(c)—(e), (g)—(i)
	Added	12.205.IV(5)
	Amd	12.207

	Added	12.207A—12.207C
	Amd	12.208.I(a),
		III(d), 12.209.I,
		12.210.I, 12.211.I,
		12.212(title)
	139 Rpld	3.100
	Added	3.100, 3.101
	143 Amd	14.702(a)
	149 Added	17.109
	150 Added	1.400(e),
		1.401(e)
	151 Amd	1.302(a)—(h)
	Added	1.302(i), (j)
	Rnbd	1.302(i), (j)
		as (k), (l)
	Amd	1.302(l)
	Rpld	6.201(c),
		6.202(d)
	Added	6.212
	Amd	6.401(d)(8),

		12.901(c)
	Rnbd	12.902 as 13.404
	Amd	13.400,13.401(e),
		13.404
	Added	13.405
	Amd	15.504(d), (h)(7)
	Added	15.505
	Amd	15.507,
		15.508(a)—(c),
		15.509(j)(1)(i)—(iii),
		15.602(a), (h),
		15.604(d)(2)(i)—(iii),
		15.605, 15.607,
		15.608,16.801(c)(8)
	152 Added	12.500(e)
	153 Rnbd	17.100A,17.100B
		as 17.100,17.101
	Rnbd	17.108(a), (j)
		as 17.102(a), (b)
	Rnbd	17.108(b)—(i)

			as 17.103(a)—(h)
		Added	17.104—17.108
1992	5	Amd	10.200
	6	Amd	1.302(c),
			(f), (l)(6165)
		Added	6.201(c)
		Rpld	6.202(e)
		Amd	6.401(d)(8),
			12.202.II, III,
			IX(j), 12.205,
			12.206, 12.901(c)
	7	Added	16.1100—16.1110
	8	Added	20.1100—20.1106
	9	Amd	13.703(c)
		Added	13.704(g)
	10	Added	9.103, 18.100A,18.212, 18.600A
		Amd	21.1200
		Rnbd	22.420 as 22.401
		Added	22.402
		Rnbd	22.414, 22.415

		as 22.403, 22.404
	Added	22.405
11	Amd	16.102(b)(1),
		16.108(3),
		(22), (34)(a), (39)(a)
	Rpld	16.108(54)
	Added	16.108(54)
	Amd	16.111(2)
	Added	16.113(intro ¶)
	Rpld	16.113(b)(5)
	Rnbd	16.113(b)(6)as (5)
	Added	16.113(b)(6)
	Amd	16.116(a)(1)(ii)b, (2)(iii)b
	Rpld	16.118
	Added	16.118
	Rpld	16.119
		(intro ¶), (a)
	Added	16.119(intro ¶),
		(a), (b)(1)m, n,
		(2)(o), (p)

	Rpld	16.120I
		(intro ¶), (a)
	Added	16.120(intro ¶),
		(a), (b)(4)
	Rpld	16.121
		(intro ¶), (a)
	Added	16.121(intro ¶),
		(a), (c)(7), (e)
	Amd	16.121(b),
		(c), 16.125,
		16.129(3), (4), (7),
		16.136,
		16.137(a)(1),
		(2), (b), (c),
		16.139(1)
	Added	16.144(3)(I),
		16.148(3)
	Amd	16.149
13	Added	4.310
	Rnbd	4.310 as 4.311

	15	Amd	16.510
	21	Added	13.1200—13.1213
	22	Amd	17.109(a)—(d)
	29	Amd	3.101(48)
	30	Amd	4.300(d)—(f),
			4.301(a), (b), 4.302(d)
		Rpld	4.303
	31	Added	1.102(o)
			(8221/8222)
		Amd	1.206
		Added	1.210(7317)
		Amd	1.210(7520),
			(7530)—(7539),
			(7554), (7766),
			(8821/8822),
			(9721)—(9723),
			(9725), (9954),
			(9956), 1.211
		Added	1.301(7317)
		Amd	1.302(l)(5246),

		1.303(6115),
		(8425)—(8429),
		1.304(7921)
	32 Amd	17.300(f)(i)(3),
		(k), (l), (q)
	Added	17.300(s)
	Rnbd	17.300(s) as (t)
	Amd	17.301(a)
		(6)—(8), (b)(1),
		(2), (5), (c)(4),
		17.303(f)(3),
		(g), (i), (k),
		17.304(b)(3)(ii)a, (iv),
		(c)(1)(i)a, (4),
		17.305(b)(3)(iv),
		17.306(e)(2), (6), (h)(1)
		(i)(1), (j), (k)(3),
		17.307(b)(1)(vi), (e)(1),
		(g)(3), (4),
		17.308(c)(2)(i), (v),

		(d)(4)(ii)c, d,
		(f)(1), (2)(iii),
		17.309
	33 Amd	4.104(a)
	Added	4.500—4.504,
		13.400(d)(4)(vii)
	Rnbd	13.400(d)(4)(vii) as (viii)
	34 Amd	12.606
	37 Added	16.1200—
		16.1216
	38 Amd	16.102(b)(1),
		16.112(2)
	Added	16.113(a)(11)
	Rnbd	16.113(a)
		(11)—(16)
		as (12)—(17)
	Amd	16.113(c)(9), (10),
		(d), 16.116(title),
		(b), (c)(2), (3), (6),
		(d), (f)(4)

	Added	16.119(b)(1)j
	Rnbd	16.119(b)(1)j—n
		as k—v
	Added	16.119(b)(2)m
	Rnbd	16.119(b)(2)m—p
		as n—q
	Added	16.120(b)(1)v
	Rnbd	16.120(b)(1)v,
		w as w, x
	Added	16.120(b)(2)v
	Rnbd	16.120(b)(2)u
		as v
	Amd	16.121(b)(2)g,
		(c)(3), (d),
		16.131(1), (4),
		16.127(a)(3),
		16.114(2)(b)(iv),
		(3)(g)
	Added	16.145(8),
		16.148(4)

	Amd	16.149
42	Added	14.402(v)
	Rnbd	14.402(v)—(w)
		as (v)—(x)
	Amd	14.414(d),
		14.426
45	Amd	1.116(c)(1)
	Added	1.116(i)
	Amd	1.118(2)(i)b, c,
		1.119(4)(b), (c),
		1.300(Sub. G),
		1.301(5363),
		(5365), (7762),
		(8645), (8646),
		(9582), (notes)
46	Rpld	19.200, 19.201,
		19.800, 19.801
	Added	19.200—19.211
49	Added	2.202(d)
	Rnbd	2.202(d),

		(e) as (e), (f)
	Added	2.202(g)
	Amd	2.203(f), 2.204(h)
	Added	2.204(i),
		2.207(d),
		2.208(e)
	Amd	2.210(b)
	50(Res.) Amd	App. A,
		§ 5.200(b)(3)
	51 Amd	3.101(7)
	53 Added	20.450—20.457
	60 Amd	20.1101,
		20.1104(b)(1)
	61 Amd	1.101B(6)
	67 Amd	20.452(c)
	68 Amd	12.200.II,
		12.207.I(a)
	Added	12.207.I(j)
	Amd	12.207.II(c), (d)
	Added	12.207.IV(i)

	69	Amd	3.300—3.309
	70	Amd	18.202
	71	Amd	18.122B(C)(3), (4)
	72	Amd	2.210(b)
	74	Amd	1.117(g)(6)
	75	Amd	1.101B(b)(4)
	82	Amd	1.119(4)(a),
			(5)(a)
	83	Amd	1.116(d)
	84	Added	1.116(g)
	85	Added	1.116(k)
	95	Amd	1.101B(b)(1),
			1.300(Sch. P)
	99	Added	16.102(f)
	100	Added	13.1300—
			13.1309
	101	Amd	12.207.l(j),
			IV(i)
	102	Added	3.101(9a)
	103	Added	3.215(h)(5)

	104	Amd	18.204
	106	Amd	12.1000(b), (d)
	117	Added	20.115
	118	Added	20.103A
	120	Amd	1.119, 1.300(FM)
	121	Rpld	16.100—16.150
		Added	16.100—16-157
	122	Added	19.208(k)
		Amd	19.209(b)
	124	Amd	20.113
	129	Amd	20.310(6)
	130	Added	3.101(14.5), (70.5)
		Amd	3.407(a)(4)
1993	3	Amd	16.510
	7	Amd	1.302(a), (c)
		Rpld	1.302(i),
			(1)(5284), 6.212,
			6.319, 6.327
		Amd	6.401(d)(8)
		Added	6.406

	Rpld	13.400—13.405
	Rnbd	13.1300—
		13.1309 as
		26.200—26.209
	Added	16.801(c)(11)
	Rnbd	16.801(c)(11) as (12)
	Amd	22.205(a)(3),
		22.600(b), 23.102(a)
	8 Amd	1.302(e), (g)
	Rnbd	6.208
		as 6.208(a)
	Rnbd	6.209(b)
		as 6.208(b)
	Amd	17.200A(d),
		17.306(j),
		187.307(h)(1), (3),
		17.308(a)(1),
		(d)(2), (e)(2)(i), (v)
	Rpld	18.1001(c)(12)
	9 Rnbd	6.201(d)

		as 6.211(b)
	Rnbd	6.211
		as 6.211(a)
	Amd	6.211(b),
		6.401(d)(6)
	Rpld	6.403
	Added	25.101(c)(5)
	Rnbd	25.101(c)(5) as (6)
	Added	25.101(d)
	10 Rpld	15.501—15.510,
		15.601—15.608
	Added	15.500—15.521
	11 Rpld	17.102
	Added	17.102
	Amd	17.103
	12 Amd	1.402
	13 Added	6.336,
		116.102(h)
	Amd	16.103(c),
		116.118(b)(6),

		16.145(c)(12),
		16.146(c)(8),
		16.147(c)(18),
		16.157(b)(17)
	Added	16.1300—
		16.1309
	14 Amd	12.202.III(d),
		12.701(c)
	17 Rpld	1.102(o)
		(5161/5162)
	Added	1.210(5155)
	Rpld	1.210
		(5161/5162)
	Added	1.210
		(5161/5162),
		(6101)
	Rnbd	1.210(6101),
		(6102) as (6102),
		(6103)
	Added	1.210(6105)

	Amd	1.210
		(7121/7122), (7123)
	Added	1.210(7124),
		(7210), (7325)
	Amd	1.210(7531)
	Added	1.210(7539)
	Rnbd	1.210(7539) as
		(7551)
	Added	1.210(7741)
	Amd	1.210(7767),
		(7768), (9622),
		(9721)—(9723),
		(9725), (9917),
		(9927), (9985),
		1.211, 1.301
	18 Added	1.210(0202)
	Amd	1.210(5367),
		(8265), 1.211,
		1.301, 1.302(g), (1)
	21(Res.) Added	App. A,

		§ 5.213(d)
	23 Amd	13.900(f)
	26 Added	5.100—5.104
	27 Amd	1.116(c)(2)
	29 Amd	1.116(c)
	30 Amd	1.116(j)
	31 Added	1.116(g)(2)
	Amd	1.118(2)(i)b, c,
		(4)(b), (c),
		1.300(FM)
	33 Amd	21.1000
	41 Amd	12.111(b), (d)
	42 Amd	3.200—3.217
	43 Added	2.203(h),
		22.204A
	44 Added	12.806
	45 Added	Title 21, Sub.
		9(note)
	Amd	21.925
	47 Amd	5.300

	51	Amd	1.401
	52	Amd	1.116(d)(5)
	54	Amd	App. B,
			§ 2.101
		Added	App. B, §§
			2.125—2.129
	55	Amd	13.501(b), (c)
		Added	13.501(e)
		Rnbd	13.501(e)—(h) as
			(f)—(i)
		Amd	13.501(g)
			13.1005(a), (b)
		Amd	13.1007(title)
		Added	13.1007(b)
		Rnbd	13.1007(b)—(d)
			as (c)—(e)
	56	Rpld	12.600—12.612
		Added	12.600—12.613
	60	Added	22.700—22.704
	64	Amd	12.202.III(d), VII(a)

	72	Amd	2.203(a), (b),
			2.204(d), 16.301,
			16.801(c)(5)
		Added	16.801(c)(6)
		Rnbd	16.801(c)(6)—(12)
			as (7)—(13)
	73	Amd	12.1000(b)—(d)
	74	Amd	1.300
	75	Rpld	4.401—4.406
		Rpld	11.200—11.202
	77	Amd	4.102(k), (m),
			4.103(k), (p),
			4.105(a),
			4.106(a), (d),
			4.108(a), 11.300
	78	Added	4.104(f),
			4.102(j), (k)
		Rnbd	4.102(j)—(n)
			as (l)—(p)
		Added	4.102(q)

	Rnbd	4.102(o) as (r)
	Added	4.102(s), (t)
	Rnbd	(p)—(ac)
		as (q)—(ah)
	Added	4.102(ai)
	Amd	4.103(d), (f), (i)
	Added	4.112
	Rnbd	4.112 as 4.113
	Added	4.600—4.604,
		6.337
	Amd	22.205(a)(3)(viii)
79	Amd	14.414
80	Amd	16.131(c)(3)(ii),
		16.145(c)(3),
		16.146(c)(8), (9), (19),
		16.147(c)(8), (19),
		(d)(13), (e)
	Added	18.1200—
		18.1206,
		20.1200—20.1204

	81	Amd	16.600—16.613
	83	Added	16.203(b)—(d)
		Amd	16.204(b)—(e),
			16.900(e), (i)
	85	Amd	5.200
	86	Amd	6.100
	87	Amd	1.117(d), (f)
			(g)(6), (h)(2)(vi)
			(j)(3)
	88	Amd	14.407(b)
1994	6	Amd	16.1107(b)(1)
	7	Added	14.800—14.816
	10	Amd	17.200A(d)(3)
		Added	17.300(i), (j)
		Rnbd	17.300(i)—(t)
			as (k)—(v)
		Amd	17.301(a)(4), (b),
			(c)(1), 17.308(a),
			(c)(2), (6), (d)(4)(ii)
	11	Amd	6.200(d)(1)

	Rpld	6.201(d),
		6.211(b),
		18.1001(c)(7)
	Amd	25.101(c)
	12 Amd	17.603(b)
	13 Amd	20.111(c),
		(d), (e)(2)
	25 Amd	3.100, 3.101
	26 Amd	4.202(b)
	Added	4.203
	Rnbd	4.203
		as 4.204
	27 Amd	20.1107
	29 Rpld	12.606(c)
	Rnbd	12.606(d)—(f)
		as (c)—(e)
	30 Amd	13.900—13.910
	31 Amd	13.1200(b)
	32 Amd	17.408
	33 Amd	1.116(c)(1)—(3),

		(5)
	36 Amd	3.101(6)
	37 Amd	4.106(b)(3)
	38 Amd	4.102(f),
		4.103(u), (v),
		4.105, 4.106,
		4.108, 4.109
	Added	4.108A
	39 Amd	4.100—4.122
	40 Amd	1.210, 1.211,
		1.301
	41 Amd	1.302(f), (l),
		1.304
	42 Amd	1.300
	43 Amd	1.101B
	50 Amd	1.106(a), (c)
	51 Added	16.1401—
		16.1404
	Amd	16.108(49),
		16.119(c), (d),

		(e)(7)
	Added	16.125
	Amd	16.132(a)(1)(i),
		(ii), (a)(4)–(6),
		16.134(d)(1)–(3),
		16.135(a), (b),
		16.145(c)(3), (7),
		16.157(b)(8), (c)(14),
		16.1201(q),
		16.1205(f),
		16.1208(a)(6),
		18.210, 18.211
	52 Added	15.517A
	53 Amd	12.214(b)(3), (4)
	54 Amd	20.1102(k)
	75 Amd	17.300(d),
		17.303(a), (b),
		17.308(d)(4)(iii)
	79 Amd	1.106(c)(2)v.a.
	80 Amd	18.122A

	140(Res.)	Amd	App. A, §§
			2.200—2.214
		Rnbd	App. A, §§
			2.200—2.214 as
			Rules 1.001—1.015
		Amd	App. A,
			Apps. A—D
	146(Res.)	Amd	App. A, §
			5.200(b)(1)(ii), (v)
		Added	App. A, §
			5.200(b)(1)(iv)
	107		16.200—16.207
		Added	16.208
		Rnbd	16.208—16.210
		as	16.209—16.211
		Added	16.212
			16.108(b)(25), (27)
			16.301
			16.602(a),
			16.604(b)(3)(iii)

			16.606(c)
			16.801(c)(3)—(5)
			16.900(i)
		Rpld	22.206(e)
1995	4	Added	20.116
	12	Added	17.103(j)
	14	Added	13.800(d), (h)
			13.800(f)
			13.807(b)
	16		16.119(c)—(f),
			(g)(2)
			16.132(a)(5)
			16.133(a)
			16.135
			16.137
			16.139(a)(1)
			16.146(c)(18)
			16.147(d)(10)
			16.1101
			16.1105(d)(5)

		16.1109
		16.1110(5)
		18.210(a)
		18.700
		18.901(j)
		18.902
	17	3.502(b)(3)
		8.401(d)(1)
		14.107(IV)—(VI)
	20	16.1102(b)
	21 Rpld	1.400
	Added	1.400—1.485
	Rnbd	1.401
	as	1.485
	Rpld	1.485(f)
		4.107(d)
	Added	6.338
	Added	22.205(a)(3)(xiii)
	Rnbd	1.402
	as	17.103(k)

	22	1.116(c)(1)
	30	1.106A
	31	1.103
		1.116(a)(1)–(3)
	32	1.210
		1.211
		1.301
	33	1.302(f), (j)
		1.302(l)
		1.304
	34	1.116(i)
	35	17.502
	36	17.301(a)(6)
		17.302(b)(3)
		17.306(e)(6), (i)(1), (2)
		(k)(4)(v)
		17.307(f), (g)(1),
		(6), (h)(5)
	39	16.1100–16.1110
	41	1.300

	42	18.902
	53	Added
		App. C, [III.],
		§ 10.1(c)
		App. C, [IV],
		§ 3.7, Art. 6
		Added
		App. C, [II.],
		§ 13.2
		Added
		App. C, [I.],
		§§ 1.3, 3.9
		App. C, [I.], § 8.6
		1.101B
	54	1.300
		1.300(note)
	64	1.106(c)(2)(i)a., b.
	65	23.100(d),
		23.101, 23.102
		Rnbd
		23.302
		as
		23.103
		23.200—23.202
		23.300—23.311

		23.400—23.410
		23.500—23.509
	71	1.116(k)
	Added	1.116(m)
	72	3.213(b)
	73	20.452(f)
	74 Added	12.208 l.(b)
	Rltd	12.208 l.(b)—(e)
	as	12.208 l.(c)—(f)
	75	13.101(d)
	76 Rpld	12.300
	77 Rpld	16.1000—
		16.1012
	78	4.101
	80	14.402(q)
	81	14.413
	82	14.419(a)(2)
	83 Rnbd	1.485
	as	1.401A
	Added	1.402A—

		1.410A,
		1.413A—
		1.419A,
		1.423A—
		1.436A,
		1.439A—
		1.444A,
		1.448A—
		1.461A,
		1.465A—
		1.473A,
		1.477A, 1.478A
		1.482
	86	20.116
	87 Added	16.606(e), (f),
		20.117, 20.118
	93 Rpld	21.710, 21.714
	Added	21.406, 21.407
		21.500, 21.501
		21.911, 21.919

	94	8.800, 8.801
	Dltd	8.802, 8.803
	Added	8.802
	Rnbd	8.804
	as	8.803
		19.209(1)
	95 Added	12.1100—
		12.1108
	Added	22.205(a)(3)(xiv)
		23.102(a)(1)(i)
	100 Added	1.406(u)
	Rltd	1.406(u)—(av)
	as	1.406(v)—(aw)
		1.406(a)(4)(ii),
		(u)(1), (2),
		(v)(1), (4),
		(aa), (am)(1),
		(3)(i)
		1.407(a), 1.409
		1.414(a)(3), (b)(1)

		1.416,
		1.417(c)(1)(i)
		1.418(b)(2)(i)
		1.423, 1.425
		1.426(a)(1),
		(e), (g)
		1.427(a)
		1.431(e)(2)(i),
		(4)(i), (5)(ii),
		(iii)
		1.433(a),
		(c)(2)(ii), (f)
		1.434, 1.449
		1.451
		1.454(a)(11),
		(16), (b)
		1.455(f), 1.465(a)
		1.469(c)(5)
		1.477, 1.478(c)
1996	4	16.1201(e),

		16.1201(n),
		16.1202(a), (b),
		16.1203,
		16.1204(d),
		16.1205,
		16.1208(a),
		16.1209
	Added	16.1201(i),
		16.1216
	Rltd	16.1201(i)—(s)
	as	16.1201(j)—(t)
	Rnbd	16.1216
	as	16.1217
	5 Added	20.1002
	6	1.400
	7	1.435(a)
	Added	1.437
	13(Res.)	App. A,
		Rule 1.001(b)(3)(i)
	14	1.106(j)(1)—(5)

		1.109(a), (d), (e)
		1.116(e)
	15	12.106, 12.109,
		12.110, 12.112
	16 Rpld	6.201(f)
	Added	6.212
	Rpld	6.401(d)(6), 6.402
		25.101
	Added	27.100, 27.101
	17	25.101
	Added	6.401(d)(7)
		23.201
	20	16.102, 16.103(j), (k),
		16.104, 16.106,
		16.108(b)(8), (30),
		(32), (49), (60),
		16.115, 16.116,
		16.118, 16.119(f), (g),
		16.120, 16.121,
		16.124,

		16.131(d),
		16.132(a),
		16.136,
		16.145,
		16.146(c),
		16.157
	23 Added	20.1300—
		20.1303
	26	17.204
	27	1.116(c)
	28 Rpld	6.211
	Rpld	25.100, 25.101
	Added	6.201(d)
	Added	6.403
		18.1001
	34	21.107
		21.913
	35	1.210
		1.211
		1.301,

		1.302(a), (c), (l)
	Added	1.302(i)
		1.303
	38	20.1106
	46 Added	16.503(f)
	Rpld	15.511
	Added	15.511
		20.1300, 20.1301
	46(Res.)	App. A,
		Rule 1.016
	47 Added	20.1304
	54	16.200, 16.201,
		16.205, 16.206,
		16.207(a)
	55 Added	26.302, 26.303
	56 Added	20.119
	57	1.116(c), (j)
	58	1.101B
	62 Added	18.610
	69 Added	9.104—9.107

	72	Added	18.1300—18.1307
	79	Added	20.120
	80	Added	20.121
	81		1.116(d)(5)
		Added	1.116(h)
	84		1.101B
	85		12.216
	89		3.201(h)(1)—(7),
			3.202(g), 3.204,
			3.205, 3.206,
			3.209(c), 3.214
	90		18.112
	91		1.119(5)(e)
	92		14.411(b)
	93	Added	13.400—13.410
	96	Added	12.300—12.308
1997	4	Added	18.1400—18.1407
	5		1.101B(b)(1)
	9	Rpld	21.101—21.167,
			21.202—21.207,

		21.209, 21.300,
		21.405, 21.500,
		21.502, 21.505,
		21.600—21.602,
		21.702, 21.901,
		21.915, 21.918,
		21.920, 21.923,
		21.925, 21.1002,
		21.1006
	Added	21.101—21.103,
		21.106, 21.202,
		21.205, 21.211,
		21.212, 21.307,
		21.310
	Rnbd	21.208
	as	21.104
	Rnbd	21.503
	as	21.105
	Rnbd	21.501
	as	21.200

	Rnbd	21.800
	as	21.201
	Rnbd	21.1003
	as	21.203
	Rnbd	21.1007
	as	21.204
	Rnbd	21.406
	as	21.206
	Rnbd	21.407
	as	21.207
	Rnbd	21.711—21.713
	as	21.208—21.210
	Rnbd	21.715
	as	21.213
	Rnbd	21.900
	as	21.200
	Rnbd	21.902—21.914
	as	21.221—21.233
	Rnbd	21.916, 21.917
	as	21.234, 21.235

	Rnbd	21.919
	as	21.236
	Rnbd	21.922
	as	21.237
	Rnbd	21.924
	as	21.238
	Rnbd	21.1100, 21.1101
	as	21.250, 21.251
	Rnbd	21.700
	as	21.300
	Rnbd	21.504
	as	21.301
	Rnbd	21.400, 21.401
	as	21.302, 21.303
	Rnbd	21.701
	as	21.304
	Rnbd	21.402
	as	21.305
	Rnbd	21.403, 21.404
	as	21.305(c),21.305(d)

	Rnbd	21.921
	as	21.306
	Rnbd	21.703, 21.704
	as	21.308, 21.309
	Rnbd	21.705—21.709
	as	21.311—21.315
	Rnbd	21.1300—21.1304
	as	21.400—21.404
	Rnbd	21.1200—21.1203
	as	21.500—21.503
	10	1.101B(b)(2)
	11	1.210
		1.211
		1.301, 1.302
	12	1.300
	16	17.300(a), (h), (l)
		17.301
	28 Rpld	18.101, 18.101A
	Added	18.101
	30 Rpld	3.100, 3.101

	Added	3.100, 3.101
	31 Rpld	13.100—13.132
	Added	3.700, 3.701
	Added	14.900—14.905
	32 Rpld	21.1000,21.1001,
		21.1004, 21.1005
	38	5.100—5.104
	49 Rpld	8.900
	Added	8.900
	50	12.1100(j)
		12.1105
		12.1106
	52 Rpld	1.100—1.123,
		1.200—1.212,
		1.300—1.305
	Added	1.100—1.123
		1.200—1.203
		1.300—1.309
	Added	1.500—1.502
		6.201(g)

	53	1.406(j), (l)
	Added	1.420A
	54	1.406
	Added	1.420
		1.431
	58	18.903
	59	1.406(n)—(aab)
	Added	1.410
		1.418, 1.426,
		1.428, 1.431
	60	1.406A(e)—(al)
		1.428A, 1.429A,
		1.431A
	66 Rpld	18.114, 18.115,
		18.120,
		18.205—18.208
	Added	18.205, 18.206
		18.121
	67	14.801, 14.802,
		14.804,

		14.808—14.810,
		14.812—14.815
	70	2.201(b), (c),
		2.202(a), (d), (e), (g),
		2.203(a)—(c), (e), (f),
		2.204(a)—(f), (h), (j),
		2.206, 2.207(a), (c), (d), (e),
		2.208(d), (e),
		2.209(d),
		2.210(a), (b),
		2.211(a), (c), (e),
		2.212
	75	1.410, 1.428(c)
	149(Res. No.) Added	App. A, Rule 1.017
	77	5.200
	78	6.100
	79 Added	1.406A(ag)
	Rnbd	1.406A(ag)—(al)
	as	1.406A(ah)—(am)
		1.428A, 1.429A,

			1.431A
	80	Rpld	20.105
			20.104
	81		17.104(a),
			(b)(33), (36)
			17.108, 17.109
		Rnbd	3.101(29)—(82)
		as	3.101(30)—(83)
		Added	3.101(29)
1998	5	Rpld	9.104—9.106
	6	Rpld	20.900—20.911
		Added	20.900—20.907
		Rpld	20.311(4)
		Rnbd	20.311(5)
		as	20.311(4)
		Rpld	20.317
			12.105(f)
			18.104A(B), (G)
	9		13.906
	10		20.119

	15	16.102(d)(1), (e),
		16.119(a)(8), 16.130,
		16.132(a)(1)(i),
		16.134(a), (b),
		16.147(c)
		(8)(i)—(iii),
		(e), 16.156(i),
		(j), 16.157(c)
	21	12.207 IV.(i)
	23	17.102
	28	4.109(c),
		4.117(a),
		11.300
	38 Rpld	11.100, 11.300
	Added	11.100, 11.101,
		11.200—11.203
	Rpld	20.100—20.103,
		20.106, 20.107,
		20.113, 20.120,
		20.121, 20.200,

		20.500—20.503,
		20.600, 20.800,
		20.1000—20.1002
	Added	20.100—20.103,
		20.110, 20.111,
		20.120, 20.130
	Rnbd	20.117
	as	20.112
	Rnbd	20.118
	as	20.113
	Rnbd	20.109
	as	20.114
	Rnbd	20.111
	as	20.115
	Rnbd	20.115
	as	20.116
	Rnbd	20.108
	as	20.121
	Rnbd	20.112
	as	20.122

	Rnbd	20.119
	as	20.123
	Rnbd	20.104
	as	20.140
	Rnbd	20.114
	as	20.141
	Added	20.200—20.207
	Rnbd	20.103a
	as	20.204
	Rnbd	20.116
	as	20.205
	Rnbd	20.110
	as	20.206
	Rnbd	20.400—20.405
	as	20.300—20.305
	Rnbd	20.450—20.457
	as	20.400—20.407
	Rnbd	20.1100—20.1107
	as	20.500—20.507
	Rnbd	20.300—20.311

	as	20.600—20.611
	Rnbd	20.313—20.316
	as	20.612—20.615
	Rnbd	20.318
	as	20.617
	Rpld	20.319
	Rnbd	20.900—20.904
	as	20.700—20.704
	Rnbd	20.905
	as	20.705
	Amd	20.906(a), (b)
	as	20.705(c), (d)
	Dltd	20.906(c)
	Rnbd	20.907
	as	20.706
	Rnbd	20.1200—20.1205
	as	20.800—20.805
	Rnbd	20.1300—20.1304
	as	20.900—20.904
	Rnbd	20.700

		as	20.1000
	40		1.301
	41		22.205(a)
1999	7	Added	15.507A
	12		14.105—14.107
	13		16.120(b)(4)
			16.1204(d)(8),
			16.1205
			16.1210, 16.1211
	15		2.121
	16	Rpld	11.202
		Added	11.202
	17		19.601
	18		17.102(e), 17.103(d)
	25		1.302(b),
			1.306(b)
	26(Res.)	Rpld	App. A,Rule 1.016
	26	Rltd	1.406(ay)—
			(aab)
		as	1.406(az)—(aac)

	Rltd	1.406(aw)
	as	1.406(ay)
		1.406, 1.408(b)
		1.417, 1.418
		1.426(a), 1.428
		1.435, 1.439
	30 Rpld	14.412(h)
	38	18.1303, 18.1307
	49	1.406A(k)
	50	17.300(g)
	52	13.814(a), (b)
		13.909(a), (b)
		13.1212(a), (b)
	54 Added	20.117
	55 Added	20.124
	57	13.900(h)
	58	3.202
		3.214
		3.215(h),(i)
	133(Res.)	1.001(b)(3), (f)

			1.002(a)
2000	5	Rpld	16.1110(h)
		Rnbd	16.1110(i—ag)
		as	16.1110(h—af)
			16.1100(b)(3)(iii)
			16.1104(e)
			16.1110(m, t)
	9		16.300
	10	Added	20.118
	11		12.106(b)
	12	Added	17.701—17.720
	13		20.605
	14		12.401
	19		6.401(d)(6)
	20	Rnbd	2.201(c—f)
		as	2.201(d—g)
			2.201, 2.203—2.205, 2.208, 2.210, 2.212
	21		1.431A
	22	Rpld	20.101, 20.103
			20.140

	26	1.306
	32	17.103(k)
	33	12.901
	37 Added	16.1000
	39	17.713(a)
	40	21.203, 21.205
	42	1.406, 1.417, 1.418
	47 Rpld	3.100, 3.101
	Added	3.100—3.104
		3.510
	50	16.1100, 16.1102—16.1105, 16.1107, 16.1110
	51 Added	12.1200—12.1203
	54	1.406(ag), 1.428
	55	1.455, 1.458, 1.482
	56	18.500
	57 Rpld	18.900—18.909
	Added	18.900—18.909
	59 Rpld	3.300—3.309 12.109

	Added	3.300—3.309
	60	18.106
2001	5	11.101
	6 Rpld	3.400—3.409
	Added	3.400—3.407 18.300—18.305
	10 Rpld	1.406A(ac)
	Rnbd	1.406A(ad)—(am)
	as	1.406A(ac)—(al)
	Rpld	1.415A
	Added	1.406A(am), (an),
		(o), (aa)
		1.408A(b)(d)
		1.413A
		1.414A(a), (f)
		1.416A—1.418A
		1.419A(a)—(c), (e)(1)
		1.426A(a)(1), (b)
		1.427A(b)(4), (6)
		1.428A—1.430A
		1.431A(a)

		1.432A(a), (d)
		1.433A(e)(2), (d)
		1.439A(a)(1)
	14 Added	12.1300—12.1302
	15	1.406A(o), (aa)(2)
		1.428A(b)(3)
		1.429A(e)
		1.432A(a)(2)
	16 Rnbd	3.101(24)—3.101(28)
	as	3.101(25)—3.101(29)
	Rnbd	3.102(8)—(14)
	as	3.102(9)—3.102(15)
	Rnbd	3.102(15)
	as	3.102(17)
	Rnbd	3.102(16)
	as	3.102(19)
	Rnbd	3.102(17)
	as	3.102(20)
	Rnbd	3.102(18)
	as	3.102(22)

	Rnbd	3.102(19)
	as	3.102(23)
		3.101(7), (54), (55)
	Added	3.102(8), (16), (18), (21)
	17	17.102
	25	1.306(b)(7)
	29	3.501(a)
		16.155(a)(3)
		16.801(c)(5)
		18.122B(C)(7)(c)
	35	1.406(ag), 1.428
	36	13.1012
	37 Added	13.1300—13.1309
	38	13.400—13.410
	40	5.102—5.104
	41	3.502(c)
	43	17.504, 17.600, 17.601, 17.603, 17.604, 17.608, 17.611
	49	16.301
	Rnbd	16.302, 16.303

	as	16.307, 16.308
	Added	16.302—16.306
		16.801(c)(5)
	52 Rpld	16.102(b),
		16.108(b)(11), (b)(16), (b)(18), (b)(19), (b)(26),
		16.133(f),
		16.145(b)(3),
		16.156(d)
	Rnbd	16.108(b)5
	as	16.108(b)32.1
		16.101(a)
		16.102
		16.103(c), (h), (j)
		16.104
		16.106(a), (b)
		16.108(b)(5), (b)(8), (b)(18A), (b)(24), (b)(29), (b)(32.1), (b)(55), (b)(58), (b)(63)
		16.115—16-118
		16.119(a)(8), (a)(10), (a)(13), (a)(14), (b)(4), (f), (g)(3)
		16.120(a), (b)(1)—(b)(6), (b)(12), (c)
		16.121

		16.123(a)(1), (a)(2), (c)(3)
		16.124(a)(3)(iii), (a)(4), (b), (c), (e), (f), (g)
		16.125(a), (b)(1), (b)(2)
		16.130(b)
		16.132(a)
		16.134
		16.139(a)
		16.144(n), (o), (q)
		16.145(a), (b)(1), (b)(2), (b)(4), (b)(5), (b)(7), (c)(2), (c)(3), (c)(16), (c)(19)
		16.146(b)(3)(i), (c)(8), (c)(9), (c)(19)
		16.147(b), (c)(17)
		16.155(a)
		16.156(a), (b), (c)(1)—(c)(5), (d), (e), (g), (m)
		16.157(b)(10), (b)(11), (b)(19)
	Added	16.108(b)(1.1), (b)(8.1), (b)(31.1), (b)(42.1), (b)(42.2), (b)(45.1)
	Added	16.126, 16.127
	Added	16.145(b)(2), (c)(20)
	Added	16.147(c)(32), (d)(14)
	Added	16.156(a)
	Added	16.157(c)(15)

	56	1.431
		1.452
	59 Rpld	6.201(e)
	Rnbd	6.201(f)—(i)
	as	6.201(e)—(h)
	Added	6.211
		6.325
		Title 13 (renamed)
	Rpld	13.500—13.502
	Added	13.100—13.102
	Rnbd	13.200—13.214
	as	13.1100— 13.1114
	Added	13.200—13.202
	Rpld	13.300—13.303, 13-400—13.410
	Added	13.300—13.303, 13.400—13.410
	Rpld	13.1100—13.1112
	Added	13.500—13.512
	Rnbd	13.600—13.603
	as	13.1200— 13.1203

	Rpld	13.1200— 13.1213
	Added	13.600—13.613
	Rpld	13.700—13.708, 13.800—13.815, 13.900—13.910
	Added	13.700—13.708, 13.800—13.815, 13.900—13.910
	Rnbd	13.1300— 13.1309
	as	13.1000— 13.1009
	Rnbd	13.1001— 13.1022
	as	13.1301— 13.1322
	60	6.403(d)
		17.200A(d)
		27.101(c)
	61 Added	1.310
2002	4 Rpld	5.300
	Added	5.300—5.302
	5	5.200
	6	6.100
	9	1.306(b)(1), (3), (7), (13)
	12 Rnbd	12.304(a)(4)—(a)(19)

	as	12.304(a)(5)—(a)(20)
		1.306(b)(6)
		12.300(c)(1)
		12.301(c)
		12.305
		12.307
	Dltd	12.308
		12.304(a)(4), (a)(21)—(a)(25)
	15	20.124(a)
	20 Rpld	1.406(aq)
		1.406(l), 1.433
	21 Rpld	1.406A(ai)
		1.406A(k),
		1.414A(a), (b),
		1.428A(b)(3)(i), 1.433A, 1.452A
	30	1.406(b), (c), (s),
		1.435(b),
		1.439(d)
	31	1.406A(f)
	32	12.105(a), (f), 18.101(a), 20.701

	Added	20.616
	38	3.214(a), (b)
	46	17.300, 17.301(b)(1)—(b)(3), 17.302(a), (b), (c)(2), (e), 17.308(f)(1)
	50	16.121(a)(4)
	51	16.1107(b)
	52 Added	16.204(f)—(h)
	Rnbd	16.204(f), (g)
	as	16.204(i), (j)
		16.205
	54 Added	20.119
	58 Added	13.402(e)
2003	3	1.302(b)
		1.306(b)(13)
	6 Rnbd	4.116—4.122
	as	4.117—4.123
	Added	4.102(e), 4.106A, 4.116
		4.102(h), (l), (n), (q), (v), (ad),
		4.103, 4.104, 4.106—4.109, 4.115, 4.117, 4.118(a), (b)(2), (b)(8), (h),

		4.119(b), (c)(1),
		4.120(d)(3),
		4.121(d)
		4.122(b), (c)(2)
	Rnbd	4.102(e)—(af)
	as	4.102(f)—(ag)
	7 Added	20.119A
	9	1.306(b)(3),
		12.1000(e)
	10 Added	12.1400—12.1404
	11	1.306(b)(6)
	Added	12.1500
	13	13.402
	14	17.104(b)(47)
	17	16.203(c), 16.900(e), 16.1110(l),
		20.602(5), 20.615(1)(a)(iii),
		21.230,
		22.205(a)(2)
	18	16.1105(c)(3)
	21	13.400, 13.402(a),

		13.403(a),
	Added	13.401(l)
	31 Added	17.110
	32	4.106A
	34	16.1102,
		16.1110(j)
	Rnbd	16.1110(j)—(af)
	as	16.1110(k)—(ag)
	35	4.501
	Added	4.505—4.507
	45	16.102(c), (d)
		16.105, 16-108,
		16.115(c),
		16.116(a), (c)
		16.118(b)(6)
		16.119(a)(8),
		16.119(f)(3),
		16.120(b), (c)
		16.121,
		16.127(b), (c),

		16.130(b),
		16.145(b),
		16.147(b), (c),
		16.155(a),
		16.156(a), (d),
		16.157(a)
		16.1104(a)(2),
		16.1107(b)
	51	4.201(d)—(f)
	52	20.119A
	53 Added	13.1312(g-2)
	60	13.101(d)(6)
	62	24.110 l(a)
	63	15.506(a)(2), 15.514(c)(2)
	66 Added	13.401(m), 13.402(f)—(h), 13.409
	71	16.600—16.608
	Rpld	16.609
	Rnbd	16.610—16.612
	as	16.609—16.610
	Amd	16.609, 16.610,

		20.112, 20.113
	72	16.200(a)
2004	4	18.207
	6 Rnbd	1.431(e)(3)—(9)
	as	1.431(e)(4)—
		1.431(e)(10)
	Amd	1.406(af),
		1.408(d)
	Added	1.421
	Amd	1.427(b), (c),
		1.433(b),
		1.443(a)(i)(1)
	7 Rnbd	1.406A(aa)—
		1.406A(ah)
	as	1.406A(ab)—
		1.406(ao)
	Amd	1.408A(d)(2),
		1.414A
		1.416A,
		1.419A(e)

	Added	1.421A
	Amd	1.426A(a),
		1.431A(e)(6),
		1.433A(b),
		1.439A(a), (b),
		1.444A(a)(2)
	8	1.426A(b),
		1.437A
	9	13.406(f)
	10	12.101(c), (d),
	13	16.203(e), (f)
		12.1000(d), (h)
	14	18.207
	15	20.143
	16	18.112
	23	17.713(d)
	29	13.402(f)
	33	13.406(f)
	35	12.1601
	36	17.111

	51 Rpld	17.300—17.310
	Added	17.300—17.321
	52 Rpld	17.104,
		17.107—17.109
	Added	17.104—17.108
	53	3.100—3.104
	54 Rpld	3.301—3.309
	Added	3.301—3.307
	61 Rpld	19.201,
		19.203—19.211
	Added	19.201,
		19.203—19.211
	63 Rpld	3.700, 3.701
	Rpld	14.900—14.905
	Added	3.700
	Added	14.900—14.905
	64	3.305(a)
	67	20.610
	71 Rpld	17.603,
		17.605,

		17.609
	Amd	17.600—17.602
	Added	17.603
	Amd	17.604,
		17.606—17-608,
		17.611
	72	6.305, 6.312(e),
		16.203(d)(1),
		16.204(d),
		16.303(b),
		2.204(a),
		App. A, Rule 1,001(b)
	74	22.101(f), (g)
	77	12.1000
	78	13.402(k)
	79	21.301
	81	6.305, 6.312(e),
		16.203(d)(1),
		16-204(b),
		16.205(d),

			16.303(b),
			2.204(a),
			App. A,
			Rule 1001(b)
2005	3	Rpld	16.702(c), (d),
			16-703,
			16.705,
			18.903(e),
			18.908
	Amd & Rnbd		16.700—16.702
		as	16.703
		Rpld	18.500—18-503
		Added	16.500—18.507
		Amd	18.901,
			18.902(a), (f)
			18.904, 18.907
	4		3.101(24), (68)
	5		14.1000—
			14.1021
	8	Rpld	18.1200—

		18.1206,
		20.800—20.805
	Added	18.1200—
		18.1212
		20.800—20.804
	9	20.405
	13	1.306(b)(12)
	14	13.401, 13.402
	18	20-126
	19	20-125
	21	16.119(f)
	22	17.318(g), (h)
	29	16.127(b),
		16.128,
		16-144
		16-145(b), (c),
		16-147(b), (c)
		16-156(a),
		16-156(c),
		16-157(c),

	30	12.501(b), (c)
	31	14.600(a)
	32	16.511(c), (d)
	38	16.1102(b),
		16.1104(g),
		16.1110
	40	6.300
	41 Rpld	3.204—3.206,
		3.214—3.217
	Amd	3.201,
		3.202(e),
		3.203(c)
	Added	3.204—3.206
	Amd	3.213
	Added	3.214—3.229
	43	1.406A(e)
	45	16.205
	58	16.128,
		16.1000
	59	20.127

	59	25.101—25.111
	70	13.1312
	73	19.800, 19.801
	74	14.406, 14,419
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		20.611(3)
	2	5.200
	3	6.100
	8	16.128, 16.1000
	10	Tit. 6, Subtit. 1(title)
	Added	6.101—6.103
		17.105 (title)
		17.109
	11	13.101,
		13-103
	14	16.125
	15	16.132, 16.134
	16 Rpld	18.1201— 18.1214
	Added	18.1201— 18.1214

	Rpld	20.800—20.804
	Added	20.800—20.804
	19	15.502,
		15.506(c),
		15.507(d),
		15.514(b)
		15.518(c)
	21	17.206
	22	13.202(9)
		13.400—13.404,
		13.406—13.409
	23	16.1102(b),
		16.1104(e)
	24	1.406(j), (u), (as),
		1.417(c),
		1.427(e), (f), (h),
		1.432(c)—(f),
		1.443(f)
	25	1.406A(i), (r), (ak),
		1.417A(c),

		1.419A(e),
		1.426A(c), (d), (f),
		1.432A(c), (e), (f),
		1.442A(d)
	26	1.426(b)
	37	16.125(b)(2)
	38 Rpld	12.600—12.613
	Added	12.600—12.613
	41	20.601, 20.612,
		20.614, 20.616
	42	12.901
	48 Rpld	5.200—5.303
	Added	5.300, 5.301
	49	18.121
	51	20-128
	53	15.514
	56	16.204
	57	16.128, 16.205
	58	16.204(g),
		16.801(c)

	59	2.203, 16.204
	61	6.204,
		13.402(g),
		17.103(k)(1)(v)
	66	3.100—3.104
	67	20.128A
	68	20.125(i), 20.129
	69	14.401, 14.404,
		14.407(e)(5),
		14.408(i)
	70	3.301—3.303
	71	1.414(a)(4),
		1.417(e)(4),
		1.431(e)(10)
	72	1.406A,
		1.414A,
		1.428A
	74	22.205(a)
	79	10.101
	80	3.700,

		14.900(f),
		14.901(a),
		14.902(d),
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	81	3.800—3.823
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		12.103(a),
		12.106
	83	17.100(c),
		17.101(f)
2007	4	16.128
	5	16.128
	6	16.128
	7	8.400
	8	3.302
	9	20.128A
	10	20.129
	16	2.203(b),
		16.128(c),
		16.204(e)

	26	18.104,
		18.104A
		20.608
	27	18.102—18.104
		20.600—20.602
		20.604, 20.605
		20.604, 20.615
	31	16.205
	32	20.129A
	33	1.306(b).
		1.309(e)
		6.401(d)(8),
		6.406
	47	3.1000—3.1012
		16.156(b)(3)
	48	16.144(u),
		16.145(c)(21),
		15.147(c)(33),
		16.157(c)(16),
		16.1102(b),

		16.1107(b)
	49	20.119(b)
		20.129B
	51	4.121(g),
		4.122A
	52	1.608,
	Rnbd	1.609—1.611
	as	1.610—1.612
	Added	1.609
	53	17.104
	55	1.302
	56	12.400
	60	3.404(a)
		16.129,
		16.145—16.147
		16.156, 16.157
	66	13.406 (e), (f)
	67	13.1400—13.1404
	68	13.1201,
		13.1202,

	Rnbd	13.1203
	as	13.1204
	Added	13.1203
	69	16.134(a)(1)
	73	13.1315
	74	13.401(g), (i),
		13.402, 13.403,
		13.404(d),
		13.405(a)
		13.406(b),
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	77	10.402(a),
		10.407(4)
	78	6.639
		6.600
2008	3	2.02, 16.106,
		16.209, 16.301,
		16.303, 16.304,
		16.1600—16.1612,

		24.103
	6	13.402, 13.405,
		13.406, 13.406A,
		13.407
	7	4.101—4.104,
		4.106, 4.106A,
		4.109, 4.110,
		4.112,
		4.115—4.118,
		4.121—4.130
	8	3.503(l)
	9	4.103A
	10	13.402
	12	1.306(b)(3)
		6.201, 6.401(d)
		6.407
	13	11.101
	14	1.400B—1.412B
	15	16.511
		20.900, 20-903

		20.904
	21	1.433, 1.440,
		1.443—1.445
	22	1.431A, 1.443A,
		1.437A,
		1.440A, 1.443A,
		1.444A, 1.445A
	23	2.103,
		6.341,
		12.1700—12.1706
	24	2.103, 6.340,
		16.145—16.147,
		16.156,
		16.1500—16.1507,
		22.205
	26	16.208
	33	1.306
	36	20.904
	37	17.103
	38	17.104(b)

	39	16.1102(b)(5),
		16.1104(c), (h)
	47	3.203, 3.214
	48	12.107
	49	18.1500—18.1509
	51	12.106
	53	23.102
	54	12.1000(b)—(d)
	62	16.1102(a)(1)—(4),
		(b)(6)
	63	12.701(b), (c)
	64	19.700(b), (c)
2009	1	8.400, 8.401
		8.403
	14 Added	1.406(e)
	Rltd	1.406(e)—(aac)
	as	1.406(f)—(aad),
		1.408(b)
		1.426(a)(1),
		1.428

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	36	16.128
		16.144(a)
		16.156(a)
	39	16.108(b)(28.1)
		16.128
		16.144(a)
		16.156(a)
	42	16.1500, 16.1501,
		16.1503, 16.1504
	43	17.204
	46 Added	16.603A
	Dltd	16.605(b)(1)
	Rnbd	16.605(b)(2)—(b)(5)
	as	16.605(b)(1)—(b)(4)
		16.606(d)(2), (d)(3)
	47	3.1002(a)(1), 3.1004,
		3.1008(c)
		20.129B(c), (d)
	48	22.205(a)(3)

	Added	22.205(b)
		22.205(c)
	Rnbd	22.205(b)—(e)
	as	22.205(c)—(f)
	52	20.119A
	53 Added	14.1100—14.1106
	54	20.123(b)
	60	14.416
2010	2 Rpld	5.200
	Added	5.200
	3 Rpld	6.100
	Added	6.100
	4 Added	16.1700—16.1709
	5 Rpld	3.100—3.104
	Added	3.100—3.104
		3.302
		3.303(c)
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		3.102(b)(22)(note)
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		3.102(note)
	13	18.900—18.909
	Added	18-910—18-914
	Added	19.917
	14 Added	3.1002(c-1)
		3.1003(a)(2)
	15	16.1500, 16.1501,
		16.1503, 16.1504
	20	20.503(a), (a)(2)
	23	1.306(b)(5)
	34	10.400—10.407
	38	16.1501
		16.1503, 16.1504
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	43	1.112(d)—(f)
	47	16.1101(tit.),
		16.1101(a), (c), (g)
	Rltd	16.1101(f)—(h)
	as	16.1101(g)—(i)
	Added	16.1101(f), (g)(5), (h)(4)

		16.1102(b)(1)
	Added	16.1102(b)(8)
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		16.1105(b), (c)(1), (c)(2), (d)(1), (d)(2)
		16.1106(e)
		16.1110
	56	3.500(b)
	Added	3.500(e)
		3.501(a), (c)
	Added	3.501(c)(9)
		3.502(e)
	Added	3.502A
		3.503(h), (j)
		3.505(a)(4), (b)
	Added	3.505(a)(8)–(10)
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		3.513
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			3.514
		Rnbd	3.516
		as	3.517
		Added	3.516
2011	3	Added	6.342,
			6.700—6.702
	5		1.306(b)(3)
		Dltd	6.201(e)
		Rltd	6.201(f)—(i)
		as	6.201(e)—(h)
		Added	6.201(i), (j)
			6.401(d)(8)
		Added	6.408
		Rpld	16.801(c)(11)
		Rnbd	16.801(c)(12)—(15)
		as	16.801(c)(11)—(14)
	6		16.128
	10		13.402(d)
		Added	13.402A
			13.403(a)

	Added	13.404(a)(7)
		13.405(b)(1), (c)(1), (c)(3), (d)(1)(i), (d)(2), (d)(2)(ii), (e)(1)
		13.406(title)
		13.406(a), (b)
	11	App. A, § 1.001(a)—(e)
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	Rpld	App. A, § 1.013(c)
	13	21.101(a)
	Added	21.600—21.603
	16	1.433A

		1.455A(a)
	20	20.401
	21	20.128A(e)
		20.128A(note)
	22	20.611
	25	1.306(b)(11)
	41	20.100
	46	16.1110(y)
	47	18.901—18.903
		18.904(a), (g)
		18.905, 18.906
	Rpld	18.907
		18.908
		18.910
		18.911(d)
		18.912
		18.914
	Rpld	18.915
	Added	18.915
		18.916

	50	Rpld	22.200—22.209
		Added	22.200—22.209
	51	Added	21.214
	54		12.200 II.
		Rnbd	12.201 IX—XVII
		as	12.201 X—XVIII
		Added	12.201 IX
			12.207 I(a)
			12.208 I(a), III(d)(1)
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	10		14-900
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	12	Rpld	3.100—3.104
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	13	Rpld	3.214
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	14		1.435
	15		1.435A
	16		14.104 V.
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	24	Added	28.100—28.207
	25		16.200—16.202
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	28	Added	20-129C
	30		3.801
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	40		1.112(e), (f)(1)
		Added	1.122A
	41		16.1102(b)

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	3	3.400—3.407
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	7	20.112(b)(3)(iii),
		(b)(4)(i)a., (b)(5)(i)

	8	18.900
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			(b)(4)
	14	Added	1.406(ar)
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	15	Added	1.406A(ak)
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	35	Added	13.402C
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	38		18.901(tt)
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		as	16.801(c)(8)—(13)
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	5	Rpld	5.200
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	6	Rpld	6.100
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	9	Added	20.129D
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	10 Rpld	3.100—3.104
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	15 Added	18.612
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	41	1.438A
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	4 Added	20.1200—20.1205
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	7 Added	21.207(d)
	8	17.100
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	36 Added	6.344
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	5		16.108(b)(32), (46)

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8-211	17.1009
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