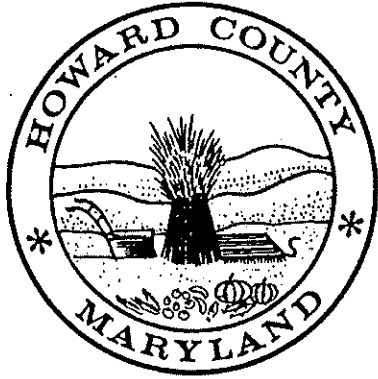


PREFACE



Originally Published in 1972

Published in 2008 by Order of County Council

municode

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Municipal Code Corporation P.O. Box 2235 Tallahassee, FL 32316
info@municode.com 800.262.2633 www.municode.com

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> |
|--|--|

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 |
| <u>8-2018(Res.)</u> | 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 CHARTER¹¹¹

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 BOARDS^[2]

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 PROCEDURES⁽⁴⁾

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 PROVISIONS⁽⁵⁾

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 PROVISIONS⁽⁶⁾

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 |

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|------|----------|----------|---------------------|
| | | 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) |

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|--|--|-----|---------------------------|
| | | 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 |
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| | | | 203(a), 209(c), (d), (g), |
| | | | 210(d), 211(b), |
| | | | 212, 213, |
| | | | 215, 301, |
| | | | 302(b), (c), (f), (h), |

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| | | | (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 |
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| | 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 PLAN²¹

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 PLAN⁴¹

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 PLANS⁵¹

Footnotes:

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 transferable 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 an 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/ 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) (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, 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 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 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) *COL 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/i 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 |
|--------------------|----|

- (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 or 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 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 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 VIIA. - 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 ACT⁽¹⁾

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 APPEALS²²¹

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 draftsman 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^a**

| 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 ^b | MAXIMUM SPACING OF VENT CENTERS (feet) | MAXIMUM DISTANCE FROM VENTS TO WALL OR DRAFT CURTAIN ^c (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 1¼ inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall be not greater than 1¼ 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 1¼ 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 1¼ 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 1¼ 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 ^g | Wind Design | | | | Seismic Design Category ^f | Subject To Damage From | | | Winter Design Temp ⁱ | Ice Barrier Underlayment Required ^b | Flood Hazards ^h | Air Freezing Index ^k | Mean Annual Temp ^l |
|--------------------------------|--------------------------|----------------------------------|----------------------------------|------------------------------------|--------------------------------------|---------------------------|-------------------------------|--------------------------------|---------------------------------|--|----------------------------|---------------------------------|-------------------------------|
| | Speed ^d (mph) | Topographic Effects ^k | Special Wind Region ^l | Windborne Debris Zone ^m | | Weathering ^a | Frost Line Depth ⁿ | Termites ^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"×8".

(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"×18"; 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"×8".

(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 REGULATIONS⁽²⁾

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 × 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:

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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 "¾ 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. - GRADING⁵

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 curbline 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 curbline 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 PERMITS⁽⁶⁾

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 HOUSING^[2]

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 insanitary 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 × 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
 - (iii) 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 PROPERTY¹

Footnotes:

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State Law reference— General authority relative to purchasing and property, Ann. Code of Md. art. 25A, § 5(B), (F).

SUBTITLE 1. - PURCHASING²

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 superba</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>Millettia laurentii</i> | wenge |
| <i>Microberlinia brazzavillensis</i> | zebrawood |

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 tropic 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
 - (iii) 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 WEAPONS^[2]

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.

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 COMMISSION¹⁴

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 DISTRICTS²¹

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 Parris 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 COMMISSIONS⁽⁴⁾

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 ADMINISTRATION⁽⁵⁾

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.