

(C.B. 78, 2007, § 2; C.B. 43, 2018, § 1)

SUBTITLE 7. - VETERANS

Sec. 6.700. - Commission for Veterans and Military Families.

- (a) *General provisions.* General provisions applicable to the Commission for Veterans and Military Families are set forth in subtitle 3, "Boards and Commissions," of this title.
- (b) *Definitions.* For purposes of this subtitle:
 - (1) *Military family* shall include a person who is:
 - (i) A veteran, active duty member, or member of a reserve component of the United States Armed Forces; or
 - (ii) A relative of a veteran, active duty personnel, or member of a reserve component of the United States Armed Forces.
 - (2) *United States Armed Forces* shall mean the Army, Navy, Air Force, Marines, and Coast Guard.
 - (3) *Veteran* shall mean:
 - (i) A person who served on full time active duty in the United States Armed Forces, other than active duty for training, and was discharged or released under conditions other than dishonorable; or
 - (ii) A person who was disabled from a disease or injury incurred or aggravated in the line of duty while performing active duty for training or inactive duty training; or
 - (iii) A person who served full time as a commissioned corps member of the Public Health Service or the National Oceanic and Atmospheric Administration.
- (c) *Number of members; method of appointment.* The Commission shall consist of 13 members who shall be appointed by the County Executive and confirmed by resolution of the County Council.
- (d) *Composition of membership.* Of the 13 members:
 - (1) Nine shall be veterans, one or more of whom shall have a service-connected disability and at least three of whom shall be members of at least one veterans' organization including, without limitation:
 - (i) Veterans of Foreign Wars;
 - (ii) American Legion;
 - (iii) AMVETS;
 - (iv) Disabled American Veterans;
 - (v) Military Order of the Purple Heart;
 - (vi) Jewish War Veterans;
 - (vii) Vietnam Veterans of America;
 - (viii) Korean War Veterans Association;
 - (ix) United Female Veterans of America or Another Women's Veterans Organization;
 - (x) Catholic War Veterans;
 - (xi) Women's Army Air Corps Association;
 - (xii) Military Officers Association of America;
 - (xiii) A local chapter of the American Ex-Prisoners of War;

- (xiv) Polish Legion of American Veterans;
 - (xv) Marine Corps League;
 - (xvi) Retired Enlisted Association;
 - (xvii) The National Association for Black Veterans;
 - (xviii) An Organization of Veteran Commissioned Corps Member of the Public Health Service;
or
 - (xix) An Organization of Veteran Commissioned Corps Member of the National Oceanic and Atmospheric Administration.
- (2) Two shall be immediate family members of either:
 - (i) A veteran; or
 - (ii) A person engaged in active-duty service or a member of a reserve component of the United States Armed Forces at the time of appointment; and
 - (3) Two members shall work or volunteer for an organization that serves veterans or military families.
- (e) *Executive Secretary.* The County Executive shall designate a county employee to serve as Executive Secretary to the Commission and attend all meetings.
- (f) *Meetings.* The Commission shall meet at least quarterly.

(C.B. 3, 2011, § 1)

Sec. 6.701. - General powers and duties of the Commission for Veterans and Military Families.

In general. Commission for Veterans and Military Families may:

- (1) Establish a forum exclusively relating to the issues of Howard County residents who served or are serving in the Armed Forces of the United States and military families;
- (2) Maintain communication between government agencies, businesses, educational institutions, veterans, and military families in the County, with the intent that veterans' issues will be addressed in the most effective and efficient manner;
- (3) Provide assistance, guidance, and information to government agencies, businesses, and educational institutions to ensure adequate consideration of veterans and their history of service in education, employment, training, and public programs;
- (4) Research, assemble, analyze, and disseminate information and educational materials relating to activities and programs that will assist in meeting the needs of veterans and their families;
- (5) Identify and maintain a list of veterans' organizations as a resource to the Commission;
- (6) Institute and conduct educational and other programs, meetings, and conferences to promote the rights of and opportunities for veterans and military families;
- (7) Advise the Executive and the Council on the status of programs and services in the State and County related to the needs of veterans and military families;
- (8) Assist in planning appropriate public acknowledgement of the contributions made by veterans and military families and assist in planning commemoration activities recognizing contributions made by veterans and military families;
- (9) Advise the Office of Purchasing on ways to further promote efforts of the County in procuring goods and services from veteran-owned business enterprises pursuant to the County's Veteran-Owned Business Enterprise Program; and

- (10) Review and provide advice to the Office of Purchasing on policies, programs and practices designed to promote business opportunity for veteran-owned business enterprises.

(C.B. 3, 2011, § 1; C.B. 8, 2018, § 2)

Sec. 6.702. - Annual report.

Subject to section 22.1000 of the County Code, on or before January 31 of each year, the Commission shall submit an annual report to the County Council and the County Executive on its activities during the previous year. The report shall include recommendations, if any, for changes or improvements to the Commission.

(C.B. 3, 2011, § 1; C.B. 43, 2018, § 1)

TITLE 7 - COURTS

SUBTITLE 2. - ORPHANS' COURT^[2]

Footnotes:

--- (2) ---

State Law reference— Review of decisions of orphans' courts, Ann. Code of Md., Courts and Judicial Proceedings article, § 12-501 et seq.

Sec. 7.200. - Meetings; adjournment.

The Orphans' Court of Howard County shall be held on the first and third Tuesday of every month; and oftener if need be, according to its own adjournment; and any judge of said court, in the absence of the others, shall have power to hold the said court at a stated time of adjournment, only for the purpose of adjourning.

(P.L.L., 1860, Art. 13, § 33; 1888, Art. 14, § 99; 1930, § 227)

Sec. 7.201. - Action by two judges.

Any two of said judges shall have full power to do any act which the said court is or shall be authorized to perform; and any two of them shall have power to hold court on any day not named in an adjournment, on the application of any person having pressing business in the said court; provided, notice be given to all of said judges; and in such case the register shall record that such notice hath been given.

(P.L.L., 1860, Art. 13, § 34; 1888, Art. 14, § 100; 1930, § 229)

SUBTITLE 3. - CIRCUIT COURT^[3]

Footnotes:

--- (3) ---

State Law reference— Trial courts of general jurisdiction, Ann. Code of Md., Courts and Judicial Proceedings article, § 1-501 et seq.

Sec. 7.300. - Law clerk; appointment; compensation; duties.

The Circuit Court for Howard County may appoint law clerks to hold office at the court's pleasure who shall receive a salary to be established by the County Executive in the annual budget and appropriation ordinance of Howard County which shall be paid by the County. Law clerks shall perform such duties as may be prescribed by said court, including those duties performed by a bailiff of said court, and shall work under the supervision and direction of the judges of said court.

(Ch. 734, 1967; C.B. 33, 1973)

Sec. 7.301. - Court stenographer; appointment; compensation.

The Circuit Court for Howard County shall appoint as many competent court stenographers, hereinafter to be designated court reporters, to serve either on a full- or part-time basis, as said court shall deem necessary for the conduct of the business of said court. Said court reporter or reporters, who shall be sworn officers of said court, shall hold office at said court's pleasure, and shall be entitled to such salary as said court may, from time to time, prescribe, to be levied annually by Howard County, and paid in such installments, and at such times, as the other County employees are paid. Said court may, also, from time to time, whenever, in its opinion, the same is expedient, appoint special court reporters and prescribe their duties and compensation; and the compensation, so prescribed, shall be paid by said Howard County.

(P.L.L., 1930, Art. 14, § 51; 1910, Ch. 4, § 1 (p. 905); 1924, Ch. 323, § 1; 1945, Ch. 652, § 51; 1949, Ch. 388; 1965, Ch. 237, § 1; 1970, Ch. 87, § 1)

Sec. 7.302. - Duties of court reporters; transcripts.

The court reporters shall:

- (a) Record all proceedings and testimony in court. The recording may be made by any device approved by the court or may consist of full stenographic or stenotypic notes.
- (b) Prepare and file a typewritten transcript of the recording or notes upon the request of the court.
- (c) Furnish a typewritten transcript of the recording or notes to any party to a proceeding in the court. No party requesting a transcript may receive it before paying the court reporter(s) for the preparation. The fee for preparation of the transcript shall be set at a rate prescribed by the court. The court reporter(s) shall receive the fee for preparation of the transcript in addition to the salary provided for in section 7.301 of this subtitle.
- (d) Perform any stenographic, stenotypic or secretarial work requested by the court, its judges or which may be prescribed by law.

(P.L.L., 1930, Art. 14, § 52; 1910, Ch. 4, § 2 (p. 905); 1924, Ch. 323, § 2; 1945, Ch. 652, § 52; 1965, Ch. 237, § 1; 1970, Ch. 87, § 1; C.B. 12, 1983)

Secs. 7.303—7.306. - Reserved.

Editor's note— Sections 7.303—7.306, which pertained to grand jury; notes and transcripts, oath of secrecy, disclosure of proceedings and violation of secrecy, were repealed in 2006 by the Maryland General Assembly, by Section 9 of Chapter 372, and therefore have been repealed from this Code. See the Code Comparative Table-Council Bills for complete derivation.

Sec. 7.307. - Masters in chancery; appointment; duties; compensation; provision for assistants; additional rules and regulations.

- (a) The Circuit Court for Howard County may appoint no more than two members of the Bar of the State of Maryland as masters in chancery of the Circuit Court for Howard County. Each master shall hear any case that the circuit court may assign to him, including, but not limited to, cases involving adoption, divorce, annulment, custody, alimony and support, and shall perform any additional duties as from time to time may be prescribed by the court. These additional duties may include any duties authorized by any law or rule of court relating to masters in chancery.
- (b) Each master shall receive an annual salary provided by the County Executive and County Council of Howard County, in the amount the Executive and Council from time to time may prescribe after consultation with the court.
- (c) The Circuit Court for Howard County may appoint qualified persons to perform stenographic and secretarial duties for the masters. The appointees shall be paid salaries provided by the Executive and County Council of Howard County, in such amounts as the Executive and council from time to time may prescribe after consultation with the court.
- (d) The Circuit Court for Howard County may prescribe any additional rules pertaining to actions heard by masters in chancery that it deems necessary. The circuit court may prescribe all costs pertaining to any actions heard by the masters, and all costs so prescribed must be paid in advance to the Clerk of the Circuit Court for Howard County. The Clerk shall pay those costs to the Director of Finance of Howard County.

(1974, Ch. 847, § 1; 1975, Ch. 706, § 1; 1978, Ch. 719, § 1)

SUBTITLE 4. - HOWARD COUNTY BAR LIBRARY

Sec. 7.400. - Contribution to bar library.

The County Council of Howard County is hereby authorized and directed to appropriate annually, for the maintenance and support of the Howard County Bar Library, the sum of \$2,000.00, payable quarterly to the Clerk of the Circuit Court for Howard County.

(1961, Ch. 770, § 2)

SUBTITLE 5. - DEPARTMENT OF CORRECTIONS^[4]

Footnotes:

--- (4) ---

Editor's note— Section 46 of C.B. 62, 1988, renamed sub. 5 from "Department of Correction" to "Department of Corrections"; amended §§ 7.500, 7.502; and renumbered §§ 7.501, 7.503. More detailed explanation of the changes will be included in notes to each section. The bill is effective July 1, 1989.

Sec. 7.500. - General provisions.

General provisions applicable to the department are set forth in subtitle 2, "Administrative Departments and Offices" of [this] title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 6, 1975; C.B. 62, 1988)

Editor's note— Section 7.500 formerly prescribed the duties of the Department. These are now found in § 7.501(c).

Sec. 7.501. - Department of Corrections.

- (a) *Head.* The Director of Corrections shall head the Department of Corrections.
- (b) *Qualifications of Director of Corrections.* The Director of Corrections shall be thoroughly trained and experienced in the principles and practices of correctional institutional management. The Director shall have had at least ten years of increasingly responsible experience maintaining security and discipline in a public or military correctional institution or system, including a minimum of five years in a managerial position.
- (c) *Duties and Responsibilities.* The Department of Corrections shall be responsible for:
 - (1) The detention of persons awaiting trial.
 - (2) The safekeeping, care and custody of all inmates in the County Detention Center from the time of their lawful commitment until their lawful discharge.
 - (3) Other duties and responsibilities. The Department of Corrections shall perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 6, 1975; C.B. 62, 1988)

Editor's note— This section incorporates provisions formerly found in §§ 7.500, 7.502. Former § 7.501 is now § 7.502.

Sec. 7.502. - County Detention Center.

The Howard County jail is an institution within the Department of Corrections, and it shall hereafter be named the Howard County Detention Center.

(C.B. 6, 1975; C.B. 62, 1988)

Note— See the editor's note to § 7.501.

Sec. 7.503. - Custody of inmates in facilities other than County Detention Center.

Should the facilities of the County Detention Center be inadequate to provide for all inmates lawfully committed therein, the Director may, with the approval of the County Executive or his designated agent, make arrangements for the temporary custody of inmates at other correctional facilities within the State.

(C.B. 6, 1975)

Note— This section was unchanged in the revision of this subtitle by C.B. 62, 1988.

TITLE 8 - CRIMES AND MISDEMEANORS

SUBTITLE 3. - DRUG PARAPHERNALIA^(a)

Footnotes:

--- (3) ---

Editor's note— Subtitle 3 of the 1972 Code consisted of § 8.300, relating to Sunday movies. Said section was repealed by C.B. 5, 1972. Subsequently, C.B. 1, 1980, added a new subtitle, §§ 8.300—8.307.

State Law reference— Drug paraphernalia, Ann. Code of Md., Criminal Law article, § 5-619.

Sec. 8.300. - Definitions.

For the purposes of this subtitle, the following words and phrases have the following meanings unless the context otherwise requires:

- (a) *Controlled dangerous substance* means any drug, substance or immediate precursor listed in article 27, section 279, Annotated Code of Maryland, including any future amendments thereto. The term shall not include distilled spirits, wine, malt beverages or tobacco as those terms are set in article 2B, Annotated Code of Maryland.
- (b) *Drug paraphernalia* means all equipment, products and materials of any kind which are intended for use, or designed for use, in planting, propagating, cultivation, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of section 276 et seq. of article 27, Annotated Code of Maryland. It includes but is not limited to:
 - (1) Kits designed or specially adapted for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived;
 - (2) Kits designed or specially adapted for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances;
 - (3) Isomerization devices designed or specially adapted for use in increasing the potency of any species of plant which is a controlled dangerous substance;
 - (4) Testing equipment designed or specially adapted for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances;
 - (5) Scales and balances designed or specially adapted for use in weighing or measuring controlled dangerous substances;
 - (6) Dilutents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, designed or specially adapted for use in cutting controlled dangerous substances;
 - (7) Separation gins and sifters designed or specially adapted for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;
 - (8) Blenders, bowls, containers, spoons and mixing devices designed or specially adapted for use in packaging small quantities of controlled dangerous substances;

- (9) Capsules, balloons, envelopes and other containers designed or specially adapted for use in packaging small quantities of controlled dangerous substances;
 - (10) Containers and other objects designed or specially adapted for use in storing or concealing controlled dangerous substances;
 - (11) Hypodermic syringes, needles and other objects designed or specially adapted for use in parenterally injecting controlled dangerous substances into the human body;
 - (12) Objects designed or specially adapted for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body such as:
 - (i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
 - (ii) Water pipes;
 - (iii) Carburetion tubes and devices;
 - (iv) Smoking and carburetion masks;
 - (v) Roach clips; meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;
 - (vi) Miniature cocaine spoons, and cocaine vials;
 - (vii) Chamber pipes;
 - (viii) Carburetor pipes;
 - (ix) Electric pipes;
 - (x) Air-driven pipes;
 - (xi) Chilams;
 - (xii) Bongs;
 - (xiii) Ice pipes or chillers.
- (c) In determining whether an object is drug paraphernalia, a court or other authority may consider, if otherwise admissible, in addition to all other logically relevant factors, the following:
- (1) Statements by an owner or by anyone in control of the object concerning its use;
 - (2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any State or Federal law relating to any controlled dangerous substance;
 - (3) The proximity of the object, in time and space, to a direct violation of section 276 et seq. of article 27, Annotated Code of Maryland;
 - (4) The proximity of the object to controlled dangerous substances;
 - (5) The existence of any residue of controlled dangerous substances on the object;
 - (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of section 276 et seq. of article 27, Annotated Code of Maryland; the innocence of an owner, or of anyone in control of the object, as to a direct violation of section 276 et seq. of article 27, Annotated Code of Maryland, shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
 - (7) Instructions, oral or written, provided with the object concerning its use;
 - (8) Descriptive materials accompanying the object which explain or depict its use;
 - (9) National and local advertising concerning its use;
 - (10) The manner in which the object is displayed for sale;

- (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
 - (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
 - (13) The existence and scope of legitimate uses for the object in the community;
 - (14) Expert testimony concerning its use.
- (d) The definitions contained in article 27, section 277, Annotated Code of Maryland, including any future amendments thereto, are adopted and incorporated by reference and have the same force and effect as if set out in full in this subtitle.

(C.B. 1, 1980)

Sec. 8.301. - General.

- (a) The Council finds and declares it is necessary for the public health and welfare to prohibit the possession, display, offer for sale, sale, delivery, use or advertisement of drug paraphernalia for any purpose other than that specifically authorized by State or Federal law.
- (b) This subtitle is not applicable to a person who is registered or who is in full compliance with section 281 of article 27, Annotated Code of Maryland.
- (c) It is the legislative intent of the Council that every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word of this subtitle are to be liberally construed; that the provisions of this subtitle are declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this subtitle is to be declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this subtitle, since the same would have been enacted without the incorporation in this subtitle of any such invalid or unconstitutional word, phrase, clause, sentence, subparagraph, paragraph, subsection, or section.

(C.B. 1, 1980)

Sec. 8.302. - Use or possession of drug paraphernalia.

It is unlawful for any person, firm, corporation, business association, or other entity to use or to possess drug paraphernalia for any purpose other than that specifically authorized by State or Federal law.

(C.B. 1, 1980)

Sec. 8.303. - Sale or delivery of drug paraphernalia.

It is unlawful for any person, firm, corporation, business association, or other entity to possess with intent to deliver, manufacture with intent to deliver, display, offer, offer for sale, sell, or deliver any equipment, product or material knowing, or under circumstances where one reasonably should know, that it is drug paraphernalia or is designed or specially adapted for use as drug paraphernalia.

(C.B. 1, 1980)

Sec. 8.304. - Advertisement of drug paraphernalia.

It is unlawful for any person, firm, corporation, business association, or other entity to advertise in any newspaper, magazine, handbill, poster, sign, mailing, or other writing or publication or by radio, television, or sound truck, knowing, or where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale or delivery of drug paraphernalia.

(C.B. 1, 1980)

Sec. 8.305. - Injunction.

Howard County may seek an injunction in the Circuit Court for Howard County or other court of appropriate jurisdiction to enjoin the possession, display, offer for sale, sale, delivery, use or advertisement of drug paraphernalia within Howard County.

(C.B. 1, 1980)

Sec. 8.306. - Contraband.

Drug paraphernalia is hereby declared to be contraband if possessed for any purpose other than that specifically authorized by State or Federal law.

(C.B. 1, 1980)

Sec. 8.307. - Penalties.

Any person who violates any provision of this subtitle shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50.00 nor more than \$1,000.00, or imprisoned not less than 30 days nor more than six months, or both fined and imprisoned.

(C.B. 1, 1980)

SUBTITLE 4. - WEAPONS CONTROLS⁽⁴⁾

Footnotes:

--- (4) ---

Editor's note— C.B. 8, 2015, § 1, adopted May 12, 2015, changed the title of title 8, subtitle 4 from "Firearms Control" to the present title.

Editor's note— C.B. 33, 1976 repealed §§ 8.400, 8.401 and enacted in lieu thereof new §§ 8.400—8.500. Former subtitle 4 contained provisions regulating firearms, derived from ch. 109, 1966 and C.B. 41, 1973.

State Law reference— Weapons crimes, Ann. Code of Md., Criminal Law article, § 4-101 et seq.; restrictions on local regulations of firearms and ammunition, Ann. Code of Md., Criminal Law article, § 4-209.

Sec. 8.400. - Definitions.

Terms in this subtitle have the meanings indicated.

- (a) *Blank ammunition*: Any ammunition composed of a casing and a primer contained as one unit, but not containing a projectile or projectiles. Blank ammunition also includes black powder, nonprimed antique.
- (b) *Department of Police*: The Department of Police for Howard County.
- (c)(1) *Facility* means a building, structure, or camp designed for occupancy or use by human beings.
- (2) *Facility* includes a dwelling, house, and residence.
- (d) *Fixed ammunition*: Any ammunition composed of a projectile or projectiles, a casing and a primer, all of which shall be contained as one unit.
- (e) *Gun*: Any firearm, rifle, shotgun, revolver, pistol, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a barrel by the action of any explosive, gas, compressed air, spring, or elastic.
- (f) *Metropolitan District*: The Howard County Metropolitan District as created and modified by the County Council pursuant to Howard County Code title 18, "Public Works," subtitle 1, "Public Utilities," and identified on official plats available for public inspection during reasonable office hours in the Department of Public Works.
- (g) *Safety zone*: means the area within a distance designated by section 8.403 of this subtitle from any facility where the discharge of firearms is prohibited by section 8.403 of this subtitle.

(C.B. 33, 1976; C.B. 38, 1985; C.B. 7, 2007, § 1; C. B. 1, 2009, § 1; C.B. 17, 2017, § 1)

Sec. 8.401. - Discharge of guns—Prohibited.

- (a) A person shall not discharge any gun within the Metropolitan District, whether the gun is loaded with fixed or blank ammunition or projectiles of any kind.
- (b) A person shall not discharge any gun outside the Metropolitan District, whether the gun is loaded with fixed or blank ammunition or projectiles of any kind, except at varmints on the ground.
- (c) A person shall not discharge a gun from, onto, across, or within 100 yards of a public road.
- (d) A person shall not, without the prior written consent of the property owner, discharge a gun on, from, onto, or across any public or private land.
- (e) This section shall not apply to:
 - (1) The discharge of guns at any target, trap or skeet range or shooting area which has been inspected and received the written approval of the department of inspections, licenses and permits pursuant to section 8.406, "Authority to Inspect and Approve Ranges or Shooting Areas," of this subtitle; or to
 - (2) The discharge of guns by any person in a private basement or cellar target range; or to
 - (3) The discharge of guns where necessary to protect life or property, including crops or livestock, or to kill any dangerous threatening animal; or to
 - (4) Any duly authorized law enforcement officer acting in the proper performance of his/her official duties; or to
 - (5) The discharge of blank ammunition in theatrical performances, historical reenactments or sporting events; or to
 - (6) The firing of salutes by firing squads at military funerals; or to
 - (7) The discharge of guns by any person engaged in bona fide wildlife research activities.

(C.B. 33, 1976; C.B. 10, 1985; C.B. 17, 1995; C. B. 1, 2009, § 1)

Sec. 8.402. - Carrying or discharging of guns by person under 16 years of age; penalty.

- (a) It shall be unlawful for any person under the age of 16 years not legally engaged in hunting game in that area not within the Metropolitan District to carry or discharge a gun whatsoever at any time within the County unless under the immediate supervision of a person 18 years of age or over at the time of shooting.
- (b) This section shall not apply to persons under 16 years of age carrying or discharging guns in areas not within the Metropolitan District which expel projectiles by gas, compressed air, spring or elastic power, where the persons have completed a course approved by the Department of Police in the safe operation of guns. The course completion shall be evidenced by a certificate to be issued by the Department of Police and shall be displayed upon reasonable demand by a Law Enforcement Officer.
- (c) A Law Enforcement Officer may impound the gun of any person who shall violate the provisions of this section.

(C.B. 33, 1976)

Sec. 8.403. - Special provisions for hunting.

- (a) Notwithstanding section 8.401 of this subtitle, a licensed hunter may discharge a gun if the hunter:
 - (1) Is lawfully hunting outside the Metropolitan District:
 - (i) On property the hunter owns; or
 - (ii) On other property with the prior written permission of the owner; and
 - (2) Complies with subsections (c) and (d) of this section and all applicable state laws or regulations.
- (b) Notwithstanding section 8.401 of this subtitle, a licensed hunter may discharge a shotgun if the hunter:
 - (1) Is lawfully hunting on not less than ten acres inside the Metropolitan District:
 - (i) On property the hunter owns; or
 - (ii) On other property with the prior written permission of the owner; and
 - (2) Complies with subsections (c) and (d) of this section and all applicable state laws or regulations.
- (c) (1)(i) The safety zone is the area consisting of 150 yards around a facility.
 - (ii) Without written permission of the property owner, a person shall not discharge a gun within, from, onto, or across a safety zone.
- (2) Whenever a person discharges a gun, the person shall:
 - (i) Ensure that the projectile has a downward trajectory;
 - (ii) Be sure that the discharge is towards a safe, visible backstop; or
 - (iii) Use a shotgun that contains only shot.
- (d) In addition to any other penalty provided by law, a person has committed a class a offense under title 24, subtitle 1 of the Howard County Code if the person discharges a gun and a projectile from the gun damages a facility or personal property, including pets and livestock, regardless of whether the person has complied with all other provisions of this section.

(C.B. 33, 1976; C. B. 1, 2009, § 1)

Sec. 8.404. - Reserved.

Editor's note— C.B. 17, 2017, § 1, adopted Feb. 22, 2017, repealed § 8.404, which pertained to sale or possession of electronic weapons prohibited and derived from C.B. 38, 1985; C.B. 7, 2007, § 1.

Sec. 8.405. - Penalty for violations of subtitle.

Any person who shall violate any of the provisions of this subtitle shall, upon conviction thereof, be punished by a fine not to exceed \$1,000.00 or imprisonment not to exceed six months in jail, or both. Any Law Enforcement Officer witnessing a violation of this subtitle may, as an alternative to making an arrest, issue unto such violator a "notice of violation," which notice, in addition to such factors as may otherwise be required, shall specify the violation with which such violator is charged and shall set forth the hour, date and location that such violator is summoned to appear before the district court for the County to answer the charge.

(C.B. 33, 1976; C.B. 38, 1985)

Sec. 8.406. - Authority to inspect and approve ranges or shooting areas.

The Department of Inspections, Licenses and Permits shall inspect annually any target, trap or skeet range or shooting area in the County. The Department of Inspections, Licenses and Permits shall issue written approval of any range or shooting area which meets the standards set forth in the manual "Range Specifications for Howard County," and which is situated upon a parcel where shooting ranges or areas are permitted under the zoning laws and regulations of Howard County. The Department may waive standards set forth in the "Range Specifications for Howard County" if the waiver will not affect the public health, safety or welfare and will not violate the intent of the "range specifications."

(C.B. 33, 1976; C.B. 10, 1985; C.B. 38, 1985; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 8.407. - Carrying weapons on public property.

- (a) *In general.* Subject to subsections (b) and (c) of this section, a person may not carry a gun as defined in section 8.400 of this subtitle or a dangerous weapon prohibited by Section 4-101 of the Criminal Law Article of the Maryland Code while in a public building that is on county property.
- (b) *Excluded buildings.* This section shall not apply to the Howard County Circuit Court building.
- (c) *Exempt personnel.* This section shall not apply to:
 - (1) A Marshal, Sheriff, Correctional Officer, or Deputy;
 - (2) A Police Officer or other law enforcement officer employed by a unit of the United States government, a state government or a local subdivision of a state;
 - (3) A member of the Armed Forces of the United States or of the National Guard or organized reserves when on duty;
 - (4) A special Police Officer as that term is used in Section 3-301 of the Public Safety Article of the Maryland Code;

- (5) A guard in the employ of a bank, savings and loan association, building and loan association, or express or armored car agency, while providing a service to or for the county;
- (6) An employee of a unit of county government who is required to carry a gun as a condition of employment or to transport or otherwise handle a gun or dangerous weapon within the scope of the employee's employment responsibilities;
- (7) A qualified retired law enforcement officer as provided in the Law Enforcement Officers Safety Act if the retired officer complies with 18 U.S. Code Section 926C;
- (8) A person acting in accordance with a permit issued under section 19.205 of the County Code; and
- (9) An individual who handles an unloaded gun or dangerous weapon:
 - (i) While acting as a curator, conservator, docent, or historical reenactor, or in a similar role; and
 - (ii) While under the direction or control of, or with permission from, the department of recreation and parks or another department that:
 - 1. Operates a museum; or
 - 2. Conducts a program that is historical or educational.

(C.B. 8, 2015, § 1)

SUBTITLE 5. - LOITERING

Sec. 8.500. - Definitions.

As used in this subtitle, the following words shall have the meanings set forth below:

- (a) *Loiter* means to idle, stand, remain, gather or be a member of a group or crowd of people who are gathered together on any commercial premises without conducting any lawful business with the owner or operator thereof or, having patronized such business establishments, to remain on such premises an unreasonable length of time after having been directed to leave by such owner, operator or an authorized agent.
- (b) *Commercial premises* means any business premises operated for profit or to which the general public is invited or permitted, including parking lots adjacent to or connected with such premises and sidewalks used by the general public in gaining access to such premises.

(C.B. 25, 1971)

Sec. 8.501. - Unlawful conduct.

- (a) It shall be unlawful for any person to loiter on or about any commercial premises, during ordinary business hours, after having been requested to leave by the owner, operator or an authorized agent of the owner.
- (b) It shall be unlawful for a person or group of persons to assemble on a public sidewalk in Howard County and so conduct themselves in such a manner as to unnecessarily interfere with the use of the sidewalk as a thoroughfare by the general public. Nothing herein shall be construed so as to prevent any orderly picketing or other lawful assembly.

(C.B. 25, 1971)

Sec. 8.502. - Penalties.

Any person violating any of the provisions of this subtitle shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than \$100.00, or imprisoned for a term not to exceed ten days, or both fine and imprisonment, in the discretion of the court. Alternatively or in addition to and concurrent with all other remedies, the Police Department may enforce the provisions of this subtitle pursuant to the provisions of title 24, subtitle 1, "Civil Penalties," of the Howard County Code. A violation of this subtitle shall be a Class D offense.

(C.B. 25, 1971; C.B. 32, 1985)

Sec. 8.503. - Severability.

If any clause, sentence, part or parts of this title, or of any section thereof shall be held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining parts of this title or of any section thereof. The County Council hereby declares that it would have passed the remaining parts of this title or any section thereof if it had known such clause, sentence, part or parts of any section thereof should be declared invalid or unconstitutional.

(C.B. 25, 1971)

SUBTITLE 6. - TRESPASS

Sec. 8.600. - Hunting on private property without permission.

- I. *Written Permission Required.* It shall be unlawful for any person to enter upon or trespass upon the property of another for the purpose of hunting any wild game birds or wild game animals thereon with a gun, rifle, bow and arrow, or any other means, unless the person shall have first secured from the owner or person in possession of the property, written permission to hunt thereon. Any hunting done shall be within the scope of the written permission.
- II. *Written Permission to be Shown upon Request.* Any person hunting upon the property of another shall exhibit the written permission, upon request, to any Police Officer of this County or the owner or person in possession of the property.
- III. *Arrest.* The Police Officer shall, upon the request of the owner or person in possession of any property, arrest any person hunting without the written permission of the owner or person in possession.
- IV. *Liability.* Any person hunting on private property shall be liable for any damage he/she causes to the private property while hunting on it. The landowner shall not be liable for accidental injury or damage to such person whether or not the landowner or his/her agent gave permission to hunt.
- V. *Definition.* *Hunting* shall include a willful trespass while carrying or in possession of any gun, pistol, rifle, shotgun or any other form of firearm, or a bow and arrows.
- VI. *Penalties.* Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be liable for a fine of not less than \$25.00 and not more than \$500.00 or be confined in jail for a period of not more than 30 days. Alternatively or in addition to and concurrent with all other remedies, the Police Department may enforce the provisions of this subtitle pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle shall be a Class C offense.

(C.B. 46, 1973; C.B. 32, 1985)

SUBTITLE 7. - ALCOHOLIC BEVERAGES

Sec. 8.700. - Consumption and possession of alcoholic beverages in opened containers.

- (a) It shall be unlawful for any person to consume any alcoholic beverages or have in his possession any alcoholic beverages in an open container on the posted premises of a commercial shopping center, or on posted parking lots open to the public.
- (b) This section shall not be construed to apply to the enclosed premises of a licensee of a validly issued license by the Howard County Board of License Commissioners, nor to the area covered by a temporary license issued by the Board of License Commissioners.
- (c) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed \$100.00 or imprisonment for not more than 30 days, or both, in the discretion of the court. Alternatively or in addition to and concurrent with all other remedies, the Police Department may enforce the provisions of this subtitle pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle shall be a Class D offense.
- (d) For the purpose of this section, the term *posted* is defined as the display of a sign, not less than 18 inches by 24 inches in size, on the affected premises, informing the public that consumption or possession in an opened container of alcoholic beverages thereon is prohibited.

(C.B. 35, 1975; C.B. 32, 1985)

SUBTITLE 8. - DEFACING PUBLIC AND PRIVATE PROPERTY⁽⁵⁾

Footnotes:

--- (5) ---

State Law reference— Malicious destruction of property, Code of Md., Criminal Law article, § 6-301 et seq.

Sec. 8.800. - Defacing of public and private property prohibited.

- (a) *Definitions.*
 - (1) In this subtitle, the following words have the meanings indicated:
 - (2) *Property* includes land, structures, vegetation, and trees.
 - (3) *Public property* means property that Howard County owns or in which it holds a leasehold or easement interest and which is under the control of a County Agency.
- (b) *Prohibitions:*
 - (1) An individual may not willfully destroy, injure, deface, or molest, or attempt to destroy, injure, deface, or molest any public or private property.
 - (2) An individual who violates paragraph (1) of this subsection may not remain on or willfully fail to leave public property after a Police Officer orders the individual to leave the property.

(C.B. 70, 1983; C.B. 94, 1995)

Sec. 8.801. - Penalties.

(a) *Criminal Penalties:*

- (1) A person who violates the provisions of subsection 8.800(b)(1) of this subtitle is guilty of a misdemeanor and upon conviction is subject to imprisonment for not more than six months, a fine of not more than \$1,000.00, or both.
- (2) A person who violates the provisions of subsection 8.800(b)(2) of this subtitle is guilty of a misdemeanor, and upon conviction is subject to imprisonment for not more than three months, a fine of not more than \$500.00, or both.

(b) *Civil Penalties:*

- (1) In addition to and concurrent with all other remedies, a violation subsection 8.800(b)(1) of this subtitle that occurs on public property is a Class B offense under title 24, "Civil Penalties," of the Howard County Code.
- (2) Civil citations under this subsection may be issued by:
 - (i) The Howard County Police Department; and
 - (ii) For violations that occur on public property, a County employee designated by the Director of the Department of Recreation and Parks or the Director of the Department of Public Works to serve as enforcement personnel empowered to issue civil citations under this subsection for violations that occur on property under the control of the respective Departments.

(C.B. 70, 1983; C.B. 32, 1985; C.B. 94, 1995)

Sec. 8.802. - Restitution.

In addition to the penalties under section 8.801 of this subtitle:

- (1) An individual convicted of a violation of this subtitle is liable for payment of costs to repair the damage to the property; and
- (2) If a minor is convicted of a violation of this subtitle, the parents, or legal guardian of the minor are liable for payment of costs to repair the damage to the property.

(C.B. 94, 1995)

Editor's note— Section 1 of C.B. 94, 1995, deleted §§ 8.802 and 8.803 in their entirety. Formerly, §§ 8.802 and 8.803 pertained to parental liability and restitution and derived from C.B. 70, 1983. Section 1 of C.B. 94, 1995, added § 8.802 as herein set out and renumbered § 8.804 as § 8.803.

Sec. 8.803. - Severability.

If any section, paragraph or provision of this subtitle shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this subtitle.

(C.B. 70, 1983; C.B. 94, 1995)

Note— See the editor's note following § 8.802.

SUBTITLE 9. - NOISE

Sec. 8.900. - Noise affecting residential areas.

(a) *Definitions.*

- (1) *dBA* has the meaning indicated in COMAR 26.02.03.01.
- (2) *Daytime hours* means 7:00 a.m. to 10:00 p.m., local time.
- (3) *Nighttime hours* means 10:00 p.m. to 7:00 a.m., local time.

(b) *Noise Standards for Residential Areas as Receiving Property.*

- (1) Except as provided in paragraph (2) of this subsection and in subsection (d) of this section, a person may not cause or permit noise levels emanating from any property, such that the levels received on residential property exceed the levels contained in table 2 of COMAR 26.02.03.03A.(1).
- (2) A person may not cause or permit noise levels emanating from construction or demolition-site activities that exceed:
 - (i) During daytime hours, 90 dBA; or
 - (ii) During nighttime hours, the levels specified in table 2 of COMAR 26.02.03.03A.(1).

(c) *Measurement of Noise Levels.*

- (1) The measurement of noise levels under this subsection shall be conducted at points on or within the property line of the receiving property or the boundary of a zoning district, and may be conducted at any point for the determination of identity in multiple source situations.
- (2) Sound level meters used to determine compliance with this section shall meet or exceed the specifications of the National Standards Institute or its successor bodies ANSI S1.4-1971, for Type II sound level meters.

(d) *Exemptions.* The provisions of this section do not apply to:

- (1) Devices used solely for the purpose of warning, protecting, or alerting the public, or some segment thereof, of the existence of an emergency situation;
- (2) Household tools and portable appliances in normal usage;
- (3) Lawn care and snow removal equipment during daytime hours, when used and maintained in accordance with the manufacturer's specifications;
- (4) Agricultural field machinery when used and maintained in accordance with manufacturer's specifications;
- (5) Blasting operations for demolition, construction, and mining or quarrying, between the hours of 8:00 a.m. and 5:00 p.m.;
- (6) Motor vehicles on public roads;
- (7) Aircraft and related airport operations at airports licensed by the State Aviation Administration;
- (8) Boats on State waters or motor vehicles on State lands under the jurisdiction of the Department of Natural Resources;
- (9) Emergency operations;
- (10) Pile driving equipment, between the hours of 8:00 a.m. and 5:00 p.m.;
- (11) Sound not electronically amplified created by sporting, amusement, and entertainment events and other public gatherings operating according to terms and conditions imposed by the County, between the hours of 7:00 a.m. and 12:00 midnight;
- (12) Rapid rail transit vehicles and railroads;
- (13) Construction and repair work on public property; and

- (14) Air conditioning or heat pump equipment used to cool or heat housing on residential property. For this equipment, a person may not cause or permit noise levels which exceed 70 dBA for air-conditioning equipment at receiving residential property, and 75 dBA for heat pump equipment at receiving residential property.

(e) *Penalties:*

- (1) A person who violates this section is guilty of a misdemeanor and upon conviction is subject to a fine of up to \$100.00, imprisonment for up to 30 days, or both.
- (2) The Police Department may enforce the provisions of this section with civil penalties under title 24 of the Howard County Code.
- (3) The health department may enforce the provisions of this section with civil penalties under title 24 of the Howard County Code if the noise complained of originates from commercial or industrial property.
- (4) A first violation of this section is a Class E civil offense. A subsequent violation is a Class D civil offense.

(C.B. 49, 1997)

Editor's note— C.B. 49, 1997, repealed § 8.900 in its entirety. Formerly, § 8.900 pertained to noise in residential areas and derived from C.B. 52, 1985. C.B. 49, 1997 enacted new provisions under § 8.900 as herein set out.

TITLE 9 - EDUCATION AND LIBRARIES^[1]

Footnotes:

--- (1) ---

State Law reference— Public schools, Ann. Code of Md., Education article, § 7-101 et seq.

SUBTITLE 1. - EDUCATION^[2]

Footnotes:

--- (2) ---

State Law reference— Public schools, Ann. Code of Md., Education article, § 7-101 et seq.

Sec. 9.100. - School buses; parochial schools.

All children who attend parochial schools in Howard County, which schools do not receive State aid, and who reside on or along or near to the public highways of Howard County, on which there is now or hereafter operated a public school bus or conveyance provided by the Board of Education of Howard County for transporting children to and from the public schools of Howard County, shall be entitled to transportation on the said buses or conveyances, subject to the conditions hereinafter set forth, from a point on the said public highways nearest or most accessible to their respective homes to a point on said public highways nearest or most accessible to their respective schools, without changing the routes of said buses or conveyances now or hereafter established by said Board of Education of Howard County for transporting children to and from the public schools. Such transportation may be provided by the Board of Education, as aforesaid, for all the children attending schools described herein, upon the same

terms and conditions as now or as may be hereafter established by the Board of Education of Howard County for children attending public schools.

(1943, Ch. 648, § 291A)

State Law reference— Transportation of students, Ann. Code of Md. Education article, § 7-801 et seq.

Sec. 9.101. - Same conditions.

The County Council of Howard County is hereby authorized to appropriate annually to the Board of Education of Howard County, from any funds received by said Howard County for any general County purpose and not derived from any tax levied on real property, such sum as the said Board of Education may request to enable it to defray any costs incurred by it in carrying into effect the provisions of section 9.100 and to establish new bus routes, in the discretion of the Board of Education of Howard County, for the transportation to and from school of children attending schools not receiving State aid. The transportation of children to and from schools not receiving State aid shall be upon such reasonable terms and conditions as the Board of Education may from time to time determine, but in no event shall the amount charged children attending such schools for using buses or conveyances be greater or less than the amount charged children attending the public schools for the same kind of transportation.

(1943, Ch. 648, § 291B)

State Law reference— Transportation of students, Ann. Code of Md. Education article, § 7-801 et seq.

Sec. 9.102. - School construction and site funds.

The County Council shall direct the Director of Finance of Howard County to pay to the Board of Education of Howard County such funds as the Board may from time request, to be used for the purchase of school sites and the construction of school buildings, or for either purpose. Funds so paid shall be paid out of the school site acquisition and construction fund. The fund shall consist of one-fourth of the proceeds of the transfer tax, as provided by section 20.404 of this Code.

(1965, Ch. 515, § 1)

Sec. 9.103. - Capital improvement master plan (C.I.M.P.) for education.

(a) *Definitions:*

Capital improvement master plan; C.I.M.P. for education means the capital improvement master plan (C.I.M.P.) for education is a plan prepared by the Board of Education and adopted by the County Council pursuant to the provisions of section 22.405 of the Howard County Code. The plan indicates the capital improvements to the County's education system to be constructed during the next ten years in order to implement the housing and employment growth projections of the County's general plan. The C.I.M.P. for Education includes the education projects included in the Howard County Capital Budget and Capital Program and the Maryland Capital Budget and Capital Program and Extended Capital Program.

(b) *Requirement to Prepare C.I.M.P. and Review It Annually:* The Board of Education prepares the C.I.M.P. for Education pursuant to the provisions of section 22.405 of this Code. The Board reviews the plan annually and submits updates as appropriate for adoption by the County Council.

(C.B. 10, 1992)

Secs. 9.104—9.106. - Reserved.

Editor's note— C.B. 5, 1998, repealed §§ 9.104—9.106 in their entirety. Formerly, §§ 9.104—9.106 pertained to the voluntary participation in education costs program and derived from C.B. 69, 1996.

Sec. 9.107. - Effective date.

Sections 9.104, 9.105, 9.106 and 9.107 of this subtitle shall remain effective until five years from the effective date of this act and, with no further action required by the County Council, this act shall be abrogated and of no further force and effect.

(C.B. 69, 1996)

TITLE 10 - ELECTIONS AND ELECTION DISTRICTS^[1]

Footnotes:

--- (1) ---

State Law reference— Elections generally, Ann. Code of Md., Election Law article, § 1-101 et seq.

SUBTITLE 1. - ELECTIONS^[2]

Footnotes:

--- (2) ---

State Law reference— Elections generally, Ann. Code of Md., Election Law article, § 1-101 et seq.

Sec. 10.100. - Oath of office.

Notwithstanding the provisions of any law to the contrary, all elected County officers, except the members of the County Council and the County Executive, shall take their oath of office and assume their official duties on the first Monday in January following their election, at the County seat, at the hour of 2:00 p.m..

(1963, Ch. 810)

Editor's note— Subsections 202(c) and 302(c) of the Charter provide that the County Executive and members of the County Council shall qualify for office on the first Monday in December following their election, or as soon thereafter as practicable.

Sec. 10.101. - County Council vacancies.

- (a) Subject to subsection (b) of this section, a vacancy occurring in the office of a Councilmember before the expiration of the term shall be filled by appointment in accordance with subsection 202(e) of the Howard County Charter.
- (b) If the vacancy occurs more than 30 days before the filing deadline for a certificate of candidacy for the next regularly scheduled primary election, the individual appointed under subsection (a) of this section shall serve until a successor is qualified pursuant to a special general election in accordance with the procedures set forth in subsection (c) of this section and subsection 202(c) of the Charter.
- (c)
 - (1) A special primary and general election to fill the Council seat in which the vacancy occurred shall be held in accordance with the requirements title 5 of the elections law article of the Maryland Annotated Code pertaining to elections for the County Council offices.
 - (2) The special primary election shall be held concurrently with the regularly scheduled primary election.
 - (3) The special general election shall be held concurrently with the regularly scheduled general election.
 - (4) Only individuals who, at the time of the special elections authorized in this subsection, are qualified to vote within the Councilmanic District in which the vacancy occurred may participate in the special elections.
 - (5) The individual elected to fill the vacancy must meet all qualifications for the office provided by law.

(C.B. 79, 2006, § 1)

State Law reference— Authority to provide for filling of vacancies on county council, Ann. Code of Md. art. 35A, § 5(Q).

SUBTITLE 2. - ELECTION DISTRICTS^[2]

Footnotes:

--- (3) ---

State Law reference— Authority to alter election districts, Ann. Code of Md. art. 35A, § 5(H).

Sec. 10.200. - Election districts.

Pursuant to article 25A, subsection 5(h) of the Annotated Code of Maryland, Howard County is divided into six election districts. The boundaries of the election districts are as follows:

- (a) *Election District 1:*
 - (1) Beginning at a point on the Patapsco River at Ichester Road, the said point also being at the Howard County-Baltimore County line, thence running:
 - (2) Southeast along the Patapsco River following the Howard County-Baltimore County line to Deep Run;
 - (3) Southwest along Deep Run following the Howard County-Anne Arundel County Line to the Baltimore and Ohio railroad tracks;
 - (4) Southwest along the Baltimore and Ohio railroad tracks following the Howard County-Anne Arundel County line to Md. Route 175;

- (5) Northwest along Md. Route 175 to Md. Route 957 (Old Waterloo Road);
- (6) North along Md. Route 957 (Old Waterloo Road) to Md. Route 108;
- (7) Northwest along Md. Route 108 to Md. Route 104 and continuing west along Md. Route 108 to Old Waterloo Road;
- (8) Northeast along Old Waterloo Road to Oak Run Way;
- (9) Southeast along Oak Run Way to Md. Route 104;
- (10) Northeast along Md. Route 104 to Md. Route 103;
- (11) Southeast along Md. Route 103 to Bonnie Branch Road;
- (12) Northeast along Bonnie Branch Road to Ilchester Road; and
- (13) North along Ilchester Road to the point of beginning.

(b) *Election District 2:*

- (1) Beginning at a point on the Patapsco River approximately 3,800 feet east of Woodstock Road, Md. Route 125, the said point also being at the Howard County-Baltimore County line, thence running:
- (2) Southeast along the Patapsco River following the Howard County-Baltimore County line to Ilchester Road;
- (3) South along Ilchester Road to Bonnie Branch Road;
- (4) Southwest along Bonnie Branch Road to Md. Route 103;
- (5) Northwest along Md. Route 103 to Md. Route 104;
- (6) Southwest along Md. Route 104 to Oak Run Way;
- (7) Northwest along Oak Run Way to Old Waterloo Road;
- (8) Southwest along Old Waterloo Road to Md. Route 108;
- (9) Northwest along Md. Route 108 to Manor Lane;
- (10) North along Manor Lane to Md. Route 144;
- (11) West along Md. Route 144 for approximately 1,400 feet;
- (12) Northeast, cross-country to Turf Valley Road;
- (13) North along Turf Valley Road and continuing north, cross-country to the intersection of Md. Route 99 and Affeldt Road; and
- (14) North along Affeldt Road and continuing north cross-country to the point of beginning.

(c) *Election District 3:*

- (1) Beginning at a point on the South Branch Patapsco River at Gaither Road, the said point also being at the Howard County-Carroll County line, thence running:
- (2) East along the South Branch Patapsco River following the Howard County-Carroll County line to the North Branch Patapsco River at the Howard County-Baltimore County line;
- (3) Southeast along the Patapsco River following the Howard County-Baltimore County line to a point approximately 3,800 feet east of Woodstock Road, Md. Route 125;
- (4) South, cross-country to Affeldt Road and continuing south along Affeldt Road to Md. Route 99;
- (5) South, cross-country to Turf Valley Road and continuing south along Turf Valley Road to U.S. Route 40;
- (6) South, cross-country to Md. Route 144 at a point approximately 1,400 feet west of Manor Lane;

- (7) East along Md. Route 144 to Manor Lane;
- (8) South along Manor Lane to Md. Route 108;
- (9) West along Md. Route 108 to relocated Homewood Road (opposite Harpers Farm Road);
- (10) Northwest along Homewood Road to Folly Quarter Road;
- (11) West along Folly Quarter Road to Triadelphia Road;
- (12) West along Triadelphia Road to Linthicum Road;
- (13) North, cross-country to Old Rover Road at the intersection of Sharp Road;
- (14) North along Old Rover Road to Rover Mill Road;
- (15) North along Rover Mill Road for approximately 2,500 feet and continuing north, cross-country to McKendree Road and continuing north along McKendree Road to I-70;
- (16) North, cross-country to Underwood Road at a point approximately 1,900 feet west to Day Road;
- (17) North along Underwood Road to Forsythe Road;
- (18) North along Forsythe Road to Gaither Road; and
- (19) Northwest along Gaither Road to the point of beginning.

(d) *Election District 4:*

- (1) Beginning at a point on the Howard County-Carroll County Line at Parrs Spring, thence running;
- (2) East along the South Branch Patapsco River following the Howard County-Carroll County line to Gaither Road;
- (3) Southwest along Gaither Road to Forsythe Road;
- (4) South along Forsythe Road to Underwood Road;
- (5) South along Underwood Road to a point 1,900 feet west of Day Road;
- (6) South, cross-country to McKendree Road at I-70;
- (7) South along McKendree to a point approximately 500 feet south of Md. Route 144 and continuing south, cross-country to Rover Mill Road;
- (8) South along Rover Mill Road to Old Rover Road;
- (9) South along Old Rover Road to Sharp Road;
- (10) South, cross-country to Triadelphia Road at the intersection of Linthicum Road;
- (11) Southwest along Triadelphia Road and the former alignment of Triadelphia Road to the Patuxent River;
- (12) Northwest along the Patuxent River following the Howard County-Montgomery County line to the origin of the Patuxent River; and
- (13) Northeast, cross-country following the Howard County-Montgomery County line to the point of beginning.

(e) *Election District 5:*

- (1) Beginning at a point on the Patuxent River at the former alignment of Triadelphia Road, the said point also being at the Howard County-Montgomery County line, thence running;
- (2) Northeast along the former alignment of Triadelphia Road to Triadelphia Road continuing northeast along Triadelphia Road to Folly Quarter Road;

- (3) East along Folly Quarter Road to Homewood Road;
 - (4) Southeast along Homewood Road following relocated Homewood Road to Md. Route 108 (opposite Harpers Farm Road);
 - (5) East along Md. Route 108 to U.S. Route 29;
 - (6) South along U.S. Route 29 to approximately 1,700 feet south of the intersection with Md. Route 216 at Old Columbia Pike;
 - (7) South along Old Columbia Pike crossing U.S. Route 29 and continuing to Harding Road;
 - (8) Southwest along Harding Road to the Patuxent River; and
 - (9) Northwest along the Patuxent River following the Howard County-Montgomery County line to the point of beginning.
- (f) *Election District 6:*
- (1) Beginning at a point on U.S. Route 29 at the intersection of Md. Route 108, thence running:
 - (2) Southeast along Md. Route 108 to Md. 957 (Old Waterloo Road);
 - (3) South along Md. Route 957 (Old Waterloo Road) to Md. Route 175;
 - (4) Southeast along Md. Route 175 to the Baltimore and Ohio railroad tracks;
 - (5) Southwest along the Baltimore and Ohio railroad tracks following the Howard County-Anne Arundel County line to the Patuxent River;
 - (6) Northwest along the Patuxent River following the Howard County-Prince George's County line and continuing along the Howard County-Montgomery County line to Harding Road;
 - (7) Northeast along Harding Road to Old Columbia Pike;
 - (8) North along Old Columbia Pike crossing U.S. Route 29 and continuing to U.S. Route 29; and
 - (9) North along U.S. Route 29 to the point of beginning.

(P.L.L., 1860, Art. 13, § 22; 1888, Art. 14, § 47; 1930, § 116, 1968, Ch. 388; C.B. 5, 1992)

SUBTITLE 3. - CITIZENS' ELECTION FUND

Sec. 10.300. - Definitions.

- (a) In this subtitle, the following words have the meanings indicated.
- (b) *Applicant candidate* means a candidate who is seeking to be a certified candidate in a primary or general election.
- (c) *Campaign finance entity* has the meaning stated in Title 1, subtitle 1 of the Election Law article of the Maryland Code.
- (d) *Certified candidate* means a candidate who is certified as eligible for public campaign financing from the fund.
- (e) *Citizen Funded Campaign account* means a campaign finance account into which eligible contributions will be received and from which money may be spent in accordance with this subtitle.
- (f) *Commission* means the Citizens' Election Fund Commission.
- (g) *CPI* means the Consumer Price Index for all urban consumers: All items in Washington-Baltimore, DC-MD-VA-WV (CMSA) as published by the United States Department of Labor, Bureau of Labor Statistics.

- (h) *Contested election* means any election, including a special election, in which there are more candidates for office than the number who can be elected to that office.
- (i) *Contribution* has the meaning stated in Title 1, subtitle 1 of the Election Law article of the Maryland Code.
- (j) *County Board* means the Howard County Board of Elections.
- (k) *County resident* means a natural person who resides in Howard County.
- (l) *Director* means the Director of the Department of Finance or the Director's designee.
- (m) *Election cycle* has the meaning stated in Title 1, subtitle 1 of the Election Law article of the Maryland Code.
- (n) *Eligible contribution* means an aggregate donation in a four-year election cycle from an individual, including an individual who does not reside in the County, that does not exceed the contribution limit set in this subtitle.
- (o) *Fund* means the Citizens' Election Fund.
- (p) *Participating candidate* means a certified candidate who has received a public contribution from the Fund during the current election cycle.
- (q) *Public contribution* means money disbursed from the fund to a certified candidate.
- (r) *Qualifying contribution* means an eligible contribution in support of an applicant candidate that is:
 - (1) Made by a County resident;
 - (2) Made after the beginning of the qualifying period, but no later than the next general election; and
 - (3) Acknowledged by a receipt.
- (s) *Qualifying period* means:
 - (1) The time beginning on January 1 following the last election for the office the candidate seeks and ending 45 days before the date of the primary election; or
 - (2) For a special election, the time that the County Council sets by Resolution.
- (t) *State* has the meaning stated in Title 1, subtitle 1 of the Election Law article of the Maryland Code.
- (u) *State Board* means the Maryland State Board of Elections.

(C.B. 30, 2017, § 1)

Sec. 10.301. - Scope.

- (a) *Covered Offices.* This subtitle applies to elections for County Executive and County Council.
- (b) *In General.* A candidate who wishes to receive public contributions may apply for certification in accordance with this subtitle.

(C.B. 30, 2017, § 1)

Sec. 10.302. - Collecting qualifying contributions.

- (a) *Preliminary Steps.* Before raising a contribution governed by this subtitle, an applicant candidate shall:
 - (1) File notice of intent with the State Board in the manner that the State Board requires; and

- (2) Establish a Citizen Funded Campaign account.
- (b) *Contribution Limits.*
 - (1) Except as otherwise provided in paragraph (2) of this subsection, an applicant candidate shall not accept:
 - (i) Eligible contributions of more than \$250.00 in the aggregate during an election cycle; or
 - (ii) A loan.
 - (2) An applicant candidate may accept up to \$12,000.00 in contributions or loans consisting of a combined total of not more than \$6,000.00 from each of the following family members:
 - (i) The applicant candidate;
 - (ii) A child who is at least 18 years old;
 - (iii) A spouse;
 - (iv) A parent; or
 - (v) A sibling.
- (c) *CPI Adjustment.*
 - (1) The contribution limit specified in subsection (b)(1) of this section shall be adjusted for the next election cycle on July 1, 2022, and July 1 of each subsequent fourth year by the increase in the CPI for the previous four calendar years, rounded up to the next \$10.00.
 - (2) The Director shall publish this amount not later than the January 1 after an adjustment is made.

(C.B. 30, 2017, § 1)

Sec. 10.303. - Requirements for certification.

- (a) *Application for Certification.*
 - (1) An applicant candidate shall apply to the State Board for certification.
 - (2) The State Board may only accept an application during the qualifying period.
 - (3) An application shall be submitted on the form that the State Board requires.
 - (4) Subject to paragraph (6) of this subsection, an applicant candidate may submit only one application for certification for any election.
 - (5) An applicant candidate shall include with the application all documentation required by the State or, in the absence of State requirements, the following:
 - (i) A declaration from the applicant candidate agreeing to follow the requirements governing the use of a public contribution;
 - (ii) A campaign finance report that contains the information that the State Board requires for a campaign finance report and that includes, but is not limited to:
 - a. A list of each qualifying contribution received;
 - b. A list of each expenditure made by the candidate during the qualifying period;
 - c. A copy of the receipt associated with each contribution that identifies the contributor's name and residential address; and
 - d. A copy of the receipt associated with each expenditure; and
 - (iii) A certificate of candidacy for County Executive or County Council.

- (6) If an application is denied, the applicant may revise the application once if done before the deadline.
- (b) *Qualifications.* To qualify as a certified candidate:
 - (1) A candidate for County Executive must have collected from County residents at least:
 - (i) Five hundred qualifying contributions; and
 - (ii) An aggregate total of \$40,000.00; and
 - (2) A candidate for County Council must have collected from County residents at least:
 - (i) One hundred twenty-five qualifying contributions; and
 - (ii) An aggregate total of \$10,000.00.
- (c) *Contributions.*
 - (1) An applicant candidate shall deposit all contributions received into the candidate's Citizen Funded Campaign account.
 - (2) An applicant candidate shall deliver to the State Board a copy of the receipt for each qualifying contribution that identifies the contributor's name and residential address and that is signed by the contributor directly or by a digital signature using a method approved by the State Board.

(C.B. 30, 2017, § 1)

Sec. 10.304. - State Board determination.

- (a) *In General.* Within ten days after the State Board receives a complete application for certification, the State Board shall certify an applicant candidate who qualifies for certification.
- (b) *Decision.* The decision by the State Board whether to certify a candidate is final.
- (c) *Authorization to Disburse Money.* If the State Board certifies a candidate, the State Board shall so notify the Director. After notification, the Director shall disburse a public contribution to the candidate's Citizen Funded Campaign account.

(C.B. 30, 2017, § 1)

Sec. 10.305. - Citizens' Election Fund established.

- (a) *In General.* The Director shall establish a Citizen's Election Fund as a special non-lapsing fund in accordance with section 611 of the Howard County Charter.
- (b) *Components of the Fund.* The fund consists of:
 - (1) Money appropriated to the fund;
 - (2) Any unspent money remaining in a certified candidate's Citizen Funded Campaign account after the candidate is no longer a candidate;
 - (3) Any public contribution returned to the fund;
 - (4) Any donations made to the fund;
 - (5) Any fines collected under section 10.311 of this subtitle; and
 - (6) Any earnings on money in the fund.
- (c) *Budget Allocation.* Each year, the County Executive shall include in the current expense budget the amount required under section 907 of the Howard County Charter.

(C.B. 30, 2017, § 1)

Sec. 10.306. - Distribution of public contribution.

(a) *In General.*

- (1) The Director shall distribute a public contribution for an election only during:
 - (i) The time beginning 365 days before the primary election for the office the candidate seeks and ending 15 days after the general election; or
 - (ii) The time that the County Council sets by Resolution for a special election.
- (2) A certified candidate may continue to collect qualifying contributions and receive a matching public contribution up to a primary or general election.
- (3)
 - (i) For purposes of this paragraph, whether an election is contested shall be determined on the first Tuesday in August preceding the election.
 - (ii) The Director shall not disburse a public contribution to a certified candidate in an election in which the candidate is the sole individual who has filed a certificate of candidacy for that office; however, a certified candidate may collect contributions during an uncontested election.

(b) *Receipts; Deposits .*

- (1) To receive a public contribution, a participating candidate shall submit a receipt to the State Board for each qualifying contribution.
- (2) The receipt shall identify the contributor's name and residential address.
- (3) The Director shall deposit the appropriate public contribution into a participating candidate's Citizen Funded Campaign account within three business days after the State Board authorizes the public contribution.

(c) *Contributions of Less Than \$5.00.* An individual contribution of less than \$5.00 may be considered under section 10.303 of this subtitle but shall not be considered when calculating the public contribution under this section.

(d) *Amount of Distribution.*

- (1) For a certified candidate for County Executive, the public contribution shall equal:
 - (i) Seven dollars for each dollar of a qualifying contribution received for the first \$50.00 of each qualifying contribution;
 - (ii) Four dollars for each dollar of a qualifying contribution received for the second \$50.00 of each qualifying contribution; and
 - (iii) One dollar for each dollar of a qualifying contribution received for the third \$50.00 of each qualifying contribution; and
 - (iv) Zero dollars for each dollar of a qualifying contribution received beyond the third \$50.00 of each qualifying contribution.
- (2) For a certified candidate for County Council, the public contribution shall equal:
 - (i) Five dollars for each dollar of a qualifying contribution received for the first \$50.00 of each qualifying contribution;
 - (ii) Three dollars for each dollar of a qualifying contribution received for the second \$50.00 of each qualifying contribution;
 - (iii) One dollar for each dollar of a qualifying contribution received for the third \$50.00 of each qualifying contribution; and

- (iv) Zero dollars for each dollar of a qualifying contribution received beyond the third \$50.00 of each qualifying contribution.
- (3) The total public contribution payable to a certified candidate for the election cycle, including the primary or a general election, shall not exceed:
 - (i) Seven hundred thousand dollars for a candidate for County executive; and
 - (ii) Eighty-five thousand dollars for a candidate for County Council.
- (e) *Limitation.* The Director shall not distribute a public contribution based on:
 - (1) A contribution from the candidate or the candidate's spouse; or
 - (2) An in-kind contribution of property, goods, or services.
- (f) *Fund Insufficiency.* If the Director determines that the total amount available for distribution in the fund is insufficient to meet the allocations required by this section, the Director shall reduce each public contribution by the same percentage.
- (g) *Disbursements After Primary Election.* Within three business days after the County Board certifies the results of the primary election, the State Board shall authorize the Director to continue to disburse the appropriate public contribution for the general election to each participating candidate who is certified to be on the ballot for the general election.
- (h) *Return of Unspent Funds.*
 - (1) Within 30 days after the County Board certifies the results of the primary election, a participating candidate who is not certified to be on the ballot for the general election shall return to the fund any unspent money in the candidate's Citizen Funded Campaign account.
 - (2) On or before December 31 after the general election, a participating candidate shall return to the fund any unspent money in the candidate's Citizen Funded Campaign account.
- (i) *Candidates Nominated by Petition or by Non-Principal Political Parties.*
 - (1) "Principal political parties" has the meaning stated in section 1-101 of the Election Law article of the Maryland Code.
 - (2) A certified candidate nominated by petition or by a party that is not a principal political party may receive a public contribution for the general election if the candidate's nomination is certified by the County Board.
 - (3) A certified candidate under this subsection must qualify 45 days before the date of the general election.
- (j) *CPI Adjustment .*
 - (1) The total public contribution limits established in this section shall be adjusted for the next election cycle on July 1, 2022, and July 1 of each subsequent fourth year by the increase in the CPI for the previous four calendar years, rounded up to the next \$10.00.
 - (2) The Director shall publish these amounts not later than the January 1 after an adjustment is made.

(C.B. 30, 2017, § 1)

Sec. 10.307. - Use of public contribution.

- (a) *In General.*
 - (1) A participating candidate may only make expenditures from the Citizen Funded Campaign account registered with the State Board for expenses incurred for the election.

- (2) A participating candidate shall not pay in advance for property, goods, or services to be used after certification with non-qualifying contributions received before applying for certification.
- (3)
 - (i) Except as provided in paragraph (3)(ii) of this subsection, the Director shall reduce the public contribution to a participating candidate's Citizen Funded Campaign account by the total amount of all expenditures made after the end of the previous election cycle from the candidate's non-participating campaign account.
 - (ii) Expenditures made with contributions received prior to the end of the previous election cycle towards debts accrued before the end of the previous election cycle shall not reduce the public contribution to a participating candidate's Citizen Funded Campaign account.
- (b) *Allegation of Impermissible Act.* A complaint alleging an impermissible receipt or use of funds by a participating candidate shall be filed with the Commission.
- (c) *Access to Records.* On request of the Commission, a participating candidate shall provide the Commission with reasonable access to the financial records of the candidate's Citizen Funded Campaign account.

(C.B. 30, 2017, § 1)

Sec. 10.308. - Withdrawal.

- (a) *In General.* A participating candidate may withdraw from participation if the candidate files a statement of withdrawal with the State Board and the Commission in the form that the State Board requires and:
 - (1) Terminates candidacy to withdraw from the election completely; or
 - (2) Withdraws prior to receiving any public contribution.
- (b) *Termination of Candidacy.* A participating candidate who withdraws under subsection (a)(1) of this section shall repay to the fund the full amount of any public contribution received, plus interest accruing from the date of withdrawal at the same rate as the current bank prime loan rate as reported by the Board of Governors of the Federal Reserve System.
- (c) *Personal Loans.* A candidate who withdraws under this section shall repay the fund under subsection (b) of this section before repaying any personal loans to the candidate's campaign.
- (d) *Personal Liability.* If the funds remaining in the candidate's Citizen Funded Campaign account at the time of withdrawal are insufficient to repay the Fund under subsection (b) of this section, the candidate shall be personally liable for repayment.
- (e) *Reduced Repayment.* The Commission may reduce any repayment under subsection (b) of this section for a participating candidate who must withdraw for health reasons or other cause not within the candidate's control and may consider personal financial hardship.

(C.B. 30, 2017, § 1)

Sec. 10.309. - Applicant and participating candidate restrictions.

An applicant candidate or participating candidate shall not:

- (1) Accept a private contribution from any group or organization, including a political action committee, a corporation, a labor organization, or a State or local central committee of a political party;
- (2) Accept private contributions from an individual in an aggregate amount greater than \$250.00 during an election cycle, or the maximum amount of an eligible contribution, as adjusted by section 10.302(c) of this subtitle;

- (3) After filing a notice of intent with the State Board to seek public financing, pay for any campaign expense with any campaign finance account other than the candidate's Citizen Funded Campaign account;
- (4) Be a member of a slate in any election in which the candidate receives a public contribution;
- (5) Accept a loan from anyone other than the candidate or the candidate's spouse, parent, or sibling;
- (6) Transfer money:
 - (i) To the candidate's Citizen Funded Campaign account from any other campaign finance entity established for the candidate; or
 - (ii) From the candidate's Citizen Funded Campaign account to any other campaign finance entity; or
- (7) Coordinate expenses except with another participating candidate if the expenses are shared equally among the coordinating candidates.

(C.B. 30, 2017, § 1)

Sec. 10.310. - Citizens' Election Fund Commission.

- (a) *In General* . In accordance with section 907 of the Howard County Charter, there is a Citizens' Election Fund Commission.
- (b) *Membership* .
 - (1) The Commission consists of seven members.
 - (2) Each member of the County Council shall nominate one member of the Commission.
 - (3) The County Executive shall nominate two members of the Commission.
 - (4) Each nominee shall be confirmed by a separate Resolution of the County Council.
- (c) *Qualifications* .
 - (1) Each member of the Commission shall be a resident of the County.
 - (2) A member of the Commission shall not be a candidate for public office during the previous, current, or next election cycle.
 - (3) A member shall not be a lobbyist registered with the County.
 - (4) A member shall not be the chair or treasurer for an open campaign account.
 - (5) A member shall be a registered voter.
- (d) *Term, Vacancies*.
 - (1) The term of a member of the Commission is four years and begins on May 1. The term of a member of the Commission nominated by the County Executive begins during the first year of a County Council term. The term of a member of the Commission nominated by a member of the County Council begins during the third year of a County Council term.
 - (2) A vacancy shall be filled in the same manner as the original appointment and for the unexpired term.
 - (3) Notwithstanding paragraph (1) of this subsection, to create staggered terms, the terms of the initial members of the Commission who are nominated by a member of the County Council shall be six years and shall begin on the May 1, 2019.
- (e) *Officers*. The Commission shall elect a chairperson and vice-chairperson from among its members.

- (f) *Compensation; Expenses* . A member of the Commission shall not receive compensation for service on the Commission except reasonable and necessary expenses as may be provided in the budget.
- (g) *Duties* .
 - (1) The Commission shall calculate the amounts as required by section 907 of the County Charter.
 - (2) Except as otherwise specified, the Commission shall administer this subtitle.
 - (3) The Commission shall meet:
 - (i) At least once every 90 days during the 12 months preceding a primary election; and
 - (ii) At least twice a year otherwise.
- (h) *Staff*. The Department of Finance shall provide staff support for the Commission to:
 - (1) Work with the State Board of Elections to administer the system; and
 - (2) Provide information about the system to candidates and the public.

(C.B. 30, 2017, § 1)

Sec. 10.311. - Violations.

- (a) *In General*. A violation of this subtitle is a Class A civil violation under Title 24 of the County Code.
- (b) *Payment*. A fine may be paid by the campaign but only if all public contributions have been repaid to the fund. Otherwise, the candidate or officer found to be responsible for the violation is personally liable for the fine.

(C.B. 30, 2017, § 1)

SUBTITLE 4. - REFERENDUM PROCEDURES

Sec. 10.400. - Definitions.

As used in this subtitle, the following terms shall have the meaning indicated unless a contrary meaning is clearly intended from the context in which the term appears:

- (1) *Board* means the Board of Elections of Howard County.
- (2) *Contributions* means the gift, transfer or promise of a gift or transfer of money or other thing of value to any person, persons, or association which files the petition.
- (3) *Expenditure* means any gift, transferred disbursement or promise of money or valuable thing by any person, persons or associations which files the petition.
- (4) *Petition* means any paper or papers containing the signatures of any number of registered voters requesting any local law or part of any local law to be put on the ballot.
- (5) *Fair summary* means a condensation of the law or part of the law petitioned that satisfies the requirements of section 6-201(C)(2) of the Election Law Article of the Maryland Code.
- (6) *Person procuring* means individual who personally collected the signature(s).

(C.B. 19, 1976; C.B. 34, 2010, § 1)

Sec. 10.401. - Petition.

- (a) A person signing a petition shall fulfill the requirements of section 6-203 of the Election Law Article of the Maryland Code.
- (b) A signature is valid and shall be counted if the requirements of section 6-203 of the Election Law Article of the Maryland Code are met.

(C.B. 19, 1976; C.B. 34, 2010, § 1)

Sec. 10.402. - Form of petition.

- (a) The form and content of a petition shall be consistent with the requirements of section 6-103 of the Election Law of the Maryland Code. A petition may consist of several papers but each paper shall contain a fair summary of the act or the part of the act petitioned upon; and there shall be on each such paper an affidavit of the person procuring the signatures thereon that each signature thereon was affixed in the presence of the affiant and that to the best of his knowledge, information and belief, signers are registered voters of the State of Maryland in Howard County as set forth with their names.
- (b) On request, the Board shall provide a template in electronic form of the State Petition Form that incorporates any County provisions required by local law.

(C.B. 19, 1976; C.B., § 1; C.B. 77, 2007, § 1; C.B. 34, 2010, § 1)

Sec. 10.403. - Verification by Board of Elections for Howard County.

The Board shall verify signatures by comparing them with the voter registration cards, and count the validated signatures in accordance with section 6-207 of the Election Law Article of the Maryland Code. A statement of contributions and expenditures shall be filed in accordance with section 7-104 of the Election Law Article of the Maryland Code. The Board shall forward to the County Council and the County Attorney the results of its verification process and advise them if the question is to be certified.

(C.B. 19, 1976; C.B. 34, 2010, § 1)

Editor's note— C.B. 34, 2010, § 1, adopted July 8, 2010, amended § 10.403 title to read as herein set out. Former § 10.403 title pertained to verification by Board of Supervisors of Elections for Howard County.

Sec. 10.404. - Certification by County Council.

Upon receipt of the report from the Board as to the matters hereinabove set forth, the County Attorney shall certify the question and specify the wording in accordance with section 7-103 of the Election Law Article of the Maryland Code. The wording shall be placed on the ballot at the next general election in accordance with State law.

(C.B. 19, 1976; C.B. 34, 2010, § 1)

Sec. 10.405. - Place and time of filing.

Any and all referendum petitions shall be filed with the Board during its normal office hours and within 60 days after the law is enacted. If more than one-half but less than the full number of signatures required by Charter to complete any referendum petition against such law is filed within 60 days from the date it is enacted, the time for the law to take effect and the time for filing the remainder of signatures to complete the petition shall be extended for another 30 days.

(C.B. 19, 1976; C.B. 34, 2010, § 1)

Sec. 10.406. - Effect of question concerning or invalidity of signature on petition.

On any petition (including an associated or related set of petitions) submitted to the Board, any question concerning, or the validity of, the signature of any person on the petition affects that signature only and does not affect or impair any other portion of the petition or petitions.

(C.B. 19, 1976; C.B. 34, 1976; C.B. 34, 2010, § 1)

Sec. 10.407. - Other unlawful acts.

As to any petition (including an associated or related set of petitions) under this subtitle, it is unlawful for any person:

- (1) To knowingly or willfully circulate, publish or exhibit any false statement or representation concerning the contents, purport or effect, thereof, for the purpose of obtaining any signature to the petition or of persuading any person to sign it.
- (2) To refer to the Board a petition to which is attached, appended or subscribed any signature which the person knows to be false or fraudulent or not the genuine signature of the person purporting to sign the petition or the person whose name is attached, appended or subscribed in the petition.
- (3) To make any false affidavit.
- (4) To give, pay or receive any money or other valuable consideration or inducement for signing or not signing the petition.
- (5) To circulate or cause to circulate a petition, knowing it contains false, forged or fictitious names.
- (6) Knowingly as a petitioner, to sign more than once.
- (7) To sign a petition, knowing at the time the person is not qualified to sign it.

(C.B. 19, 1976; C.B., § 1; C.B. 77, 2007, § 2; C.B. 34, 2010, § 1)

Sec. 10.408. - statement of contributions and expenditures.

- (a) At the time of filing with the Board a petition (including an associated or related set of petitions), the person, persons or association that file the petition shall file with it a statement showing the contributions and expenditures for the petition. This shall be certified by the person, persons or association that file the petition giving (1) the name and post office address of every contributor to the expense of the petition, and the amount paid by each; and (2) the name and post office address of every person to whom and for what service, any money was paid or promised on account of the petition or which is owed to be paid.
- (b) If such a certified statement is not filed with the petition, the Board shall treat the petition as invalid.
- (c) In any proceeding to test the validity of any petition filed as specified in subsection (a) of this section, the person, persons or association, certifying the statement required in this section shall be a party to such proceeding. Such proceeding shall be filed in the County where the person, persons or association resides or maintains its principal place of business as the case may be.

(C.B. 19, 1976)

Sec. 10.409. - Penalties.

Any violation of the subtitle and the invalidity or impropriety of each individual signature shall be deemed a separate offense and shall be a misdemeanor punishable by imprisonment in jail for not less than 30 days, no more than six months or by a fine not less than ten dollars or no more than \$250.00 or by both fine and imprisonment in the discretion of the court; and also, any violation of this subtitle shall be punishable (if the offense warrants) under the laws concerning perjury.

(C.B. 19, 1976)

Sec. 10.410. - Severability.

The provisions of this act are severable and if any provision, sentence, clause, section or part thereof is held illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of the ordinance or their application to other persons and circumstances. It is hereby declared to be the legislative intent that this act would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included therein, and if person or circumstances to which the act or any part thereof is inapplicable had been specifically exempted therefrom.

(C.B. 19, 1976)

TITLE 11 - FINANCE⁽¹⁾

Footnotes:

--- (1) ---

Editor's note— C.B. 38, 1998 repealed former § 11.100, subtit. 1 of tit. 11, relative to short-term notes and § 11.300, subtit. 3 of tit. 11, relative to appropriation and control of County funds, and reenacted new provisions to read as herein set out. The provisions of former § 11.100 derived from Ch. 378 of the 1967 Public Local Laws; C.B. 6, 1989; C.B. 77, 1993; and C.B. 28, 1998.

SUBTITLE 1. - DEPARTMENT OF FINANCE

Sec. 11.100. - General provisions.

General provisions regarding the Department of Finance are set forth in title 6, "County Executive and the Executive Branch," subtitle 2, "Administrative Departments and Offices," of the Howard County Code.

(C.B. 38, 1998)

Sec. 11.101. - Department of Finance.

- (a) *Head; Title; Collector of Taxes.* The head of the Department of Finance shall be the Director of Finance. As provided under section 4-101 of the Tax-Property Article of the Annotated Code of Maryland, the Director of Finance is appointed the collector, as defined in section 1-101 of the Tax-Property Article of the Annotated Code of Maryland, and the appointment shall continue from year to year.
- (b) *Qualifications of Director of Finance.* The Director of Finance shall be an accountant with at least ten years of increasingly responsible experience in finance administration, including a minimum of five years of public finance administration. The Director shall have a comprehensive knowledge of

the principles and practices of public revenue administration and finance, including investment of funds.

- (c) *Duties and Responsibilities.* The Department of Finance shall have charge of the administration of the financial affairs of the County, including:
- (1) The collection of State and County taxes, special assessments, the metropolitan district charges, fees and other revenues and funds of every kind due to the County;
 - (2) The enforcement of the collection of taxes in the manner provided by law;
 - (3) The custody, safekeeping and investing, as permitted by law, of all funds and securities belonging to or by law deposited with, distributed to or handled by the County;
 - (4) The disbursement of County funds;
 - (5) The keeping and supervision of all accounts;
 - (6) The control of all expenditures on the basis of budgetary appropriations and allotments; and
 - (7) The preparation for bond sales and advising on debt management.
- (d) *Recordation Tax.* Pursuant to section 12-109 of the Tax-Property Article of the Annotated Code of Maryland, the Director of Finance is designated to collect recordation tax in Howard County.
- (e) *Other Duties and Responsibilities.* The Director of Finance may assign any administrative or supervisory duties and responsibilities to the Deputy Director of Finance. The Department of Finance shall perform upon request such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 38, 1998; C.B. 5, 2001; C.B. 13, 2008, § 1)

SUBTITLE 2. - ADMINISTRATION

Sec. 11.200. - Payment of governmental charges by credit or debit card.

- (a) *Governmental charge defined.* In this section, *governmental charge* means:
- (1) Property taxes, any other tax, or any fee or charge collected by Howard County; or
 - (2) Any additional charge collected by the County.
- (b) *Payment by Credit or Debit Card.* The Director of Finance may allow any governmental charge to be paid by credit card or debit card issued by a company with which the County has negotiated any required agreement.
- (c) *Service Charge:*
- (1) If a person uses a credit or debit card to pay a governmental charge, the Director of Finance may add a service charge to the amount of the governmental charge to be paid.
 - (2) A service charge assessed under this subsection:
 - (i) May not exceed the amount of any fee that may be charged to the Director in connection with the use of the card; and
 - (ii) Shall be determined at the time the governmental charge is paid.
- (d) *Notice.* A property tax bill or other invoice for which payment of a governmental charge by credit card or debit card is accepted shall specify:
- (1) That a credit or debit card may be used to pay the charge;
 - (2) The types of credit and debit cards that may be used; and

- (3) Whether a service charge will be added to the governmental charge if a credit or debit card is used to pay the tax, and the service charge amount.

(C.B. 38, 1998)

Sec. 11.201. - Lien certificates.

Upon request, the Director of Finance shall issue a lien certificate that lists County taxes, assessments, and charges due on a property. The Director of Finance shall charge a fee, to be set by resolution of the County Council, for issuance of the lien certificate.

(C.B. 38, 1998)

Sec. 11.202. - Dishonored checks.

(a) *Collection of Damages.*

- (1) The Director of Finance may impose a collection charge on and collect damages from a person who gives a check or other instrument to the Department for any purpose, and the check or instrument has been dishonored by nonacceptance or nonpayment.
- (2) The collection charge under this section shall be the maximum permitted, and damages shall be collected under title 15, subtitle 8 of the Commercial Law Article of the Annotated Code of Maryland.

- (b) *Notice.* In applying this section, the Director of Finance shall comply with the notice provisions of title 15, subtitle 8 of the Commercial Law Article of the Annotated Code of Maryland.

(C.B. 16, 1999)

Note— Section 4 of C.B. 16, 1999, declared the bill effective July 3, 1999.

State Law reference— Fee for dishonored check authorized, Ann. Code of Md., Commercial Law article, § 15-802.

Sec. 11.203. - Certification of availability of funds.

Except as provided in section 4.117 of the County Code, an employee or agent of the County may not expend County funds and may not obligate the County to pay County funds unless the Director of Finance has certified that funds are available for the designated purpose.

(C.B. 38, 1998)

SUBTITLE 3. - SPECIAL FUNDS

Sec. 11.300. - Reserve fund for permanent public improvements.

- (a) *"Fund" Defined.* In this section, "Fund" means the Reserve Fund for Permanent Public Improvements.
- (b) *Established.* In accordance with section 615(g) of the Howard County Charter, there is a Reserve Fund for Permanent Public Improvements.

- (c) *Purposes.* The purpose of the Fund is to construct permanent public improvements in Howard County that consist of educational and cultural facilities to serve Downtown Columbia.
- (d) *Status.*
 - (1) The Fund is a special, non-lapsing Fund.
 - (2) The Department of Finance shall hold the Fund separately.
 - (3) Any interest earnings of the Fund shall be credited to the Fund.
- (e) *Components .* The Fund consists of:
 - (1) Revenue appropriated in the County budget to the Fund; and
 - (2) Taxes or other sources of revenue dedicated to the Fund.
- (f) *Limitation.* The annual amount paid into the Fund shall not exceed three percent of the annual expense budget.
- (g) *Use of the Fund .*
 - (1) The Fund may be used only to construct on a pay-as-you-go basis or to finance borrowing.
 - (2) Expenditures from the Fund may only be used in accordance with the County budget.

(C.B. 70, 2016, § 1)

TITLE 12 - HEALTH AND SOCIAL SERVICES¹¹

Footnotes:

--- (1) ---

State Law reference— Authority to legislate for public health purposes, Ann. Code of Md. art. 25A, § 5(J), (T), (Y).

SUBTITLE 1. - HEALTH CODE¹²

Footnotes:

--- (2) ---

Editor's note— Section 1 of C.B. 6, 1985, repealed former sub. 1, relating to the Board of Health, §§ 12.100—12.119; and § 2 enacted a new sub. 1, §§ 12.100—12.112. Formerly, sub. 1 was derived from the following Council bills: 33, 1969; 5, 1970; 21, 1970; 47, 1972; 8, 1973; 17, 1981; 46, 1983.

State Law reference— Authority to legislate for public health purposes, Ann. Code of Md. art. 25A, § 5(J), (T), (Y).

Sec. 12.100. - Purpose.

The purpose of this Health Code is to establish policy and procedure to protect the health of the citizens of Howard County.

(C.B. 6, 1985)

Sec. 12.101. - Board of Health.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Members.* There is a Board of Health of Howard County consisting of 11 members.
- (c) *Qualifications:*
 - (1) All members shall be residents of Howard County.
 - (2) One member shall have experience in the area of environmental health.
 - (3) Three members shall be health professionals, and one of the health professionals may be a veterinarian.
 - (4) Seven members shall represent the general public and shall meet one of the following qualifications, provided that not more than three shall meet the same qualification:
 - (i) At least two members shall not have professional or administrative training in the health occupations.
 - (ii) At least two members may have had professional or administrative training in the health occupations but shall not currently work as health professionals or have worked as health professionals in the five years prior to their appointment.
 - (iii) At least one member shall have professional experience in mental health and at least one member shall have professional experience in substance use disorders.
- (d) *Executive Secretary.* The Health Officer or the Health Officer's designee shall serve as Executive Secretary to the Board and shall attend all meetings.
- (e) *Meetings.* The Board shall meet once a month except for the months of July, August, and December, in which meetings are optional, and at any other time the Board considers necessary.
- (f) *Powers and Duties.* The Board of Health shall:
 - (1) Have the powers and duties of a local Board of Health as provided in title 3 of the Health-General Article of the Annotated Code of Maryland.
 - (2) Assist and cooperate with the Secretary of the Maryland Department of Health of the State of Maryland in health-related matters, including behavioral health.
 - (3) Have general responsibility for the health and sanitary interests of the people of the County.
 - (4) Investigate and study the causes of disease, epidemics and nuisances affecting public health, behavioral health, the prevention of contagious diseases, and the preservation of health.
 - (5) Advise the County Executive and County Council on health matters including behavioral health.
 - (6) Have the power to administer oaths, issue subpoenas and apply for injunctive relief.
 - (7) Act as the appeals board for decisions of the Health Officer regarding enforcement of this Code, except as otherwise provided in this subtitle. In making its determination, the Board of Health shall consider only:
 - (i) Whether an actual or potential health hazard exists; or
 - (ii) Whether a condition exists which interferes with the proper use or enjoyment of property; or
 - (iii) Whether the Health Officer has acted in accordance with law and regulation.
 - (8) At the directive of the County Executive or by resolution of the County Council, the Board of Health shall review and make recommendations on any matter related to public health.

(C.B. 6, 1985; C.B. 79, 1987; C.B. 62, 1988; C.B. 10, 2004, § 1; C.B. 13, 2018, § 1)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

State Law reference— Local boards of health authorized, Ann. Code of Md. art. 25A, § 5(Y); local boards of health, Ann. Code of Md., Health-General article, § 3-201 et seq.

Sec. 12.102. - Health Officer.

- (a) *Qualifications.* The Health Officer shall meet the qualifications for the position as set forth in title 3, subtitle 3 of the Health-General Article of the Annotated Code of Maryland.
- (b) *Nomination.* The County Executive shall nominate the Health Officer for Howard County and the County Council shall confirm the nomination by resolution. The County Council shall submit the name of the confirmed nominee to the Secretary of the Maryland Department of Health and Mental Hygiene for appointment.
- (c) *Appointment.* The Secretary of the Maryland Department of Health and Mental Hygiene shall appoint the confirmed nominee as the Health Officer for Howard County provided that the nominee meets the qualifications as set forth in title 3, subtitle 3 of the Health-General Article of the Annotated Code of Maryland.
- (d) *Annual Evaluation.* The County Executive shall prepare an evaluation of the Health Officer each year. The County Council shall review the evaluation and may add its own comments. It shall then submit the County's evaluation to the Secretary of the Maryland Department of Health and Mental Hygiene. The County Executive and the County Council shall review the annual evaluation with the Health Officer.
- (e) *Restrictions.* If the Health Officer or deputy Health Officer is a physician, the Health Officer or deputy may not practice medicine except in the performance of official duties nor may the Health Officer engage in an occupation that conflicts with the performance of official duties.
- (f) *Removal From Office.* The Health Officer serves at the pleasure of the County Executive, the County Council and the Secretary of the Maryland Department of Health and Mental Hygiene. The Health Officer may be removed with the concurrence of the County Executive, the County Council, and the Secretary of the Maryland Department of Health and Mental Hygiene.
- (g) *Compensation.* The Health Officer is an unclassified State employee and is entitled to the salary provided in the State budget and any additional salary provided in the County budget.
- (h) *Powers and Duties:*
 - (1) The Health Officer shall have the powers and duties set forth in this subtitle and other sections of the Howard County law and as set forth in the Annotated Code of Maryland.
 - (2) The Health Officer is the Executive Officer and Secretary of the Board of Health and shall attend all meetings.
 - (3) The Health Officer is the head of the Howard County Health Department and appoints the staff of the Howard County Health Department.
 - (4) The Health Officer shall enforce State health laws, rules and regulations and County health laws, rules and regulations.
 - (5) The Health Officer shall perform any investigation or other duty or function directed by the Secretary of the Maryland Department of Health and Mental Hygiene, the County Board of Health, the Howard County Council and the Howard County Executive and shall submit appropriate reports to them.
 - (6) The Health Officer may initiate investigations pursuant to the provisions of this statute [subtitle].

- (7) The Health Officer shall have the power to issue subpoenas, apply for injunctive relief, and to bring action to enforce compliance.
- (8) The Health Officer may issue citations.
- (9) The Health Officer may issue licenses and permits pursuant to this subtitle.
- (10) The Health Officer may promulgate rules and regulations to implement this subtitle.

(C.B. 6, 1985)

State Law reference— Health Officers, Ann. Code of Md., Health-General article, § 3-301 et seq.

Sec. 12.103. - Definitions.

Words and phrases used in this subtitle shall have their usual meaning except as specified below:

- (a) *Domestic sewage* means the liquid or water-carried wastes (including gray water and water treatment backwash) from all buildings including, but not limited to, residential buildings, bathhouses, clubhouses, floating homes, commercial buildings, and institutions.
- (b) *Health Officer* means the Health Officer for Howard County or the Health Officer's representative.
- (c) *On-site sewage disposal* means disposal of sewage effluent beneath the soil surface at the site of its origination.
- (d) *On-site sewage disposal system* means all private methods of collecting and disposing of domestic sewage at the site of its origination, including septic tanks, privies, chemical toilets, alternative on-site systems and others.
- (e) *Person* means an individual, corporation, firm, association, group, public corporation, governmental agency.
- (f) *Public sewerage system* means a Howard County owned system of sewers and appurtenances for the collection and transportation of sewage.
- (g) *Public water system* means a Howard County owned water supply system from which water under pressure is available.
- (h) *Water supply source* means all privately owned sources of potable water, including but not limited to bored wells, drilled wells, dug wells, cisterns or springs.

(C.B. 6, 1985; C.B. 81-2006, § 2)

Sec. 12.104. - Right of entry.

- (a) *Place of Business or Employment.* The Health Officer may enter and inspect any place of business or employment in the performance of the Officer's official duties.
- (b) *Private Dwelling.* The Health Officer may enter a private dwelling to inspect for violations of this subtitle or violations of State health law if the Officer has obtained consent of the occupant or owner to enter and inspect.
- (c) *Entry under Warrant.* If the Health Officer has probable cause to believe that a violation of this subtitle or a violation of State health law has occurred and the Officer has been refused entry to the premises, the Officer may apply to a judge of the District or Circuit Court for Howard County for a warrant to enter the premises and investigate the violation.

- (d) *Emergency Entry.* If the Health Officer has probable cause to believe that a violation of this subtitle or a violation of State law has occurred and does not have time or opportunity to obtain a warrant and an exceptional or emergency situation exists, the Health Officer may enter the premises and investigate the violation.
- (e) *Resistance to Health Officer.* It shall be unlawful to knowingly obstruct the Health Officer in the execution of the Officer's powers or in the performance of the Officer's duties.

(C.B. 6, 1985)

Sec. 12.105. - Connection of property with public water supply or sewerage system.

- (a) *Order to Connect to Public System and to Abandon Potentially Dangerous Water Supply or On-site Sewage Disposal Systems.* The Health Officer may order a property owner to connect to the public water and/or sewerage system and to abandon the existing water supply and/or on-site sewage disposal system of the property, leaving it in such a way that it cannot be used or be a health threat, if:
 - (1) The Health Officer determines that the existing water supply and/or on-site sewage disposal system for the property is a potential threat to health; and
 - (2) There is an operating public water main for delivery of water service to the property and/or a public sewer main for reception of domestic sewage from the property, directly available to service the property at the time of the connection.
- (b) *Contents of Notification Ordering Connecting to Public Water and/or Sewerage System.* The notice requiring connection to the public water and/or sewerage system shall be sent by certified mail to the address of the owner as shown on the current tax assessment records of the County and, if the owner's address is address of the property, an additional notice shall be sent to the resident of the property. It shall include:
 - (1) A description of the conditions constituting a potential health hazard;
 - (2) An order to connect to the public water and/or sewerage system, indicating time limits for the connection;
 - (3) An order to abandon the existing system and leave it in such a way that it cannot be used or be a health threat;
 - (4) A statement advising of the right to appeal and the procedures regarding an appeal;
 - (5) An explanation of the penalties for failure to comply.
- (c) *Appeal:*
 - (1) A decision of the Health Officer whether or not to require property to be connected to the public water and/or sewerage may be appealed to the Board of Health.
 - (2) Any person aggrieved by the decision who wishes to appeal it shall file the appeal with the Executive Secretary of the Board of Health within 15 days of receipt of the order to connect.
 - (3) Upon receipt of an appeal, the Board of Health shall schedule a hearing, to be held within 30 days of the filing of the appeal.
 - (4) The Board of Health shall announce its decision on the appeal within 30 days of the hearing.
 - (5) If the Board of Health upholds the order to connect, the property owner shall carry out the order.
- (d) *Compliance:*
 - (1) Within 30 days of receipt of the Health Department's order to connect, or, within 30 days of the Board of Health's upholding of an order to connect, the property owner shall make application

- for all permits required by the County for connection and shall pay all permit fees and connection charges. The Health Officer may extend this time frame at his/her discretion. The property owner may arrange with the Director of Finance to pay the connection charges in installments pursuant to subtitle 3, "Water and Sewer Charges and Assessments," of title 20, "Taxation and Public Credit," of the Howard County Code.
- (2) Within 60 days of the Health Department's order to connect or, in the event of an appeal, within 60 days of the Board of Health's upholding of the order to connect, the connection to the public water and/or sewerage system shall have been made and inspected. The Health Officer may extend this time limit at his/her discretion.
- (e) *Court Action to Enforce Order:*
- (1) If a person refuses or fails to comply with an order to connect to the public water and/or sewer system within the required time, the Health Officer may bring an action in court to enforce compliance with the order.
 - (2) The court may order the Department of Public Works to make the necessary connections at the property owner's expense, pursuant to the provisions of section 18.104A, "Mandatory Water/Sewer Connections," of the Howard County Code.
 - (3) In the event that a court orders the connection, and does not order the Department of Public Works to do the work, the property owner shall apply for all permits and pay connection charges (including any arrangement for installment payments) within 30 days of the court order. The connection to the public system shall have been made and inspected within 60 days of the court order.
- (f) *Financial Problems in Complying with Order.* Property owners who have financial difficulties in complying with the order to connect may be eligible for certain financing options offered pursuant to subtitle 3, "Rehabilitation Fund," of title 13, "Housing, Urban Renewal and Economic Development," or subtitle 7, "Water/Sewer Connection Financing Program," of title 20, "Taxation and Public Credit," of the Howard County Code.
- (g) *Conditions after Connection.* After the connection is made to the public sewerage system, all cesspools, septic tanks and dry wells located on the property shall be abandoned, closed, backfilled and left in such condition that they cannot be again used nor become injurious to health. Upon connection to the public water system, all wells and other sources of water shall be disconnected.

(C.B. 6, 1985; C.B. 6, 1998; C.B. 32, 2002, § 1)

Sec. 12.106. - On-site sewage disposal; public swimming pools and spas.

- (a) *On-Site Sewage Disposal:*
- (1) *Permit required.* No on-site sewage disposal system shall be constructed, modified, altered, repaired, connected or caused to receive an increase in flow unless the County Health Officer has issued a sewage disposal permit.
 - (2) *Testing and permit fee.* The Board of Health shall recommend and the County Council shall approve a schedule of fees for:
 - (i) Percolation testing and evaluation to determine suitability for on-site sewage disposal systems; and
 - (ii) Issuance of a sewage disposal permit for construction, alteration or increase in flow of an on-site sewage disposal system.
 - (3) *Denial of permit.* A sewage disposal permit or minor septic repair permit shall be denied when, upon review of the application and required site plan, the approving authority finds that:

- (i) The proposed design is inadequate to collect, treat and dispose of domestic sewage and effluent discharge in accordance with the standards set forth in this subtitle;
- (ii) Soil and geological conditions are such as to preclude safe and proper operation of the desired installation; or
- (iii) The construction would be detrimental to the general health and welfare of the residents or the environment.

(4) *Multiused sewerage systems:*

- (i) Multiused sewerage system means a multiuse sewerage system as defined in section 9-501 of the Environment Article of the Maryland Code, and a multi-used sewerage system as defined in section 26.03.01.01 of the Code of Maryland Regulations.
- (ii) A person may not install a multiused sewerage system for a project that contains residential units of any kind.
- (iii) Notwithstanding subparagraph (ii) of this paragraph, a multiused sewerage system may be installed if the County Health Department determines that extraordinary circumstances exist necessitating the use of a multiused sewerage system to protect the public health.
- (iv) A multiused sewerage system:
 - 1. Is subject to regulation under title 18 of the Howard County Code; and
 - 2. Shall provide at least 10,000 square feet of subsurface disposal area for each 750 gallons of design flow for wastewater.
- (v) To carry out this paragraph (4) of this subsection, the County Board of Health may adopt regulations.

(b) *Public Swimming Pools and Spas:*

- (1) *Permit required.* A person may not construct, alter, or operate a public swimming pool or spa without a permit issued by the Health Officer. A separate permit is required for each operation. The permit is nontransferable.
- (2) *Permit application.* An Applicant shall submit an application to the Health Officer on a form provided by the Officer.
- (3) *Permit fees.* The Board of Health shall recommend and the County Council shall approve permit fees for the construction, alteration, and operation of public swimming pools and spas.
- (4) *Rules and regulations:*
 - (i) The County Health Officer shall recommend regulations concerning public swimming pools, spas and natural bathing areas to the Board of Health for its review and recommendations.
 - (ii) After the Health Officer receives the recommendations of the Board of Health, the regulations shall be forwarded to the County Executive for submission to the County Council for its approval by legislative action.
 - (iii) Except as provided in paragraph (5) of this subsection, title 10, subtitle 17, chapter 1 of the Code of Maryland Regulations, "Public Swimming Pools and Spas," as amended from time to time, is hereby adopted as the regulations for public swimming pools and spas in Howard County as if set forth in full in this paragraph.
- (5) *Appeal.* Notwithstanding any provision of Code of Maryland Regulations 10.17.01, a person aggrieved by a decision of the Health Officer to grant, deny, suspend, revoke, renew or refuse to renew a permit may appeal the decision to the Board of Health. An appeal under this paragraph shall be governed by article III, "Contested Cases," of the Howard County Administrative Procedure Act. The appeal shall be filed with the Executive Secretary of the Board within days of the decision to deny, suspend, revoke, renew or refuse to renew a permit.

(C.B. 6, 1985; C.B. 25, 1986; C.B. 43, 1988; C.B. 15, 1996; C.B. 11, 2000; C.B. 81, 2006, § 2; C.B. 51, 2008, § 1; C.B. 30, 2012, § 1)

Sec. 12.107. - Food handling.

(a) *Definitions.* Words and phrases used in this subsection shall have their usual meaning except as defined below:

- (1) *Food establishment* means a food service facility or a food processing plant.
- (2) *Food processing plant* means a place used for, or in connection with, the manufacturing, preparing, processing, packaging, canning, freezing, storing, distribution, labeling or holding of food or drink for human consumption.
- (3) *Food service facility*:
 - (i) A place where food or drink is prepared for sale or service on the premises or elsewhere; or
 - (ii) An operation where food is served to or provided for the public with or without charge.

Food service facility includes:

- (i) A restaurant, coffee shop, cafeteria, short order cafe, luncheonette, tavern, sandwich stand, soda fountain, hotel, motel, inn, retail store selling nonpotentially hazardous pre-packaged foods and drinks, and a retail bakery outlet;
- (ii) Food operations in an industry, institution, hospital, club, school, camp, religious organization, catering kitchen, commissary, food processing or similar place in which food or drink is prepared for sale or service on the premises or elsewhere;
- (iii) Any other operation where food is served to or provided for the public with or without charge; and
- (iv) An excluded organization, as defined in the Code of Maryland Regulations, section 10.15.03.02.B, either with or without a license, that serves potentially hazardous foods.

Food service facility does not include a:

- (i) Kitchen in a private home where food is prepared at no charge for residents or guests in the home, for guests at a social gathering that is not a public event, or for service to unemployed, homeless, or another disadvantaged population;
 - (ii) Food preparation or serving area where only nonpotentially hazardous food is prepared or served by an excluded organization;
 - (iii) "Bed & breakfast" as defined in the Code of Maryland Regulations, section 10.15.03.02B(8) that serves only a continental breakfast;
 - (iv) Farmer's market offering or selling to the public raw fruit, vegetables, and other food products as specified in the Code of Maryland Regulations, section 10.15.03.27 or eggs sold only on a farm that is in compliance with the Code of Maryland Regulations, section 10.15.03.05A(8); or
 - (v) Business office such as a bank, real estate office, hair salon, medical/dental office, or other business office that only provides courtesy popcorn, prepackaged candy or gum, coffee, tea, bottled soda or water, prepackaged single serve powdered drinks, or pasteurized drinks that do not require immediate refrigeration.
- (4) *License.* A food service facility license issued by the Health Officer authorizing the operating of a food establishment.

- (5) *Potentially hazardous food.* Has the meaning stated in the Code of Maryland Regulations, section 10.15.03.02.B.
- (b) *License Required.* No person may operate a food establishment without a license issued by the Health Officer. A separate license is required for each food establishment. A food handling license is not transferable from person to person or from one food establishment to another.
- (c) *Qualifications for License:*
- (1) Compliance with the requirements of this subtitle and the rules and regulations adopted pursuant to it.
 - (2) Consent to right of entry to the food establishment for inspections permitted or required pursuant to this subtitle.
 - (3) Payment of license fee. The Health Officer may exempt governmental facilities from payment of the license fee.
- (d) *License Application.* An Applicant shall submit an application to the Health Officer on a form provided by the Officer. The application shall include:
- (1) The Applicant's name and address; if the Applicant is not an individual, the names and addresses of the partners or the principal Officer(s);
 - (2) The location of the food establishment for which application is made;
 - (3) A description of the food establishment that the Applicant proposes to operate, including type of food, size of interior, number of seats, number of employees; and
 - (4) Any other information the Health Officer requires to determine qualification for a license.
- (e) *Issuance of License.* Within 30 days of receiving an application for a license, the Officer shall issue a license to any Applicant who meets the requirements of this subtitle and the rules and regulations adopted pursuant to it. The Officer may inspect the food establishment prior to issuing the license.
- (f) *Denial of License.* The Health Officer may deny license if the Officer finds the Applicant:
- (1) Does not meet the requirements of this subtitle or the regulations adopted pursuant to it; or
 - (2) Has fraudulently or deceptively attempted to obtain the license.
- (g) *Duration of License.* A license expires one year from the date of issuance or renewal. The Health Officer may renew the license provided that the licensee pays the renewal fee and has complied with the provisions of the subtitle and with rules and regulations adopted pursuant to it.
- (h) *Display of License.* Each licensee shall display the license conspicuously in the food establishment.
- (i) *Suspension of Revocation of License.* The Health Officer may suspend or revoke a license if the licensee:
- (1) Violates or fails to meet the requirements of this subtitle or of rules and regulations adopted pursuant to it; or
 - (2) Fraudulently or deceptively obtains a license.
- (j) *Appeals:*
- (1) Any person aggrieved by a decision of the Health Officer to grant, deny, suspend, revoke, renew or refuse to renew a license, may appeal the decision to the Board of Health. The appeal shall be filed with the Executive Secretary of the Board within 15 days of the decision to deny, suspend, revoke or refuse to renew a license.
 - (2) Upon receipt of an appeal, the Board of Health shall schedule a hearing to be held within ten days of the filing of the appeal.
 - (3) The Board of Health shall announce its decision within 15 days of the hearing.

- (4) There shall be no further administrative appeal from the decision of the Board of Health.
- (k) *License Fees.* The Board of Health shall recommend fees for food handling licenses to the County Council for approval by resolution.
- (l) *Rules and Regulations:*
 - (1) The County Health Officer shall recommend regulations concerning food establishment facilities in Howard County to the Board of Health, which shall review, and may amend, the regulations. Upon approval of the Board of Health, the regulations shall be forwarded to the County Council for its approval by resolution.
 - (2) Violations of the food establishment regulations shall be treated as violations of this subtitle.
 - (3) A person aggrieved by a decision of the Health Officer regarding enforcement of the food service facilities regulations may appeal the decision, within 15 days of its issuance, to the Board of Health. The Board of Health shall schedule a hearing within ten days of the filing of the appeal.

(C.B. 6, 1985; C.B. 48, 2008, § 1)

State Law reference— Food establishments, Ann. Code of Md., Health-General article, § 21-301 et seq.

Sec. 12.108. - Air pollution.

- (a) *Definitions.* Words and phrases used in this section shall have their usual meaning except as specified below:
 - (1) *Air pollution; air pollutants; air polluting* means the presence in the outdoor atmosphere, from a single source or in combination with other sources, of substances, the characteristics and duration of which:
 - (i) Are injurious to human, plant or animal life or to property; or
 - (ii) May be predicated with reasonable certainty to be injurious to human, plant or animal life or to property; or
 - (iii) Which unreasonably interfere with people's proper use or enjoyment of their property.
 - (2) *Open fire* means a fire where material is burned in the open or in a receptacle other than a furnace, incinerator, or other equipment connected to a stack or chimney.
 - (3) *Particulate matter* means material, except water in an uncombined form, that is or has been airborne, and exists as a liquid or solid at standard conditions.
 - (4) *Unconfined source* means an article, machine, equipment or other apparatus that causes air polluting emissions which are not enclosed in a stack, duct, hood, flue or other conduit but which escape into the atmosphere through openings such as doors, vents, windows, ill-fitting closures, or poorly maintained equipment.
- (b) *Open fires* means except as provided in this subsection, no person shall cause or allow an open fire.
 - (1) An open fire shall be allowed without permit for:
 - (i) Cooking of food for other than commercial reasons.
 - (ii) Recreational purposes, such as campfires.
 - (iii) Oil or gas fired salamanders or similar devices designed specifically for space heating or warming of outdoor works, etc., provided no visible emissions are created.

- (2) Public Officers, in the performance of their official duties may set an open fire or give permission for an open fire, with the concurrence of the Health Officer, if:
 - (i) All reasonable means are employed to minimize smoke; and
 - (ii) The fire is necessary for one or more of the following reasons:
 - a. For the prevention of a fire hazard that cannot be abated by other means.
 - b. For the instruction of public firefighters or industrial employees.
 - c. For the protection of public health or safety when other means for disposing of dangerous or explosive materials are not available.
 - (3) The Health Officer may issue written permission for fires set in the course of agricultural operations in growing crops or raising fowl or animals or in accepted forestry practice. The permit shall not allow the burning of ordinary household or farm trash and debris.
 - (4) The Health Officer may issue written permission for an open fire provided all of the following conditions are met:
 - (i) The Health Officer is satisfied that there is no practical alternate method for the disposal of the material to be burned or to conduct the desired activity.
 - (ii) A hazardous condition or air pollution or nuisance will not be created.
 - (iii) Burning may not be done within 500 yards (457 meters) of an occupied building or heavily traveled public roadway.
 - (iv) There are no violations of fire control laws or other County laws or regulations.
 - (v) Materials which produce a dense smoke shall not be burnt. This includes, but is not limited to, tires and roofing materials.
 - (vi) The material to be burned shall not have been brought to the premises for burning.
 - (vii) The Health Officer may impose conditions to minimize the creation of smoke, to prevent nuisances and air pollution and to protect the health, safety, comfort and property.
- (c) *Particulate Matter:*
- (1) *Emissions.* A person may not cause or permit air polluting emissions from an unconfined source without taking reasonable precautions to prevent particulate matter from becoming airborne. Reasonable precautions include the installation and use of hoods, fans and dust collectors to enclose, capture and vent emissions. The Health Officer shall determine which precautions are appropriate to the situation. In making this determination, the Officer shall consider technological feasibility, practicality, economic impact, and the environmental consequences of the decision.
 - (2) *Handling, transportation or storage of material.* A person shall take reasonable precautions to prevent particulate matter from becoming airborne when handling, transporting or storing materials, or when using, constructing, altering, repairing or demolishing roads, buildings or appurtenances. The Health Officer shall determine which precautions are appropriate to the situation. The reasonable precautions include, but are not limited to:
 - (i) Use of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land.
 - (ii) Application of asphalt, oil, water or suitable chemicals on dirt roads, material stockpiles and other surfaces which can create airborne dusts.
 - (iii) Installation and use of hoods, fans and dust collectors to enclose and vent the handling of dusty materials. Adequate containment methods shall be employed during sandblasting of buildings or other similar operations.

- (iv) Covering materials likely to create air pollution when carried on moving open-bodied vehicles. Alternate means may be employed to achieve the same results as would covering the materials.
- (v) The paving of roadways and their maintenance in clean condition.
- (vi) The prompt removal from paved streets of earth or other material which has been transported there by trucks or earth moving equipment or erosion by water.

(C.B. 6, 1985)

State Law reference— Ambient air quality control, Ann. Code of Md., Environment article, § 2-101 et seq.; power of political subdivisions relative to ambient air quality, Ann. Code of Md., Environment article, § 2-104.

Sec. 12.109. - Reserved.

Editor's note— Section 2 of C.B. 59, 2001 repealed § 12.109, which pertained to miscellaneous requirements, and derived from C.B. 6, 1985, and C.B. 15, 1996.

Sec. 12.110. - Nuisances.

(a) *Definition:*

- (1) A nuisance occurs on property when the person who owns or rents the property:
 - (i) Maintains the property in a condition that poses an actual or potential threat to health;
 - (ii) Allows activities to take place on the property which pose an actual or potential threat to health; or
 - (iii) Allows activities to take place on the property which interfere with another's proper use or enjoyment of property.
- (2) A nuisance includes water pollution, contaminated wells, open and abandoned wells, overflowing sewage, infestation with insects, vermin or rodents, unclean facilities for domestic animals and poultry, air pollution, improper refuse disposal, a hazard caused by the presence of lead paint or lead paint dust, or violations of food establishment regulations adopted pursuant to this subtitle.

(b) *Complaints:*

- (1) A person who claims to be affected by a nuisance may complain to the Board of Health or the Health Department to declare that a nuisance exists.
- (2) On the written complaint of at least two persons who claim to be affected by a nuisance condition regarding an agricultural operation, the Health Officer shall investigate any complaint that a nuisance condition exists.

(c) *Investigations:*

- (1) Except as provided in subsection (b)(2) of this section, on receipt of a complaint by at least two persons who claim to be affected by a nuisance, the Health Officer shall investigate the complaint.
- (2) The Health Officer shall investigate all complaints of nuisance received except for nuisance complaints against an agricultural operation when a previous nuisance complaint involving the same claimed nuisance condition resulted in a determination by the Health Officer that a

nuisance condition did not exist. The Health Officer may initiate an investigation without requiring citizen complaint.

- (d) *Declaration of Nuisance.* If the Health Officer believes that a nuisance condition exists as defined in subsection (a) above, the Health Officer may declare the existence of a nuisance. In determining whether a nuisance condition exists in connection with an agricultural operation, as defined in this subtitle, the Health Officer shall apply the criteria provided in subsection 12.110(a) and subsection 12.111(d) of this subtitle. Further, the Health Officer shall consider the professional opinion of the Howard County Cooperative Extension Service of the University of Maryland or the Howard Soil Conservation District in determining whether the agricultural operation being investigated is conducted in accordance with generally accepted agricultural management practices.
- (e) *Notice of Violation; Citations.* Upon finding that a nuisance exists, the Health Officer may:
 - (1) Give written notice of the violation to the person owning and/or renting the property stating that a nuisance exists, describing the nuisance, ordering the nuisance to be corrected within the time specified in the notice, and stating the right to appeal; or
 - (2) Issue a civil citation to the person owning and/or renting the property.
- (f) *Appeal.* The decision of the Health Officer whether or not to issue an order to correct a nuisance may be appealed to the Board of Health. Any person aggrieved by the decision who wishes to appeal it shall file an appeal with the Executive Secretary of the Board of Health within 15 days of the decision. The Board of Health shall schedule a hearing within ten days of the filing of the appeal and shall issue its decision within 15 days of the hearing.

(C.B. 6, 1985; C.B. 32, 1985; C.B. 22, 1989; C.B. 15, 1996; C.B. 15, 2017, § 1)

State Law reference— General power relative to nuisances, Ann. Code of Md. art. 25A, § 5(J); nuisance control, Ann. Code of Md., Environment article, § 10-101 et seq.

Sec. 12.111. - Nuisance suits against agricultural operations.

- (a) *Short Title.* This section shall be known and may be cited as the Howard County Right-To-Farm Act, Bill No. 22, 1989.

(b) *Public Policy.* The practice of agriculture has been a mainstay of the economy of Howard County since the land was settled. Agriculture is a valued and respected way of life, and the preferred land use in the Rural Conservation (RC) Zoning District, a valued land use in the Rural Residential (RR) Zoning District and on property that has an agricultural use assessment as determined by the State Department of Assessments and Taxation. The Howard County Council hereby finds and declares that the practice of farming in Howard County should be protected and encouraged.

In addition, as Howard County continues to grow, residents are increasingly interacting more with the agricultural community making it extremely important for clear communication and mutual respect for one another. Agricultural operations, in many cases, involve noise, dust, odor, slow moving vehicles, and early morning/late evening activity. Howard County farmers are committed to providing a safe quality product for consumers, preserving the environment for the next generation, and being good neighbors. At the same time these activities may have some effect on adjoining properties. It is important that both the agricultural community and neighboring residents respect one another so that agriculture can continue to serve as the foundation of Howard County.

- (c) *Definitions.* In this section agricultural operation includes agriculture, apiaries, horticulture, orchards, agricultural nurseries, viticulture, aquaculture, silviculture, animal and poultry husbandry, and farming as defined in the Howard County Zoning Regulations. An agricultural operation may occur without limitation as to hours of operation. The harvesting and processing of agricultural crops and other uses or structures directly related to or accessory to the premises for farming are considered part of

an agricultural operation. Agricultural practices included as part of an agricultural operation include, but are not limited to:

- (1) The transportation of agricultural products;
 - (2) The transportation, storage, handling, and application of fertilizer, soil amendments, pesticides, and manure; and
 - (3) The operation of agricultural machinery and equipment.
- (d) *Protection for Agricultural Operations.* In RC and RR zoning districts, and on property that has an agricultural use assessment as determined by the State Department of Assessments and Taxation, an agricultural operation may not legally be considered a public or private nuisance; and a private action may not be sustained on the grounds that the agricultural operation interferes or has interfered with the use or enjoyment of other property, whether public or private, if:
- (1) The agricultural operation existed before a change occurred in the adjoining land use or occupancy of land and, before such change in land use or occupancy of land, the agricultural operation did not constitute a nuisance; or
 - (2) The agricultural operation, including any change in the operation, has been ongoing for one year or more and the operation or change did not constitute a nuisance from the date the operation began or the date the change in the operation began; and
 - (3) The agricultural operation is conducted in accordance with generally accepted agricultural management practices.
- (e) *Exceptions.* This section does not apply to:
- (1) An agricultural operation that does not conform to Federal, State or local health, Howard County Fire Prevention Code, or zoning requirements;
 - (2) A Federal, State or local agency when enforcing air, water quality, or other environmental standards under Federal, State or local law; or
 - (3) An agricultural operation that is conducted in a negligent manner.
- (f) *Limitations of Actions.* Notwithstanding any provision of this section, no action alleging that an agricultural operation conducted in accordance with generally accepted agricultural practices has interfered with the reasonable use or enjoyment of real property or personal well-being shall be maintained if the plaintiff has not sought mediation through the Maryland Agricultural Conflict Resolution Service within the Maryland Department of Agriculture, as provided for in Title 5, Subtitle 4 of the Courts and Judicial Proceedings article of the Annotated Code of Maryland.
- (g) *Legal costs.* In any civil action, if a court finds that the agricultural operation alleged to be a nuisance is found not to be a nuisance and that the suit was brought in bad faith or without substantial justification, the court should require the plaintiff to pay the costs of the proceedings and the reasonable expenses associated with the litigation, including reasonable attorney's fees, incurred by the owner, operator or both, the owner and operator, of the agricultural operation in defending against the legal action.

(C.B. 22, 1989; C.B. 41, 1993; C.B. 10, 2013, § 1; C.B. 15, 2017, § 1; C.B. 78, 2017, § 1)

State Law reference— Right to farm, Ann. Code of Md. art. 24, § 18-101.

Sec. 12.112. - Remedies.

(a) *Civil Penalties:*

- (1) The Health Officer may enforce the provisions of this subtitle using civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. The Health Officer may issue a citation to a person who has:
 - (i) Violated a section of this subtitle or a regulation adopted under this subtitle;
 - (ii) Not corrected a nuisance within the time specified in the notice of violation; or
 - (iii) Created or permitted the creation of a nuisance.
 - (2) Each day that the person violates this subtitle or has not corrected or ceased the nuisance shall constitute a separate offense. A first offense shall be a Class E violation, a second offense shall be a Class D offense, and subsequent violations shall be Class B offenses.
- (b) *Criminal Penalties:*
- (1) The Health Officer may apply to the courts for the issuance of a criminal summons for a person who:
 - (i) Has violated a section of this subtitle or a regulation adopted under this subtitle; or
 - (ii) Fails to correct a nuisance within the time specified in the notice of violation.
 - (2) Each day that the person violates this subtitle or has not corrected the nuisance shall constitute a separate offense.
 - (3) Upon conviction under this subsection a person is subject to a fine:
 - (i) For a first offense up to \$100.00;
 - (ii) For a second offense up to 500.00; and
 - (iii) For a third or subsequent offense up to 1,000.00.
- (c) *Court Action to Enforce Order.* The Health Officer may bring action in court to enforce compliance with an order to comply with this subtitle or to correct a nuisance.
- (d) *Abatement; Lien.* If a person refuses or fails to comply with the provisions of this subtitle or to correct a nuisance within the time specified in the notice of violation, the Health Officer may request the courts for permission to enter the property and to abate the violation or correct the nuisance. If the Health Officer abates the violation or corrects the nuisance, the Officer shall bill the person owning or renting the property for the cost of the work, plus administrative costs. If the person owning or renting the property refuses to pay the bill, the County shall place a lien upon the property for the amount of the bill. The lien shall be enforceable in the same manner as a lien for unpaid County taxes.

(C.B. 6, 1985; C.B. 32, 1985; C.B. 22, 1989; C.B. 15, 1996)

Sec. 12.113. - Severability.

If any section, paragraph or provision of this subtitle is held to be invalid or unenforceable for any reason, the invalidity or unenforceability of the section, paragraph or provision shall not affect any of the remaining provisions of the subtitle.

(C.B. 6, 1985; C.B. 22, 1989)

SUBTITLE 2. - HUMAN RIGHTS⁽²⁾

Footnotes:

--- (3) ---

Editor's note— Subtitle 2, §§ 12.200—12.213, relating to the Human Rights Commission, derived from C.B. 38, 1975; C.B. 2, 1979; C.B. 47, 1979; and C.B. 2, 1981, was repealed by C.B. 2, 1983, which also enacted a new subtitle, §§ 12.200—12.218.

State Law reference— Human rights, Ann. Code of Md. art. 49B, § 1 et seq.

Sec. 12.200. - Public policy.

I. *Equal Opportunity in Howard County.* The Howard County Government shall foster and encourage the growth and development of Howard County so that all persons shall have an equal opportunity to pursue their lives free of discrimination.

II. *Discriminatory Practices Contrary to Public Policy.* Discrimination practices based upon:

Race,

Creed,

Religion,

Disability,

Color,

Sex,

National origin,

Age,

Occupation,

Marital status,

Political opinion,

Sexual orientation,

Personal appearance,

Familial status,

Source of income, or

Gender identity or expression

are contrary to the public policy of Howard County.

III. *Eliminating Discriminatory Practices.* The Howard County Government shall direct its efforts and resources toward eliminating discriminatory practices within Howard County in:

(1) Housing,

(2) Employment,

(3) Law enforcement,

(4) Public accommodations,

(5) Financing, and

(6) Any other facets of the lives of its citizens where such practices may be found to exist.

IV. *Encouragement of Voluntary Affirmative Action Programs.* The Howard County Government shall encourage the adoption and maintenance of voluntary affirmative action programs.

(C.B. 2, 1983; C.B. 138, 1991; C.B. 68, 1992; C.B. 54, 2011, § 1; C.B. 14, 2014, § 1)

Sec. 12.201. - Definitions.

Words and phrases used in this subtitle shall have their usual meaning except as defined below:

- I. *Administrator* means the County Executive's designee appointed to administer the Office of Human Rights.
- II. *Affirmative action* means affirmative action ordered pursuant to this subtitle may include, but shall not be limited to:
 - (a) Hiring, reinstating or upgrading of employees, with or without back pay.
 - (b) Admission or restoration of individuals to union membership or training.
 - (c) Granting of a loan or mortgage.
 - (d) Admission of individuals to public accommodations.
 - (e) The rental or sale of housing.
 - (f) The posting of notices as to the requirements of this subtitle and compliance therewith in conspicuous places in the respondent's place of business. The form of the notice shall be prescribed by the Administrator.
 - (g) Provision for or completion of educational programs or training of supervisory or management personnel in the obligations imposed by this subtitle.
 - (h) Provision for or completion of reasonable and economically feasible educational programs or training to promote upward mobility of those classes of employees against whom an employer has been found to have discriminated.
 - (i) An award of damages to be paid by the respondent to the complainant or other person sustaining damages as a result of a violation of this subtitle. The damages shall be determined as to the actual damage or loss.
 - (j) The filing of statistical or other reports with the Commission as to compliance with the provisions of this subtitle or of any order issued hereunder.
 - (k) Adoption and implementation of goals, timetables and other affirmative action deemed appropriate.
 - (l) Any other equitable relief or action that is deemed appropriate.
- III. *Aggrieved individual* means an individual who claims to have been injured by discrimination.
- IV. *Complainant* means any person, including the Commission or its members, who files a charge under section 12.212.
- V. *Commission* means the Human Rights Commission established pursuant to this subtitle.
- VI. *Conciliation agreement* means an agreement between the complainant and the respondent subject to approval by the Human Rights Administrator resolving issues raised by a complaint, or by the investigation of a complaint, and achieved through informal negotiations involving the complainant, the respondent, and the Office of Human Rights.
- VII. *Familial status*:
 - (a) The status of individual(s) under age 18 domiciled with:

- (1) A parent or other individual having legal custody of the individual(s); or
 - (2) A designee of the parent or other individual having legal custody of the individual(s), with written permission from the parent or other individual; or
 - (b) The status of being a pregnant woman;
 - (c) The status of an individual who is in the process of securing legal custody of an individual under age 18.
- VIII. *Family* includes a single individual.
- IX. *Gender identity or expression* means a gender-related identity or appearance of an individual regardless of the individual's assigned sex at birth.
- X. *Disability* means with respect to an individual:
- (a) A physical or mental impairment which substantially limits one or more of the individual's major life activities; or
 - (b) A record of having such an impairment; or
 - (c) Being regarded as having such an impairment.
- But the term "disability" does not include current illegal use of or addiction to a controlled substance as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802).
- XI. *Hearing* means an inquiry, forum, investigation or meeting conducted pursuant to this subtitle.
- XII. *Occupation* means the lawful activity of one's life, regardless of income. It includes but is not limited to students, welfare recipients or retired persons.
- XIII. *Office* means the Office of Human Rights established pursuant to this subtitle.
- XIV. *Person* means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, financial institutions, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, agents, receivers, or fiduciaries, the government of Howard County and its agencies.
- XV. *Personal appearance* means outward appearance of a person with regard to hair style, facial hair, physical characteristics or manner of dress. It does not relate to a requirement of cleanliness, uniforms or prescribed attire, when uniformly applied, for admittance to a public accommodation or to a class of employees.
- XVI. *Political opinion* means the opinions of persons relating to:
- Government,
 - The conduct of government,
 - Political parties,
 - Candidates for election, or
 - Elected office-holders.
- XVII. *Respondent* means a person against whom a complaint is filed pursuant to section 12.207B or 12.212 or this subtitle. Respondent includes a person identified during an investigation of a complaint and joined as an additional or substitute respondent.
- XVIII. *Sexual orientation* means the actual or perceived identification of an individual as to homosexuality, heterosexuality or bisexuality.

(C.B. 2, 1983; C.B. 138, 1991; C.B. 54, 2011, § 1; C.B. 14, 2014, § 1; C.B. 4, 2015, § 1)

Sec. 12.202. - Human Rights Commission.

- I. *General Provisions.* General provisions regarding the following are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- II. *Number of Members.* There is a Human Rights Commission composed of 11 voting members and one nonvoting member.
- III. *Qualifications:*
 - (a) All members shall be residents of Howard County.
 - (b) Members of the Commission shall be broadly representative of the citizens of Howard County.
 - (c) Members may serve no more than two successive full terms.
 - (d) The nonvoting member shall be a student under the age of 18. The student's term shall be for one year, beginning July 1, and ending June 30.
- IV. *Executive Secretary.* The Human Rights Administrator or the Administrator's designee shall serve as the Executive Secretary of the Commission and shall attend all meetings and hearings of the Commission and, in addition to the duties specified in this subtitle, shall perform duties as prescribed by the Commission.
- V. *Legal Advisory, Legal Representative.* The Office of Law shall provide separate legal representation for the Commission and for the Administrator in all hearing or judicial proceedings to which they are party.
- VI. *Monthly and Additional Meetings .* The Commission shall meet at least 11 times per year and shall conduct each meeting pursuant to its rules of procedure. It may hold additional meetings and hearings provided the Chairperson of the Commission gives the Commission members and the Human Rights Administrator at least three days' written notice.
- VII. *Quorums; Hearing Panels:*
 - (a) A quorum consists of a simple majority of the current membership of the Commission.
 - (b) Administrative panels holding hearings pursuant to section 12.207B or 12.212.IV of this subtitle consist of at least three members of the Commission.
 - (c) An individual Commissioner who files a complaint pursuant to this section or section 12.207B or section 12.212 of this subtitle shall not participate, except as a complainant, in any administrative hearing of the Commission arising from the Commissioner's complaint.
- VIII. *Oaths and Subpoenas.* The Commission may administer oaths and issue subpoenas in the administration and enforcement of its authorized surveys and studies, hearings on patterns of discrimination and administrative hearings using the same standards and procedures provided in section 12.207A or 12.212.V.
- IX. *Duties and Responsibilities .* The Human Rights Commission shall carry out all duties and responsibilities assigned to it by law.
 - (a) *Civil rights policy .* The Commission shall be responsible for recommending a civil rights policy to the County Executive and the County Council concurrently.
 - (b) *Studies and surveys.* The Commission shall have the authority to make surveys and studies concerning human rights, conditions, and problems. It may publish reports, make recommendations and, in every way possible, promote human rights in Howard County.
 - (c) *Filing of complaint—Discriminatory practices and patterns of conduct.* The Commission or individual Commissioner(s) shall have the authority to file a complaint when the Commission or Commissioner(s) have reasonable cause to believe the existence of a pattern or practice of discrimination unlawful under the provisions of this subtitle. Complaints filed under this subsection shall be processed in the same manner as complaints filed under section 12.207A or

- 12.212 of this subtitle. If the Commission files a complaint under the provisions of this section any administrative hearing on the complaint shall be heard by the Howard County Board of Appeals.
- (d) *Hearings—Patterns of discrimination* . The Commission shall have the authority to hold an immediate hearing regarding patterns of discrimination which are not the subject matter of a complaint filed pursuant to section 12.207A or 12.212 of this subtitle. The purpose of the hearing is to resolve the problem promptly by gathering facts and making recommendations to appropriate persons. The recommendations of the Commission, in these instances, do not constitute any binding order upon any person.
 - (e) *Administrative hearings* . The Commission shall hold administrative hearings pursuant to section 12.207A or 12.212 of this subtitle.
 - (f) *Informing the citizens* . The Commission shall have the authority to inform the citizens of Howard County of practices and patterns of conduct which may be discriminatory.
 - (g) *Decisions and orders* . The Commission may issue decisions and orders pursuant to section 12.207B or 12.212 of this subtitle.
 - (h) *Affirmative action* . The Commission may order affirmative action pursuant to section 12.207B or 12.212 of this subtitle.
 - (i) *Action in circuit court* . The Commission may bring an action in circuit court to enforce compliance with a decision and order issued pursuant to section 12.207B or 12.212 of this subtitle.
 - (j) *Appointment of Human Rights Administrator* . The Commission shall assist the Chief Administrative Officer and the County Executive on the appointment of the Human Rights Administrator.
 - (k) *Budget* . The Commission shall submit to the County Executive a timely budget request for expenses necessary to carry out the provisions of this subtitle. It shall review the budget of the Office of Human Rights before that budget is submitted to the County Executive. The Commission may comment on its own budget and that of the Office of Human Rights at any time in the budget process.
 - (l) *Review monthly reports* . The Commission shall review the monthly reports prepared by the Human Rights Administrator pursuant to section 12.206 of this subtitle.
 - (m) *Annual and other reports*. In addition to the annual report, the County Executive or the County Council may require the Commission to make interim reports. The interim reports shall not contain the identities of parties to cases which have been reconciled or are pending. Subject to section 22.1000 of the County Code, on or before February 28 of each year the Commission shall make an annual report to the County Executive and the County Council. The report shall:
 - (i) Outline the activities of the Commission during the previous calendar year.
 - (ii) Identify actions or programs undertaken during the prior calendar year.
 - (iii) Identify other matters relevant to the authorized activities of the Commission.
 - (iv) Report on the cause of and means of eliminating discrimination.
 - (v) Contain recommendations for further legislation as needed.
 - (n) *Confidential information* . To the extent permitted by the State Public Information Act, and unless required otherwise by section 12.214 of this subtitle, the Commission shall hold confidential any information that would tend to disclose the identity of a complainant and/or respondent.
 - (o) At the directive of the County Executive or by resolution of the County Council, the Human Rights Commission shall review and make recommendations on any matter related to human rights.

- (p) When performing an advisory function under this subtitle, as defined in the State Open Meetings Act, the Commission may meet in closed session if permitted to do so under the State Open Meetings Act.

(C.B. 2, 1983; C.B. 62, 1988; C.B. 138, 1991; C.B. 6, 1992; C.B. 14, 1993; C.B. 64, 1993; C.B. 4, 2015, § 1; C.B. 43, 2018, § 1)

Editor's note— Section 49 of C.B. 62, 1988, effective July 1, 1989, combined the provisions of §§ 12.202—12.204 into a single § 12.202. Sections 12.203 and 12.204 have been reserved to provide continuity.

Sec. 12.203. - Martin Luther King, Jr. Holiday Commission; General Provisions.

- (a) *General Provisions* . General provisions applicable to the Martin Luther King, Jr. Holiday Commission are set forth in subtitle 3, "Boards and Commissions," of this title.
- (b) *Purpose* . The purpose of the Commission is to encourage and coordinate appropriate ceremonies and activities throughout Howard County honoring Martin Luther King, Jr.
- (c) *Membership* . The Commission shall consist of 17 voting members, and at least one nonvoting student member under the age of 19. The student's term shall be for one year. Commission membership shall broadly reflect the diversity of the residents of Howard County.
- (d) *Executive Secretary*. The Administrator or the Administrator's designee shall serve as Executive Secretary to the Commission and attend all meetings.
- (e) *Meetings* . The Commission shall meet at least 11 times per year.

(C.B. 35, 2016, § 1)

Sec. 12.204. - General powers and duties of the Martin Luther King, Jr. Holiday Commission.

The Howard County Martin Luther King, Jr. Holiday Commission shall encourage and coordinate appropriate ceremonies and activities throughout Howard County honoring Martin Luther King, Jr., and provide assistance to the local government and private organizations with respect to the observance of the county, state, and federal holidays honoring the birthday of Martin Luther King, Jr.

(C.B. 35, 2016, § 1)

Sec. 12.205. - Office of Human Rights.

- I. *General Provisions*. General provisions applicable to this Office are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- II. *Head*. The Human Rights Administrator shall head the Office of Human Rights. The Chief Administrative Officer shall exercise administrative supervision over the Office of Human Rights.
- III. *Qualifications of Human Rights Administrator*. The Human Rights Administrator shall have thorough knowledge of the types of discrimination and methods and techniques for eliminating it, including considerable knowledge of County, State and Federal laws regarding discrimination in such areas as housing, employment, public accommodations, law enforcement, financing and related fields. The Administrator shall have had at least five years of experience in human relations or a related field, one year of which shall have dealt with investigating and/or conciliating complaints of discrimination, and two years of which shall have included managerial or administrative experience.

(C.B. 2, 1983; C.B. 62, 1988; C.B. 138, 1991; C.B. 6, 1992)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989. Former subsection IV is now part of § 12.206.

Sec. 12.206. - Functions, powers and duties of the Office of the Administrator.

I. *Duties and Responsibilities:*

- (1) *Administration/enforcement of human rights law.* The Office of Human Rights is responsible for administering and enforcing the provisions of Howard County Human Rights Law, including, but not limited to:
 - (a) Investigating complaints of discrimination to determine whether a violation of the Howard County Human Rights Law has occurred.
 - (b) Attempting to eliminate violations of the Human Rights Law by conference, conciliation and persuasion.
- (2) *Reports.* Subject to section 22.1000 of the County Code, the Office of Human Rights and its Administrator shall make:
 - (a) Annual reports to the County Executive and the County Council providing a statistical summary of the number, type and disposition of complaints received by the Office.
 - (b) Monthly reports to the Commission briefly describing the factual situation of new cases, and the status and disposition of all other cases.

The Human Rights Administrator shall make periodic reports to the County Executive, County Council and the Human Rights Commission on the Office's involvement in discrimination education programs and on the extent of its cooperate efforts with governmental and community agencies to combat discrimination.

- (3) *Liaison with community.* The Office of Human Rights serves as liaison with the public, government agencies and community groups to develop plans and programs to combat discrimination and assist and cooperate with other local, State and Federal agencies and officials to protect and promote better human relations. The Office of Human Rights shall work with these agencies and groups in developing educational programs, heightening public awareness of discrimination and of methods of eliminating discrimination. The Office of Human Rights shall serve as a catalyst in fostering attitudes and beliefs among Howard County citizens which confirm that all individuals have an equal opportunity to pursue their lives free of discrimination.
- (4) *Executive Secretary.* The Human Rights Administrator serves as Executive Secretary of the Human Rights Commission.
- (5) *Rules of procedure.* The Human Rights Administrator shall formulate and promulgate rules of procedure necessary to carry out the purposes of this subtitle, pursuant to the Administrative Procedure Act of Howard County (title 2, subtitle 1 of this Code).
- (6) *Other duties and responsibilities.* The Office of Human Rights and its Administrator shall perform the statutory duties set forth in this subtitle. The Office of Human Rights shall perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 2, 1983; C.B. 6, 1992; C.B. 43, 2018, § 1)

Sec. 12.207. - Unlawful housing practices.

I. *Definitions.* Words and phrases used in this section have their usual meanings except as defined below:

(a) *Discrimination/discriminatory* means acting or failing to act, or unduly delaying any action regarding any person(s) because of:

Race,

Creed,

Religion,

Disability,

Color,

Sex,

National origin,

Age,

Occupation,

Marital status,

Political opinion,

Sexual orientation,

Personal appearance,

Familial status,

Source of income, or

Gender identity or expression in such a way that such person(s) are adversely affected in the area of housing.

(b) *Dwelling:*

(1) The whole or any part of a building, structure, mobile home or manufactured housing which is occupied as, designed for or intended for occupancy as a residence by one or more families; and/or

(2) Land which is offered for sale or lease for the construction or location, in whole or in part, of any such building, structure, mobile home or manufactured housing.

(c) *Housing:*

(1) A dwelling for the use of one or more individuals, groups or families; and/or

(2) A mobile home site or land offered for sale or lease for the construction of such dwelling, building, structure, mobile home site or manufactured housing.

(d) *Housing for elderly* means housing for elderly is occupied or unoccupied housing:

(1) Provided under any government program that is specifically designed and operated to assist elderly individuals;

(2) Intended for and solely occupied by, individuals 62 years of age or older;

- (3) Intended for and operated for occupancy by at least one individual 55 years of age or older per unit; or
- (4) That meets the requirements of housing for the elderly set out in regulations adopted by the U.S. Department of Housing and Urban Development under title 42, section 3607(b)(2)(C) of the U.S. Code (Federal Fair Housing Act).

Housing for elderly includes units occupied as of September 13, 1988, by individuals who do not meet the above age requirements provided that any new occupant of the unit meets the age requirement.

- (e) *Multifamily dwelling* means a building consisting of four or more dwelling units, if the building has one or more elevators; or a ground floor unit in a building consisting of four or more dwelling units if the building has no elevator. This definition applies only in relation to discrimination based on disability.
- (f) *In the business of selling or renting a dwelling:*
 - (1) Within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or of any interest in a dwelling; or
 - (2) Within the preceding 12 months, participated as an agent, other than in the sale of the individual's own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest in a dwelling; or
 - (3) Being the owner of any dwelling designed or intended for occupancy by, or occupied by, two or more families.
- (g) *To rent* includes to lease, to sublease, to let or otherwise grant for a consideration, the right to occupy premises not owned by the occupant,
- (h) *Residential real estate related transaction:*
 - (1) The making or purchasing of loans or providing other financial assistance secured by residential real estate or for purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - (2) The selling, brokering, or appraising of residential real property.
- (i) *Discriminatory restrictive covenants* means any specification limiting the transfer, rental or lease of a dwelling because of discrimination as defined in subsection (a) above.
- (j) *Source of income* means any lawful source of money that is paid to or for the benefit of a renter or buyer of housing, including:
 - (1) A lawful profession or occupation;
 - (2) A Federal, State or local government assistance, grant or loan program;
 - (3) A private assistance, grant or loan program, provided that when the lease or purchase agreement is executed, the private program:
 - (i) Delivers the total amount of the assistance, grant or loan; or
 - (ii) Has executed a valid contract agreeing to pay the assistance, grant or loan; or
 - (iii) Co-signs the lease or purchase agreement;
 - (4) A gift or inheritance, otherwise legally considered a source of income, provided that when the lease or purchase agreement is executed,
 - (i) The gift or inheritance has already been received; or
 - (ii) A valid contract has been executed by the giver of the gift or the Administrator of the estate agreeing to give the gift or turn over the inheritance; or

- (iii) The giver or the Administrator of the estate co-signs the lease or purchase agreement;
- (5) A pension or annuity;
- (6) Alimony or child support which has been regularly received for the six months prior to the execution of the lease or purchase agreement;
- (7) Bank, trust or investment accounts, stocks, bonds, or other financial holdings;
- (8) Any contract right or sale or pledge of any property or interest in property.

Source of income does not refer to a determination of the ability to pay rent or pay a purchase price, which is determined by reasonable and customary standards such as verification of income and its source, the creditworthiness of the buyer or renter, and the creditworthiness of any source of income.

II. *Unlawful Acts:*

- (a) *Sale and rental.* It shall be unlawful if, because of discrimination, any person having the right to sell, rent, lease, control, construct or manage a dwelling (or the person's agent or employee):
 - (1) Makes, or causes the making, printing or publishing of any notice, statement or advertisement regarding the sale or rental of a dwelling that indicates any preference or limitation.
 - (2) Represents to a person that any dwelling is not available for inspection, sale or rental, when the dwelling is in fact available.
 - (3) Refuses to negotiate for the sale or rental of a dwelling.
 - (4) Refuses to sell or rent a dwelling after the making of a bona fide offer.
 - (5) Refuses to make a dwelling available.
 - (6) Restricts the terms, conditions or privileges of sale or rental of a dwelling.
 - (7) Restricts the provision of services or facilities in connection with the sale or rental of a dwelling.
 - (8) Includes any discriminatory covenants in the transfer, sale, rental or lease of housing.
 - (9) Honors, exercises, attempts to honor or attempts to exercise any discriminatory restrictive covenant.
- (b) *Multiple listing, brokers' organization.* It shall be unlawful if, because of discrimination, any person, or their agents or employees, whether or not acting for monetary gain:
 - (1) Denies any person access, membership or participation in; or
 - (2) Restricts the terms and conditions, of access, membership or participation in

any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings.
- (c) *Availability of residential real estate transactions, access to multiple listing services and real estate brokers' organizations, etc.:*
 - (1) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available a transaction, or in the terms or conditions of a transaction.
 - (2) Nothing in paragraph (1) above prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, creed, religion, disability, color, sex, national origin, age, occupation, marital status, political opinion, sexual orientation, personal appearance, familial status or source of income.

- (d) *Property values, changes in nature of neighborhood.* It shall be unlawful if because of discrimination, any person, firm or association, whether or not acting for monetary gain, represents that the existing or potential proximity of real property owned, used or occupied by persons of any particular race, creed, religion, disability, color, sex; national origin, age, occupation, marital status, political opinion, sexual orientation, personal appearance, familial status or source of income will or may result in:
- (1) The lowering of property values; or
 - (2) A change in the racial, religious or ethnic character of the block, neighborhood or area in which the property is located; or
 - (3) A decline in quality of the schools and institutions serving the area.
- (e) *Solicitation.* It shall be unlawful if, because of discrimination, any person, firm, corporation or association, whether or not acting for monetary gain:
- (1) Knowingly induces or attempts to induce another person to transfer an interest in real property by such representations as are described in subsection 12.20711(c) of this subtitle.
 - (2) Places a sign, display or device designed to indicate that a bona fide offer is being made to sell, lease, assign, transfer or otherwise dispose of any dwelling(s) when, in fact, the property is not being offered for the advertise sale, lease, assignment or transfer.
 - (3) Maintains a sale, lease, assignment, transfer or other such sign for more than seven days at any dwelling(s) after the execution of any contract or written agreement for the sale, lease, assignment or transfer of the dwelling.
- (f) *Modifications for persons with disabilities.* It shall be unlawful:
- (1) To refuse to permit, at the expense of persons with disabilities, reasonable modifications of existing premises occupied or to be occupied by persons with disabilities if:
 - (i) The modifications may be necessary to afford the persons with disabilities full enjoyment of the dwelling; and
 - (ii) For a rental dwelling, the tenant agrees that, upon vacating the dwelling, he or she will restore the interior of the dwelling to the condition that existed before the modification, reasonable wear and tear excepted.
 - (2) To refuse to make reasonable accommodations in rules, policies, practices, or services when the accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling.
- (g) *Multifamily dwelling—Accessibility and usability.*
- (1) It shall be unlawful if multifamily dwellings first occupied on or after July 1, 1991, are not designed and constructed in such a way that:
 - (i) The public use and common use portions of the dwelling are readily accessible to and usable by persons with disabilities;
 - (ii) All doors are designed to allow passage by individuals in wheelchairs;
 - (iii) There is an accessible route into and through the dwelling;
 - (iv) Light switches, electrical outlets, thermostats and other environmental controls are in accessible locations;
 - (v) The bathroom walls are reinforced to allow later installation of grab bars; and
 - (vi) Bathrooms and kitchens are usable and can be maneuvered in by an individual in a wheelchair.
 - (2) Multifamily dwellings are lawful which are in compliance with:

- (i) The appropriate requirements of the American National Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped Individuals (commonly cited as ANSI A117.1); or
 - (ii) The Federal law, regulations and guidelines on accessibility for persons with disabilities adopted under the Federal Fair Housing Act Amendments of 1988 and incorporated by reference in the rules and regulations adopted by the Maryland Department of Housing and Community Development under Article 83B of the Annotated Code of Maryland.
- (h) *Unlawful coercion.* Whether or not acting under color of law, it shall be unlawful to coerce, intimidate, threaten, interfere with, or retaliate:
- (1) Against any person in the exercise or enjoyment of any right granted or protected by this section.
 - (2) On account of a person having exercised or enjoyed any right granted or protected by this section.
 - (3) On account of a person having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this section.
 - (4) Against a person participating lawfully in speech or peaceful assembly opposing any denial of the rights granted or protected by this section.

III. *Discriminatory Restrictive Covenants:*

- (a) *Null and void.* Any discriminatory restrictive covenant is declared to be null, void and of no effect, and contrary to the public policy of this County.
- (b) *Refusal to accept document with discriminatory restrictive covenants.* Any person may decline to accept a document affecting title to real or leasehold property if the document includes any discriminatory restrictive covenant. Refusal to accept delivery of an instrument for this reason shall not be deemed a breach of a contract to purchase, lease, mortgage or otherwise deal with the property.

IV. *Exemptions:*

- (a) *Age-related dwellings.* The provisions of section 12.207 shall not apply to:
 - (1) Any medical, health or educational institution established for a specific age group; or
 - (2) Any domiciliary, retirement or senior citizens' home or facility; or
 - (3) Any preschool children's home or facility.
- (b) *Owner occupied dwelling.* Discrimination shall not be unlawful with regard to the leasing of a room or apartment in an owner occupied dwelling containing only one rental unit.
- (c) *Private membership clubs.* Nothing in this section shall prohibit a private club, not in fact open to the public and which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
- (d) *Religious organizational dwellings.* A religious organization, association or society, or a nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization may limit the sale, rental or occupancy of dwellings which it owns or operates for other than commercial purpose to persons of the same religion and may give preferences to such persons. Unless membership in the religion is restricted on account of race, color, or national origin.
- (e) *Sale or rental of single-family dwellings without broker, agent, advertising, etc.* The provisions of section 12.207 shall not apply to the sale or rental of a single-family dwelling if it is sold or rented without:

- (1) Using the services of a real estate broker, agent, or salesman, or person in the business of selling or renting dwellings or an agent of any of the preceding persons.
- (2) The publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 12.207.
- (f) *Threats to health and safety.* Provided that the protections included in the Federal Americans With Disabilities Act are not violated, the provisions of section 12.207 do not require that a dwelling be made available to an individual whose ownership or tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.
- (g) *Maximum occupancy.* Nothing in this section limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.
- (h) *Use of attorneys, escrow agents, etc., does not affect otherwise exempted persons.* The use of attorneys, escrow agents, abstractors, title companies, and other similar professional assistance as necessary to perfect or transfer the title shall not affect the exempt status of persons pursuant to this subsection.
- (i) *Source of income.* It shall not be unlawful discrimination based on source of income if:
 - (1) The owner of no more than one rental dwelling unit or an assisted rental housing development in Howard County refuses to rent a dwelling to a person because the person is a participant in a government housing assistance program; or
 - (2) A seller elects not to enter into a sales contract that is contingent upon the sale of another property.
 - (3) In this paragraph, the following terms have the meanings indicated:
 - (i) *Assisted rental housing development* means a development consisting of four or more contiguous rental dwelling units in which 20 percent or more of the dwelling units are rented or must be made available for rent to households of low income pursuant to a Federal, State or local government housing assistance program.
 - (ii) *Household of low income* means a person or persons whose annual income does not exceed 50 percent of the median annual income in the Baltimore Metropolitan Statistical Area, as determined from time to time by the United States Department of Housing and Urban Development for Section 8 Housing Programs.

(C.B. 2, 1983; C.B. 138, 1991; C.B. 68, 1992; C.B. 101, 1992; C.B. 21, 1998; C.B. 54, 2011, § 1; C.B. 14, 2014, § 1; C.B. 4, 2015, § 1)

State Law reference—Housing discrimination, Ann. Code of Md. art. 49B, § 19 et seq.

Sec. 12.207A. - Unlawful housing practices—Subpoenas; evidence; conciliation; civil action.

The procedures and requirements provided in section 12.207A and 12.207B shall apply only to matters involving unlawful housing practices. Procedures governing complaints, settlements, investigations, findings of reasonable cause, administrative hearings, appeals, oaths, injunctive relief, and enforcement that are not otherwise contained in this section shall be in accordance with section 12.212 of this subtitle.

I. *Subpoenas, etc.:*

- (a) *Right to subpoena.* The Human Rights Administrator and the Human Rights Commission may issue subpoenas and order discovery in aid of investigations and hearings concerning unlawful

housing practices. Discovery shall be conducted as expeditiously and inexpensively as possible consistent with the need to obtain relevant evidence.

- (b) *Requirement to respond to subpoena to provide evidence.* A person may not willfully fail or neglect to attend and testify, to answer any lawful inquiry, or to produce records, documents, or other evidence, if it is in the person's power to do so, in obedience to the subpoena or other lawful order issued pursuant to paragraph (a) of this subsection.
- (c) *False or incomplete evidence; destruction of evidence.* A person, with intent to mislead another person in a proceeding concerning unlawful housing practices, may not:
 - (1) Make or cause to be made any false entry or statement of fact in a report, account, record or other document produced pursuant to subpoena or other lawful order issued pursuant to paragraph (a) of this subsection;
 - (2) Willfully neglect or fail to make or to cause to be made full, true and correct entries in the reports, accounts, records, or other documents; or
 - (3) Willfully mutilate, alter, or by another means falsify any documentary evidence.
- (d) *Penalty for providing false or incomplete, evidence or for destroying evidence.* Pursuant to Section 20-1102 of the State Government Article of the Annotated Code of Maryland, a person who is convicted of violating the provisions of paragraph (b) or (c) of this subsection shall be fined not more than \$100,000.00 or imprisoned not more than one year or both.

II. Conciliation:

- (a) *Settlement by conciliation.* A complaint alleging unlawful housing practices may be settled by conciliation at any time in the process. During the entire period after a complaint is filed, the Human Rights Administrator and, where appropriate, the Human Rights Commission, shall engage in conciliation.
- (b) *Conciliation agreement made public.* A conciliation agreement shall be made public unless the State Public Information Act or other state or federal law permits it to be withheld from disclosure.
- (c) *Confidentiality.* Except in a proceeding to enforce a conciliation agreement, nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this subtitle without the written consent of the persons concerned.
- (d) *Breach of conciliation agreement.* If the Administrator or the Commission has reasonable cause to believe that a respondent has breached a conciliation agreement, the Administrator may institute litigation to enforce the conciliation agreement in the same manner as provided in this section for the enforcement of an order of the Commission.

- III. *Civil Action.* After a complaint of alleged unlawful housing practices is filed, if the Human Rights Administrator or the Human Rights Commission concludes that prompt judicial action is necessary to carry out the purposes of this subtitle regarding unlawful housing practices, the Administrator or the Human Rights Commission (if the Commission initiated the complaint) may authorize a civil action in the Circuit Court for Howard County for appropriate temporary or preliminary relief pending final disposition of the complaint pursuant to this subtitle. The commencement of a civil action does not affect the initiation or continuation of administrative proceedings pursuant to this subtitle.

(C.B. 138, 1991; C.B. 4, 2015, § 1)

State Law reference— Civil actions for discriminatory acts, Ann. Code of Md. art. 49B, § 42.

Sec. 12.207B. - Same—Complaint; determination; resolution; enforcement.

I. Complaint Process:

- (a) *Filing of complaint.* A person aggrieved by an alleged unlawful housing practice may file a complaint with the Office of Human Rights within one year of the practice having occurred or terminated. The complainant may reasonably and fairly amend the complaint at any time.
 - (b) *Form of complaint.* All complaints shall be filed in writing, under oath or affirmation, and shall be upon a form provided by the Office. The complaint shall state the name and address of the complainant and the respondent and other pertinent information as required by the Administrator.
 - (c) *Advising complainant of procedures.* Within ten days of the filing of a complaint, the Administrator shall:
 - (1) Acknowledge receipt of the complaint;
 - (2) Advise the complainant of the time limits provided pursuant to this section and of the options provided by law.
 - (d) *Advising respondent(s) of procedures.* Within ten days of the filing of a complaint or within ten days of identifying additional respondent(s) to those named in the complaint, the Administrator shall:
 - (1) Advise the respondent(s) of the filing and furnish the respondent(s) with a copy of the complaint;
 - (2) Advise the respondent(s) of the procedural rights and obligations of respondents pursuant to this section.
 - (e) *Opportunity for respondent(s) to reply.* The respondent(s) may file a written answer under oath to the complaint within ten days of receiving a copy from the Office of Human Rights. The answer to the complaint may be reasonably and fairly amended at any time.
- II. *Investigation.* The Human Rights Administrator shall begin an investigation within 30 days of receiving the complaint. Within 100 days of the filing of the complaint, the Administrator shall make an investigation and shall determine, based on the facts, whether reasonable cause exists to believe that an unlawful housing practice has occurred or is about to occur.
- If a determination has not been made within 100 days, the Administrator shall write to the complainant and respondent(s) advising them of the delay and the reasons for the delay.
- III. *Dismissal for Lack of Reasonable Cause:*
- (a) *Notify complainant.* If the Administrator determines that no reasonable cause exists to believe that an unlawful housing practice has occurred, the Administrator shall promptly dismiss the complaint. The Administrator shall notify the complainant by certified mail that the complaint has been dismissed and shall give the reasons for the dismissal and the process for the complainant to seek reconsideration of the Administrator's decision by the Human Rights Commission. The Administrator shall send a copy of the letter to the respondent(s).
 - (b) *Appealing to Human Rights Commission.* A complainant may appeal the Administrator's dismissal of the complaint for lack of reasonable cause, by appealing the dismissal to the Human Rights Commission within 20 days of receiving the letter from the Administrator.
 - (c) *Determination by Commission.* The Commission may hold an administrative hearing on the appeal and issue a decision and order pursuant to the provisions of section 12.212.IV of this subtitle.
- IV. *Referral to Human Rights Commission:*
- (a) *Notification to parties.* If the Administrator determines that reasonable cause exists to believe that an unlawful housing practice has occurred, the Administrator shall so notify the complainant and the respondent(s) by certified mail and shall indicate that the matter shall be referred to the Human Rights Commission if no conciliation is reached within 30 days of the notification.
 - (b) *Referral to Commission.* If the Administrator determines that reasonable cause exists to believe that an unlawful housing practice has occurred and no conciliation has been reached within 30

days of notifying the parties, the Administrator shall notify the Commission of the finding and the lack of conciliation and shall certify the file and the findings and transmit the documents to the Human Rights Commission.

- (c) *Referral to County Solicitor.* If the Administrator determines that the matter involves the legality of a State or local zoning or other land use law or ordinance, the Administrator shall immediately refer the matter to the County Solicitor for further action.
- (d) *[Time limit on disposition.]* The Administrator and the Chairperson of the Human Rights Commission, if the matter has reached the public hearing stage, shall make final administrative disposition of a complaint within one year of receiving the complaint, unless it is impracticable to do so, in which case they shall notify the complainant and respondent in writing of the reasons for not doing so.

- V. *Charge by Human Rights Commission.* Upon receipt of notification from the Administrator that there is reasonable cause to believe that an unlawful housing practice has occurred, the Commission shall issue a charge on behalf of the complainant for further proceedings pursuant to this section. The Commission shall send a copy of the charge to the parties together with information regarding the time, date and place of a public hearing on the matter.

The charge may not be issued after the beginning of the trial of a civil action that is commenced by the complainant pursuant to State or Federal law seeking relief for the same unlawful housing practice. If a complainant initiates such an action, the Administrator and the Commission shall no longer be involved in the matter and shall send the results of its investigations to the U.S. Department of Housing and Urban Affairs.

- VI. *Hearing; Consideration of Evidence .* Within 120 days of notification from the Administrator that there is reasonable cause to believe that an unlawful housing practice has occurred or is about to occur, the Human Rights Commission shall conduct a hearing in accordance with its rules of procedure and applicable law. If the Commission cannot begin the hearing within the 120-day period, the Commission shall notify the complainant and respondent(s).

The hearing shall be conducted as expeditiously and inexpensively as possible consistent with the needs and rights of the parties to obtain a fair hearing and complete record. The hearing shall be de novo. Each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses and obtain the issuance of subpoenas.

- VII. *Decision and Order .* Within 60 days of conclusion of the hearing, the Commission shall issue findings of fact and conclusions of law on the matter. If the Commission finds that the respondent has not engaged in unlawful housing practices, the Commission shall issue a written decision and order including findings of fact and conclusions of law and ordering the dismissal of the complaint. The Commission shall serve each party with the decision and order and shall make public disclosure of the dismissal. If the Commission finds that the respondent has engaged in unlawful housing practices, the Commission shall issue a written decision and order including findings of fact and conclusions of law, ordering the respondent to cease and desist from the practice(s) and ordering appropriate action to carry out the purposes of this subtitle. The Commission shall serve each party with the decision and order.

- VIII. *Appropriate Action .* Appropriate action may be monetary and/or nonmonetary. It may include actual damages suffered by the complainant and injunctive or other equitable relief. Appropriate action may include reasonable and customary attorney's fees.

An order issued pursuant to this subsection and subsection VII shall not affect any contract, sale, encumbrance, or lease consummated before the issuance of the order and involving a bona fide purchaser, encumbrance, or tenant without actual notice of the charge filed under this subtitle.

- IX. *Civil Penalties .* The decision and order may include the assessment of civil penalties to be paid by the respondent(s) to the general fund of the county. Pursuant to Section 20-1028 of the State Government Article of the Annotated Code of Maryland, a civil penalty not exceeding:

- (a) Ten thousand dollars may be assessed if the respondent has not been adjudged to have committed any prior unlawful housing practice;
- (b) Twenty-five thousand dollars may be assessed if the respondent has been adjudged to have committed one other unlawful housing practice during the five-year period prior to the filing of this complaint; and
- (c) Fifty thousand dollars may be assessed if the respondent has been adjudged to have committed two or more unlawful housing practices during the seven-year period prior to the filing of this complaint.

If the unlawful housing practice was committed by the same individual who has been previously adjudged to have committed unlawful housing practice(s), then the civil penalties set forth in paragraphs (b) and (c) of this subsection may be imposed without regard to the period of time within which any subsequent unlawful housing practice occurred.

X. *Regulatory Referral.* If the order concerned an unlawful housing practice that occurred in the course of a business subject to licensing or regulation by a State or County agency, the Commission shall, within 30 days of the issuance of the decision and order:

- (a) Send copies of the decision and order to the State or County agency; and
- (b) Recommend to the State or County, agency appropriate disciplinary action, including, where appropriate:
 - (1) The suspension or revocation of the license of the respondent; or
 - (2) The suspension or debarment of the respondent from participation in State and local loan, grant or other regulated programs.

XI. *Appeal to Circuit Court Review or Enforcement:*

- (a) *Right to appeal.* Within 30 days of its issuance, any party aggrieved by the decision and order may appeal to the Circuit Court of Howard County for judicial review of the decision and order. If such an appeal is taken, the county is a party to the appeal.

If no appeal for review has been filed with the Howard County Circuit Court within 30 days, the findings of fact and conclusions of law of the Commission's final order shall be conclusive.

- (b) *Petition.* The County may file a written petition with the Howard County Circuit Court for the enforcement of the Commission's order and for appropriate temporary relief or restraining order. The Clerk of the county shall send a copy of the petition to the parties in the appeal.

In an enforcement proceeding brought under this paragraph any party to the proceedings before the Commission may intervene in the Circuit Court.

- (c) *Person entitled to relief.* If, within 30 days of issuance of the decision and order, no appeal has been made to the Howard County Circuit Court for judicial review and no petition has been filed by the Commission for enforcement of the order, any person entitled to relief under the order may petition the Howard County Circuit Court for a decree enforcing the order.

(C.B. 138, 1991; C.B. 4, 2015, § 1)

Sec. 12.207C. - Civil action by Commission on its own initiative.

- I. *Authority for Human Rights Commission to Commence a Civil Action.* Whenever the Human Rights Commission has reasonable cause to believe that a person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the housing rights granted by this subtitle, or that any group of persons has been denied any of the housing rights granted by this subtitle and that the denial or resistance raises an issue of general public importance, the Commission may commence a civil action in the Howard County Circuit Court.

II. *Court Award.* In a civil action pursuant to this subsection, the court:

- (a) May award preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this subtitle as is necessary to assure the full enjoyment of the housing rights granted by this subtitle;
- (b) May award other relief as the court deems appropriate, including monetary damages to persons aggrieved; and
- (c) Pursuant to Section 20-1036 of the state Government Article of the Annotated Code of Maryland, may, to vindicate the public interest, assess a civil penalty against the respondent:
 - (1) In an amount not exceeding \$50,000.00 for a first violation; and
 - (2) In an amount not exceeding \$100,000.00 for any subsequent violation.

The court, in its discretion, may allow the prevailing party, including the county, reasonable attorney's fees and costs.

III. *Intervention in the Civil Action Commenced by the Commission.* Upon timely application, a person may intervene in a civil action commenced by the Commission under this section if the action involves:

- (a) An alleged unlawful housing practice to which the person is an aggrieved person; or
- (b) A conciliation agreement to which the person is party.

The court may grant appropriate relief to any intervening party as is authorized to be granted to a plaintiff in a civil action commenced pursuant to Section 20-1013 of the State Government Article of the Annotated Code of Maryland.

(C.B. 138, 1991; C.B. 4, 2015, § 1)

Sec. 12.208. - Unlawful employment practices.

I. *Definitions.* Words and phrases used in this section have their usual meanings except as defined below:

- (a) *Discrimination/discriminatory* means acting or failing to act, or unduly delaying any action regarding any person because of:

Race,

Creed,

Religion,

Disability,

Color,

Sex,

National origin,

Age,

Occupation,

Marital status,

Political opinion,

Sexual orientation,

Personal appearance,

Familial status, or

Gender identity or expression

in such a way that such person(s) are adversely affected in the area of employment.

Discrimination does not include providing services or accommodations to employees that are distinctly personal or private in nature.

- (b) *Because of sex* includes because of or on the basis of pregnancy, childbirth, or related medical conditions. Women affected because of pregnancy, childbirth, or related medical conditions shall be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected, but similar in their ability or inability to perform work.
- (c) *Employee* means an individual employed by an employer. *Employee* does not include any person elected to public office.
- (d) *Employer* means a person, engaged in an industry or business, who has five or more full-time or part-time employees for each working day in each 20 or more calendar weeks in the current or previous calendar year and any agent of such a person. Howard County, Maryland is included as an employer to the extent provided in this section.
- (e) *Employment agency* means a person, paid or unpaid, or his/her agent, regularly undertaking to procure:
 - (1) Employees for an employer; or
 - (2) Opportunities for individuals seeking employment.
- (f) *Labor organization* means an organization, group, association or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with grievances, labor disputes, rates of pay, wages, hours or other terms or conditions of employment.

II. *Unlawful Practices:*

- (a) *Unlawful acts of employers.* It shall be unlawful if, because of discrimination, an employer:
 - (1) Discharges a person; or
 - (2) Refuses to hire a person; or
 - (3) Acts against a person with respect to compensation or other terms and conditions of employment; or
 - (4) Limits, segregates, classifies or assigns employees.
- (b) *Unlawful acts of employment agencies.* It shall be unlawful if, because of discrimination, an employment agency:
 - (1) Fails to refer a person for employment; or
 - (2) Refuses to refer a person for employment; or
 - (3) Acts against a person concerning the kind of employment for which a referral could have been made; or
 - (4) Classifies a person for employment.
- (c) *Unlawful acts of labor organizations.* It shall be unlawful if, because of discrimination, a labor organization with respect to its functions and activities in Howard County:
 - (1) Excludes or expels any person from its membership; or

- (2) Limits, segregates or classifies its membership in any way which would deprive any person of employment opportunities or adversely affect the person's status as an employee or Applicant for employment; or
 - (3) Fails or refuses to refer a person for employment, in any way which would deprive the person of employment opportunities, or adversely affect the person's status as an employee or Applicant for employment.
- (d) *Unlawful acts—Apprenticeship and training programs.* It shall be unlawful if, because of discrimination, an employer or labor organization located or domiciled in Howard County refuses a person for admission to or employment in any program established to provide apprenticeship or other training.
- (e) *Unlawful acts—Employment advertising.* Except where the limitation or specification is a bona fide occupational qualification for employment, it shall be unlawful if, because of discrimination, an employer, labor organization or employment agency prints or causes to be printed any notice or advertisement indicating any preference, limitation or specification relating to:
- (1) Employment by the employer; or
 - (2) Membership in the labor organization; or
 - (3) Any classification by the labor organization; or
 - (4) Any referral by the labor organization; or
 - (5) Any classification by the employment agency; or
 - (6) Any referral by the employment agency.
- (f) *Unlawful acts—Against complainants:*
- (1) It shall be unlawful for an employer to discriminate against any of his/her employees or Applicants for employment because the employee or Applicant has opposed any practice which is unlawful under this section or because the employee or Applicant has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing pursuant to this subtitle.
 - (2) It shall be unlawful for an employment agency to discriminate against any person because the person has opposed any practice which is unlawful under this section or because the person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing pursuant to this subtitle.
 - (3) It shall be unlawful for a labor organization to discriminate against a member or Applicant for membership because the member or Applicant has opposed any practice which is unlawful under this section or because the member or Applicant has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this subtitle.

III. *Exemptions:*

- (a) *Bona fide occupational qualifications.* When it is demonstrated that bona fide occupational qualifications are reasonable, necessary and relevant to the normal operation of the particular business or enterprise, this section shall not apply in the case of bona fide occupational qualifications established by:
- (1) An employer in hiring, assigning, compensating or discharging individuals; or
 - (2) An employment agency in classifying or referring individuals; or
 - (3) A labor organization in classifying members; or
 - (4) An employer or labor organization in denying an individual admittance to any program of apprenticeship, training or retraining.

- (b) *Educational institutions.* This section shall not apply to educational institutions in hiring and employing persons of a particular religion if the school, college or educational institution is:
- (1) Owned, supported, controlled or managed, in whole or in substantial part, by a particular church, synagogue, or other religious organization or corporation; or
 - (2) If the curriculum is designed to comply, in whole or in part, with the doctrines or tenets of a particular religion.
- (c) *Bona fide seniority or employee benefit plans:*
- (1) This section shall not apply to bona fide seniority systems.
 - (2) This section shall not apply to a bona fide employee benefit plan such as a retirement, pension or insurance plan, if the system or plan is not a subterfuge to evade the purposes of this section.
 - (3) No such employee benefit plan shall excuse the failure to hire a person.
 - (4) In addition, pursuant to 29 USC section 263 (as may be amended from time to time), no seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual between the ages of 40 and 70 because of the individual's age.
- (d) *Preferential treatment:*
- (1) No employer, employment agency, labor organization or joint labor management committee may be required to grant preferential treatment to any person(s) because of any unbalance, compared to the general public, in the percentage or total number of people with the following characteristics employed, referred for employment, classified, admitted for membership or admitted to apprenticeship or training programs:
 - Race,
 - Creed,
 - Religion,
 - Disability,
 - Color,
 - Sex,
 - National origin,
 - Age,
 - Occupation,
 - Marital status,
 - Political opinion,
 - Sexual orientation,
 - Personal appearance,
 - Familial status, or
 - Gender identity or expression.
 - (2) An employer, employment agency, labor organization or joint labor-management committee may adopt and maintain a voluntary affirmative action program.

- (e) *Howard County employees.* The Office of Human Rights or the Human Rights Commission may not take action with respect to any allegation of discrimination against the Howard County Government until the aggrieved individual has exhausted all of the individual's administrative remedies pursuant to Article VII of the Howard County Charter and any laws or regulations enacted pursuant to Article VII. Provided that all other requirements of section 12.212 have been met, any time requirements contained in subsection III (a)(2), (b)(3), and (d) of this section shall be stayed pending the outcome of the administrative action required by Article VII of the Howard County Charter.

(C.B. 2, 1983; C.B. 138, 1991; C.B. 74, 1995; C.B. 54, 2011, § 1; C.B. 14, 2014, § 1; C.B. 4, 2015, § 1)

State Law reference— Employment discrimination, Ann. Code of Md. art. 49B, § 14 et seq.

Sec. 12.209. - Unlawful law enforcement practices.

- I. *Definitions.* Words and phrases used in this section shall have their usual meanings except as defined below:
- (a) Discrimination/discriminatory means acting or failing to act, or unduly delaying any action regarding any person(s) because of:
- Race,
 - Creed,
 - Religion,
 - Disability,
 - Color,
 - Sex,
 - National origin,
 - Age,
 - Occupation,
 - Marital status,
 - Political opinion,
 - Sexual orientation,
 - Personal appearance,
 - Familial status, or
 - Gender identity or expression
- in such a way that the person(s) are adversely affected in the area of law enforcement.
- II. *Authority of Office of Human Rights To Receive Complaints.* The Office of Human Rights may receive any citizen's complaint involving discrimination against any law enforcement Officer

operating within Howard County if the complaint alleges any of the following categories or complaints that are defined and prohibited by law or regulation:

- (a) Police harassment; or
- (b) Excessive use of force in the performance of the Officer's duties; or
- (c) The Officer's use of language which would demean the inherent dignity of any person.

III. *Forwarding of Complaint to Law Enforcement Agency:*

- (a) *Forward complaints with merit.* If the Administrator of the Office of Human Rights finds that the allegations in the complaint may have merit, the Administrator shall forward a request for appropriate action to the law enforcement agency involved, with a copy to the State's Attorney.
- (b) *Contents of request to law enforcement agency.* The request to the law enforcement agency shall contain:
 - (1) The facts concerning the incident;
 - (2) The name of the law enforcement Officer(s) involved;
 - (3) The name and address of the complaining party of all witnesses;
 - (4) A copy of all information compiled by the Office of Human Rights.

IV. *Investigation by Law Enforcement Agency.* Upon request of the Office of Human Rights and when permitted by law, the law enforcement agency shall commence an investigation pursuant to the provisions of Subtitle 1 of Title 3 of the Public Safety Article of the Annotated Code of Maryland, and any other pertinent provisions of law, and upon its completion provide a report of the investigation to the Office of Human Rights.

(C.B. 2, 1983; C.B. 138, 1991; C.B. 54, 2011, § 1; C.B. 14, 2014, § 1; C.B. 4, 2015, § 1)

Sec. 12.210. - Unlawful public accommodations practices.

I. *Definitions.* Words and phrases used in this section shall have their usual meanings, except as defined below:

- (a) *Discrimination/discriminatory* means acting, or failing to act or unduly delaying any action regarding any person(s) because of:

Race,

Creed,

Religion,

Disability,

Color,

Sex,

National origin,

Age,

Occupation,

Marital status,

Political opinion,

Sexual orientation,
Personal appearance,
Familial status, or
Gender identity or expression

in such a way that the person(s) are adversely affected in the area of public accommodations.

(b) *Public accommodations* means any place which holds itself out as inviting the public to utilize its goods and services, whether or not for profit. Public accommodations does not include accommodations that are distinctly private or personal.

II. *Unlawful practices* means it shall be unlawful if, because of discrimination, an owner or operator (or his/her agent) of public accommodations denies any person any of the accommodations, advantages, facilities or privileges of such public accommodations.

III. *Exemptions*. This section shall not apply to:

(a) Those portions of a private club or similar establishment which is not in fact open to the general public, except to the extent that the facilities of such establishments are made available to the customers or patrons of an establishment within the scope of this section.

(b) Owner occupied establishments containing less than two rental rooms or apartments.

(C.B. 2, 1983; C.B. 138, 1991; C.B. 54, 2011, § 1; C.B. 14, 2014, § 1)

Sec. 12.211. - Unlawful financing practices.

I. *Definitions*. Words and phrases used in this section shall have their usual meanings except as defined below:

(a) *Discrimination/discriminatory* means acting or failing to act or unduly delaying any action regarding any persons because of:

Race,

Creed,

Religion,

Disability,

Color,

Sex,

National origin,

Age,

Occupation,

Marital status,

Political opinion,

Sexual orientation,

Personal appearance,

Familial status, or

Gender identity or expression

in such a way that such person or persons are adversely affected in the area of financing.

(b) *Dwelling:*

- (1) The whole or any part of a building, structure or mobile home occupied as, designed for or intended for occupancy as a residence by one or more families.
- (2) Land which is offered for sale or lease for the construction or location, in whole or in part, of any such building, structure or mobile home.

(c) *Lending institutions* means a bank, insurance company, savings and loan association, or other person or organization regularly engaged in the business of lending money or guaranteeing loans within Howard County.

II. *Unlawful Acts:*

(a) *Denial of loan.* It shall be unlawful if, because of discrimination, any lending institution denies a loan for purposes including, but not limited to:

- (1) The purchase, construction, improvement, repair or maintenance of a dwelling; or
- (2) The establishment or continuance of a business establishment; or
- (3) Personal purposes.

(b) *Conditions of loan.* It shall be unlawful if, because of discrimination, any lending institution discriminates against any person in the fixing of down payment, interest rate, duration or other terms or conditions of a loan.

(c) *Unlawful deposit of public funds:*

- (1) If the Commission has made a determination of reasonable cause to believe that a lending institution has engaged in a discriminatory practice and if the finding has been upheld by the court, it shall be unlawful for any governmental official whose responsibility it is to account for, invest or manage public funds to deposit public funds in that lending institution.
- (2) Upon the court's judicial enforcement of any order to restrain a discriminatory practice of a lending institution, or upon any order for the lending institution to cease or desist a discriminatory practice, the Administrator shall forward the name of the lending institution to all governmental officials in charge of public funds.
- (3) If public funds are on deposit in any lending institution, the governmental official in charge of the funds shall, upon notification from the Administrator that the lending institution is discriminating, withdraw the funds and redeposit them in another lending institution.
- (4) If, for reasons of sound economic management, this action will result in a financial loss to the County, the action may be deferred for up to one year.
- (5) If the Administrator notifies the government officials that the lending institution has corrected its discriminatory practices, any prohibition on the deposit of public funds is no longer applicable.

(C.B. 2, 1983; C.B. 138, 1991; C.B. 54, 2011, § 1; C.B. 14, 2014, § 1)

Sec. 12.212. - Unfair employment practices, unfair public accommodation practices, unfair law enforcement practices, unfair financing practices—Complaint, investigation, conciliation, decision and order, administrative hearing, subpoena power and enforcement.

I. *Complaint:*

- (a) *Right to file.* Any person claiming to be aggrieved by an alleged unlawful act in violation of this subtitle may file a complaint within six months after the alleged violation has occurred or has been discovered by the complainant.
- (b) *Form of complaint.* All complaints shall be filed in writing, under oath, and shall be upon a form provided by the Office.
- (c) *Where to file.* Complaints shall be filed with the Office of Human Rights.
- (d) *Content of complaint.* The complaint shall state the name and address of the complainant and the respondent and other pertinent information as required by the Administrator.
- (e) *Amendment of complaint.* The complainant may reasonably amend the complaint at any time after it is filed.
- (f) *Withdrawal of complaint.* The complainant may withdraw the complaint at any time by filing written notice with the Office.

II. *Settlement.* The parties may settle the complaint at any time.

III. *Investigation, Determination and Conciliation:*

(a) *Consideration of complaint:*

- (1) The Administrator shall consider all complaints filed.
- (2) Within 15 days of the filing of a complaint, the Administrator shall determine through analysis of law and preliminary investigation if the facts alleged are sufficient to establish that a violation of this subtitle may have occurred. The Administrator may contact the respondent in this determination.

(b) *Dismissal of complaint:*

- (1) If the Administrator determines that the facts alleged are insufficient to establish that a violation of this subtitle may have occurred, the Administrator shall dismiss the complaint.
- (2) If the complaint is dismissed, the Administrator shall send a dismissal letter by certified mail to the complainant stating the fact of dismissal, the reasons for dismissal and the process for the complainant to seek reconsideration of the Administrator's decision by the Human Rights Commission. The Administrator shall send a copy of the dismissal letter by certified mail to the respondent.
- (3) If the complainant seeks reconsideration of the Administrator's dismissal of the complaint, the complainant must send a letter to the Chairperson of the Human Rights Commission within 15 days of receipt of the dismissal letter stating the reasons the complainant disagrees with the dismissal of the complaint.
- (4) Within 15 days of the reconsideration request, the Chairperson of the Commission shall schedule a meeting with the complainant. The Commission shall send written notification of the date, place, and time of the meeting to the Complainant by certified mail. At least two other Commissioners shall be present at the meeting in addition to the Administrator and the Commission's legal advisor.
 - a. If the Chairperson and the Commissioners determine that the complaint should be investigated, the Chairperson shall so state in a letter to the Administrator with a copy to the complainant. The Administrator shall proceed with an investigation of the complaint.

- b. If the Chairperson and the Commissioners determine that the complaint should be dismissed, the Chairperson shall so state in a letter sent by certified mail to the complainant with a copy to the Administrator.
 - (5) If the Commission dismisses the complaint, and the complainant wishes to pursue the matter, the complainant may bring a suit seeking a declaratory judgment in the Circuit Court for Howard County.
 - (c) *Authorization of complaint for investigation.* If the Administrator determines that the facts alleged are sufficient to establish that a violation of this subtitle may have occurred, the Administrator shall authorize the complaint for investigation.
 - (d) *Determination after investigation.* Within 180 days of the authorization of a complaint for investigation, the Administrator shall issue written findings of the results of the investigation which shall state whether or not there is reasonable cause to believe that a violation of this subtitle may have occurred. Due to exigent circumstances, the time period may be extended for an additional 180 days at the discretion of the Administrator. The findings shall:
 - (1) Summarize the factual background of the case.
 - (2) Contain the basis for the finding of reasonable cause or no reasonable cause.
 - (3) Outline the next appropriate steps as provided in subsections 12.212III(e) and (f) of this subtitle.
 - (4) Be sent by certified mail to all parties.
 - (e) *Findings of reasonable cause and conciliation:*
 - (1) Within 30 days of a finding of reasonable cause to believe that a violation of this subtitle may have occurred, the Administrator shall attempt to rectify the violation by conference, conciliation and persuasion.
 - (2) Any conciliation agreement for elimination of the violation shall be reduced to a legally enforceable written instrument signed by the complainant, respondent and the Administrator or their authorized representatives.
 - (3) If no conciliation agreement is reached, the Administrator shall notify all parties by certified mail of the failure to conciliate and shall refer the matter to the Commission for a public administrative hearing under the provisions of subsection IV. below.
 - (f) *Findings of no reasonable cause.* With the finding of no reasonable cause to believe that a violation of this subtitle may have occurred, the Administrator will issue a decision and order:
 - (1) Advising the parties of their right, within 20 days of the finding, to request an administrative appeal hearing before the Commission;
 - (2) Detailing the method for requesting the hearing; and
 - (3) Requiring any prospective appellant to list the reasons for appeal.
- IV. *Administrative Hearings:*
- (a) *Failure to conciliate.* The Human Rights Commission shall hold an administrative hearing in case of failure to reach an agreement for the rectification of violations under subsection 12.212III(e) above.
 - (b) *After issuance of finding of no reasonable cause.* The Commission may hold an administrative hearing upon the request of any party if the Administrator has issued a finding of no reasonable cause.
 - (c) *Certification of file, transmittal of documents.* The Administrator shall certify the entire file and his/her finding and transmit the documents to the Commission.

- (d) *Distribution of complaint.* The Chairperson of the Commission shall send all parties a copy of the complaint requiring the respondent to answer the charges at a public hearing.
- (e) *Notice.* The Chairperson shall issue and serve on all parties a notice, by certified mail, giving the time and place of the public hearing before the Commission.
- (f) *Rules and procedure.* The Commission shall conduct the hearing in accordance with its rules of procedure and applicable law. All hearings are *de novo*.
- (g) *Oaths, subpoenas.* In the administration and enforcement of its duties, the Commission may administer oaths and issue subpoenas using the same standards and procedures as in subsection VI. of this section.
- (h) *Consideration of evidence; purpose.* The Commission shall consider all evidence to determine whether the respondent has engaged in act(s) which violate the provisions of this subtitle.
- (i) *Dismissal—Decision and order.* If the Commission finds that the respondent has not engaged in acts which violate the provisions of this subtitle, it shall issue a written decision and order, stating its findings of fact and ordering the dismissal of the complaint. The Commission shall serve each party with the decision and order.
- (j) *Violations; decision and order; appropriate action.* If the Commission finds that the respondent has engaged in acts which violate the provisions of this subtitle, it shall issue a written decision and order stating its findings, ordering the respondent to cease and desist from the act(s) and ordering appropriate action to carry out the purposes of this subtitle. The Commission shall serve each party with the decision and order.
 - (1) *Affirmative action.* The affirmative action ordered by the Commission may include, but is not limited to:
 - (i) Reinstatement or hiring of employees.
 - (ii) Back pay (payable by the employer, employment agency or labor organization responsible for the unlawful employment practice). The claimant's interim earnings (or amounts earnable with reasonable diligence) shall operate to reduce monetary relief otherwise allowable.
 - (iii) Reasonable and customary attorney's fees.
 - (iv) Nonmonetary relief.
 - (v) Any other equitable relief that is deemed appropriate.

V. *Appeal:*

- (a) *Right to appeal.* Within 30 days of the Commission's issuance of a decision and order, any party to the proceeding may appeal the decision and order to the Circuit Court of Howard County.
- (b) *Procedure.* Appeals shall be in accordance with the Maryland Rules of Procedure providing for appeals from administrative agencies.
- (c) *Legal representation.* The Commission shall be a party to all appeals and shall be represented at any such hearing by the County Office of Law.

VI. *Oaths and Subpoena Powers:*

- (a) *Administrator.* In the administration and enforcement of any of the provisions of this subtitle, the Administrator may administer oaths and issue subpoenas to compel:

The attendance and testimony of witnesses, and

The production of records and documents relevant and necessary for proceedings under this subtitle.

- (b) *Service of subpoena.* Any subpoena shall be forwarded for service to the sheriff or deputy sheriff of the political subdivision in which is located the residence of the person or the main office of the firm, association, partnership or corporation to whom the subpoena is issued.
- (c) *Enforcement of subpoena.* In case of disobedience to the subpoena, the Administrator, represented by the Office of Law, shall apply to a court of competent jurisdiction for an order to enforce the subpoena.

VII. *Injunctive Relief:*

- (a) *Civil action.* If, after the filing of a complaint, the Administrator reasonably believes that civil action to preserve the status quo or to prevent irreparable harm is advisable, the Administrator may bring any action necessary to preserve the status quo or to prevent the irreparable harm.
- (b) *Legal representation.* The Administrator shall be represented by the Office of Law.
- (c) *Circuit Court for Howard County.* Any action, including but not limited to an action to obtain temporary injunctive relief, shall be brought in the Circuit Court for Howard County.

VIII. *Enforcement.* If any respondent refuses to comply with a decision and order of the Commission, the Commission may bring an action in the Circuit Court for Howard County to enforce compliance with the decision and order.

(C.B. 2, 1983; C.B. 49, 1983; C.B. 41, 1988; C.B. 138, 1991; C.B. 4, 2015, § 1)

State Law reference— Civil actions for discriminatory acts, Ann. Code of Md. art. 49B, § 42.

Sec. 12.213. - Protection of processes and witnesses.

I. *Unlawful Acts.* It shall be unlawful for any person to:

- (a) Retaliate against another person; or
- (b) Cause or attempt to cause a second party to retaliate against a person; or
- (c) Coerce, or attempt to coerce, a second party to retaliate against a person because the person has:
 - (1) Lawfully opposed any act or failure to act that is in violation of this subtitle; or
 - (2) In good faith, filed a complaint, testified, participated or assisted in any way in a proceeding pursuant to this subtitle.

II. *Enforcement.* This section may be enforced by civil action.

(C.B. 2, 1983)

Sec. 12.214. - Confidential character of information related to investigation.

I. *Confidentiality during Investigations:*

- (a) *No publicity.* To the extent permitted by the State Public Information Act, during the investigation of any complaint alleging a violation of sections 12.207 to 12.211 of this subtitle and until matters related to the complaint reach the administrative hearing stage, the records of the Office and of the Commission related to the investigation are confidential.
- (b) *Exemptions.* The Administrator and members of the Commission shall hold confidential any information that would tend to disclose the identity of the complainant and respondent, except that:

- (1) Information may be released at any time if the complainant and the respondent agree in writing to release the information;
- (2) The identity of the complainant shall be disclosed, upon request, to the respondent;
- (3) The identity of the complainant and respondent may be made public after the parties have been notified that a hearing on their case has been scheduled; or
- (4) The Office may cooperate with Federal and State agencies and shall make available to such agencies its files and investigative data, if permitted or required to do so by State or Federal law or court order.

II. *Violations; Penalty:*

- (a) *Fine, imprisonment; civil penalty.* Any Commissioner or staff member in the Office who is convicted of violating provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined up to \$1,000.00 and/or imprisoned for up to 6 months. Alternatively or in addition to and concurrent with all other remedies, the County Solicitor may enforce the provisions of this section using civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this section shall be a Class A offense.
- (b) *Removal from office.* Any Commissioner who violates the provisions of this section shall be removed from office in accordance with section 903 of the Howard County Charter.
- (c) *Discharge of employee.* Any staff member who violates the provisions of this section shall be discharged in accordance with the Howard County Code and the Howard County Employee Manual.

(C.B. 2, 1983; C.B. 32, 1985; C.B. 53, 1994; C.B. 4, 2015, § 1)

Sec. 12.215. - Criminal penalties for falsification of documents, etc.

A person who:

- I. Falsifies any documents, records or reports that have been subpoenaed pursuant to this subtitle; or
- II. Willfully gives false testimony before the Commission or the Administrator; or
- III. Intimidates any witness, complainant or respondent in any proceeding before the Commission; shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of up to \$1,000.00 and/or imprisonment for up to six months.

(C.B. 2, 1983)

Sec. 12.216. - Civil penalties.

- (a) A person found to have engaged in any discriminatory act(s) in violation of this subtitle resulting in humiliation and mental anguish to the person(s) aggrieved by the discrimination shall be liable for the payment of a civil penalty to the aggrieved person(s).
- (b) (1) Except as provided in paragraph (2) of this subsection, civil penalties, recoverable in a civil action shall be up to \$1,000.00 damages plus reasonable attorney's fees.
- (2) Civil penalties, recoverable in a civil action for a violation of the employment discrimination provisions of section 12.208 of this subtitle or the public accommodations provisions of section 12.210 of this subtitle shall be up to \$5,000.00, plus reasonable attorney's fees.

(C.B. 2, 1983; C.B. 85, 1996)

Sec. 12.217. - Nonexclusive remedy.

- I. *Rights.* The provisions of this subtitle vest in all persons in Howard County the right to be free of any practices prohibited by this subtitle.
- II. *Action at Law.* Any person who is aggrieved by an act prohibited by this subtitle may bring an action in law or in equity in the Circuit Court for Howard County to seek damages, including counsel fees, redress of injury or injunctive relief arising out of any such prohibited act.
- III. *Termination of Administrative Process.* If the aggrieved person brings an action before the Circuit Court of Howard County, in a matter which is pending before Office or the Commission, the Office or Commission shall close the case and cease all proceedings on the matter.

(C.B. 2, 1983; C.B. 4, 2015, § 1)

State Law reference— Civil actions for discriminatory acts, Ann. Code of Md. art. 49B, § 42.

Sec. 12.218. - Separability.

The provisions of this subtitle are separable; and if any provision, sentence, clause, section, subsection or part thereof is held illegal, invalid or unconstitutional or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality or inapplicability shall not affect nor impair any of the remainder of the subtitle or its application to other persons or circumstances.

(C.B. 2, 1983)

SUBTITLE 3. - LOCAL CHILDREN'S BOARD

Sec. 12.300. - Local Children's Board established; staffing; purpose; general provisions.

- (a) *Board Established.* There is a Howard County Local Children's Board within the Department of Community Resources and Services. In this subtitle, the term "Board" shall mean the Howard County Local Children's Board.
- (b) *Staffing.* Except as provided in section 12.306(a) of this subtitle, the Department of Community Resources and Services shall provide staffing for the Board.
- (c) *Purpose of the Board.* The Board shall approve, oversee, and act as a neutral convener that facilitates interagency collaboration, youth empowerment and community engagement to create and implement a shared vision for children, youth and families in Howard County.
- (d) *General Provisions.* General provisions applicable to the Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 96, 1996; C.B. 12, 2002, § 2; C.B. 12, 2016, § 1; C.B. 5, 2019, § 1)

Editor's note— Section 1 of C.B. 76, 1995, repealed subtitle 3, § 12.300, relating to home for indigent sick and derived from the following Public Local Laws: 1880, ch. 423; 1888, art. 14, § 45; and 1930, § 74.

Sec. 12.301. - Membership of the Board; appointment.

- (a) *Appointment:*

- (1) Members of the Board shall be appointed by the County Executive and confirmed by the County Council.
 - (2) The Board may recommend individuals to fill a vacancy on the Board. The County Executive shall consider the individuals recommended by the Board, but need not fill a vacancy from the list of individuals recommended.
- (b) *Number of Board Members; Apportionment of Representation:*
- (1) The Board shall have at least 19 members and no more than 29 members.
 - (2)
 - (i) As practicable, the Board shall consist of a majority of public sector (ex-officio) representation and a minority of private sector representation.
 - (ii) At least 20 percent of the private sector representation shall be comprised of former consumers or family members of consumers of services for children, youth and families in Howard County.
- (c) *Qualifications of Members of the Board:*
- (1) Members of the Board shall demonstrate an interest in children's services. As far as is practicable, the Board shall reflect the gender, geographic, ethnic and racial makeup of the County.
 - (2) The membership of the Board shall reflect, as closely as is reasonable and practical, the profile contained in this paragraph.
 - (i) The members of the Board from the private sector may include:
 - a. A minimum of two youth members (ages 14-24) with one currently attending a Howard County Public School;
 - b. At least one individual representing private non-profit child-serving agencies;
 - c. At least one individual with business experience;
 - d. At least one individual from the faith community;
 - e. At least one individual representing the disability community;
 - f. At least one individual representing the health care community; and
 - g. At least one individual representing the mental health community.
 - (ii) The following ex officio members shall serve on the Board:
 - a. The Director of the local Department of Social Services;
 - b. The Superintendent of the Howard County Public School System;
 - c. The Supervisor of the Local Office of Juvenile Services;
 - d. The Health Officer;
 - e. The Chief of Police;
 - f. The State's Attorney;
 - g. The Director of the Department of Recreation and Parks;
 - h. The Director of the Department of Community Resources and Services;
 - i. The Director of the Department of Housing and Community Development;
 - j. The Regional Manager of the Local Child Care Administration;
 - k. The Administrator of the Office of Workforce Development; and
 - l. The Director of the Howard County Library System.

- (d) *Voting Members:*
 - (1) All members appointed to the Board shall be voting members.
 - (2) A simple majority, but no less than ten voting members of the Board shall constitute a quorum for the purpose of conducting business.
 - (3) In all matters before the Board, the members shall make every attempt to reach consensus prior to a vote being called.
- (e) *Terms of Members of the Board:*
 - (1) Except for youth members, the members of the Board shall serve staggered terms of five years. Youth members shall serve staggered terms of two years.
 - (2) Vacancies on the Board shall be filled in the same manner as the original appointment or for the unexpired term.
 - (3) At the end of the term a member of the Board, the member continues to serve until a successor is appointed.
 - (4) A member of the Board who is appointed to complete an unexpired term serves only for the rest of that term, unless the member is reappointed.
- (f) *Removal from Office:* In accordance with the provisions of section 903 of the Howard County Charter, a member of the Board may be removed for incompetence, misconduct, or failure to perform the duties of the position.
- (g) *Officers of the Board:*
 - (1) The Board shall elect Officers from among its members, to serve two-year terms as Officers.
 - (2) The Officers shall consist of a Chairperson, a Vice-Chairperson, and three Second Vice-Chairpersons.
 - (3) A member may not be elected to the same office for more than two consecutive terms.

(C.B. 96, 1996; C.B. 12, 2002, § 2; C.B. 12, 2016, § 1; C.B. 13, 2018, § 1; C.B. 5, 2019, § 1)

Sec. 12.302. - Meetings of the Board.

- (a) *Number and Place:* The Board shall meet a minimum of six times per year at the times and places it determines. The Board may meet more often for special meetings at the call of the Chairperson.
- (b) *Board Meetings Are Public:* All meetings of the Board shall be open to the public except when a meeting is closed as authorized under Federal or State law.

(C.B. 96, 1996; C.B. 5, 2019, § 1)

Sec. 12.303. - Committees of the Board.

- (a) *Committee Establishment and Structure:* The Officers of the Board may appoint committees of the Board as it deems necessary for the execution of the mission, purpose, and goals of the Board.
- (b) *Committee Membership:* Committee members may include members of the community or members of the Board and a Board member shall serve as committee chair.

(C.B. 96, 1996; C.B. 5, 2019, § 1)

Sec. 12.304. - Responsibilities and duties of the Board.

(a) *Responsibilities and Duties:* The Board shall:

- (1) Periodically conduct a needs assessment which identifies priorities, gaps in services, and areas of duplication;
- (2) Identify barriers to integration or access to services;
- (3) Prioritize, design, and implement strategies to achieve clearly defined results for families and children;
- (4) Maintain standards of accountability for locally agreed upon results for children and families;
- (5) Influence the allocation of resources across systems as necessary to accomplish desired results;
- (6) Coordinate children and family services within the County to eliminate fragmentation and duplication of services;
- (7) Create an effective system of services, supports and opportunities that improve outcomes for children, youth and families;
- (8) Operate based on locally agreed upon principles concerning service delivery;
- (9) Represent local residents, communities and state and local government; and
- (10) By April 1 of each year, submit a report to the County Executive and County Council describing the Board's activities in the previous fiscal year, assessing the Board's progress toward the goals and objectives for the previous fiscal year and stating the goals and objectives for the next fiscal year and making recommendations for any legislative and funding changes the Board deems necessary to accomplish the responsibilities and duties established by this section.

(b) *Limits on Powers of the Board:* The powers and duties granted to the Board may not be construed to authorize the Board to:

- (1) Preempt or supersede the regulatory authority of any State or County department or agency; or
- (2) Engage in any activity which is beyond the express powers of the Board.

(C.B. 96, 1996; C.B. 12, 2002, §§ 1, 2; C.B. 43, 2018, § 1; C.B. 5, 2019, § 1)

Sec. 12.305. - Conflict of interest.

(a) *Members and Employees of the Board:* Members and employees of the Board shall be subject to the Howard County public ethics law.

(b) *Conflict of Interest:*

- (1) A member of the Board shall declare the member's interest in any matter before the Board.
- (2) If there is any interest to a private sector member in a matter before the Board, the member may not participate in discussions or vote on the matter.

(c) The Board's subcontractor(s) or subgrantee(s) may not be paid consultants to the Board.

(C.B. 96, 1996; C.B. 12, 2002, § 2; C.B. 5, 2019, § 1)

Sec. 12.306. - In kind services.

(a) *Acceptance by the Board:* The Board may accept in-kind services of County departments or agencies for needs associated with the operation of the Board.

(b) *Consultants.* The Board may engage any necessary consultants.

(C.B. 96, 1996; C.B. 5, 2019, § 1)

Sec. 12.307. - Reserved.

Editor's note— C.B. 5, 2019, § 1, adopted March 8, 2019, repealed § 12.307, which pertained to panel to review operations of the Board and derived from C.B. 96, 1996; C.B. 12, 2002, § 2; C.B. 43, 2018, § 1.

Sec. 12.308. - Reserved.

Editor's note— C.B. 12, 2002, § 2, deleted former § 12.308, which pertained to termination, and derived from C.B. 96, 1996.

SUBTITLE 4. - DISABILITY ISSUES⁴⁴

Footnotes:

--- (4) ---

Editor's note— Subtitle 4, §§ 12.400—12.409, relating to rat control, derived from C.B. 46, 1973, was repealed by C.B. 17, 1981. Subsequently, a new sub. 4, §§ 12.400, 12.401, was added by C.B. 40, 1988.

Sec. 12.400. - Definitions.

Words and phrases used in this subtitle shall have their usual meanings, except as specifically defined in this section.

- (a) *Person with a disability* means an individual who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.
- (b) *Physical or mental impairment*:
 - (1) *Physiological* means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:
 - (i) Neurological;
 - (ii) Musculoskeletal;
 - (iii) Special sense organs;
 - (iv) Respiratory, including speech organs;
 - (v) Cardiovascular;
 - (vi) Reproductive;
 - (vii) Genitourinary;
 - (viii) Hemic and lymphatic;
 - (ix) Skin and endocrine;
 - (x) Digestive; and
 - (xi) Immune.

(2) *Mental or psychological* means any mental or psychological disorder such as:

- (i) Cognitive and developmental disabilities;
- (ii) Organic brain syndrome;
- (iii) Emotional or mental illness; and
- (iv) Specific learning disability.

Physical or mental impairment includes but is not limited to such diseases and conditions as orthopedic, visual speech and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; H.I.V. (AIDS) infections; heart disease; diabetes; drug addiction; alcoholism.

- (c) *Major life activities* means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- (d) *Has a record of such impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (e) *Is regarded as having an impairment:*
 - (1) Has a physical or mental impairment that does not substantially limit major life activities but is treated as if major life activities are limited:
 - (2) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward that impairment; or
 - (3) Has none of the impairments defined in this section, but is treated as having such an impairment.

(C.B. 40, 1988; C.B. 56, 2007, § 1; C.B. 14, 2014, § 1)

Sec. 12.401. - Commission on Disabilities.

- (a) *General Provisions.* General provisions regarding the following are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Membership.* There is a Commission on Disabilities consisting of 15 members.
- (c) *Qualifications:*
 - (1) At least 13 of the 15 members shall be residents of Howard County.
 - (2) All members shall:
 - (i) Have evinced a broad based interest in, and/or experience with, issues involving persons with disabilities; and
 - (ii) Be willing and able to commit time and effort to actively pursue the responsibilities of a working Commission.
 - (3) At least eight of the members of the Commission shall be persons with disabilities.
 - (4) Two members of the Commission shall be a Board or staff member of an agency providing services to persons with disabilities.
 - (5) Two members of the Commission shall be a relative of persons with disabilities.
- (d) *Meetings.* The Commission shall meet regularly at the call of the Chairperson or at the call of a majority of its members. The Committee shall meet as frequently as necessary to perform its duties, but at least six times a year.

- (e) *Staff.* The County Executive shall designate a disabilities issues coordinator who shall serve as Executive Secretary to the Commission and shall also serve as the 504 compliance monitor for the County.
- (f) *Rules and Regulations.* The Commission has the option of establishing committees for the proper and efficient performance of its duties. Committees may include nonmembers of the Commission.
- (g) *Records.* The records of the Commission's activities and the minutes of its meetings shall be kept on file and open to the public.
- (h) *Duties and Responsibilities:*
 - (1) *Public awareness.* The Commission on Disabilities shall:
 - (i) Listen to the concerns of persons with disabilities, their families, friends, service providers and interested citizens by holding public forums or hearings, and/or conducting surveys and studies.
 - (ii) Develop activities which will increase public awareness of the concerns and contributions in our community of persons with disabilities.
 - (iii) Promote equal rights and opportunities for all persons with disabilities, including identifying barriers to these rights and recommending necessary policies and actions to remove those barriers.
 - (2) *Advise on governmental programs, policies and budget.* The Commission on Disabilities shall:
 - (i) Review overall services and activities of governmental agencies providing services to persons with disabilities, including collecting data and reviewing reports and publications.
 - (ii) Advise the County Executive and County Council on the needs, inequalities, unmet needs, and gaps in such areas as housing, transportation, recreation, employment, education, community services, treatment, rehabilitation and related matters, which may preclude the full integration of persons with disabilities into the community.
 - (iii) Make recommendations to the County Executive and County Council regarding the impact of County Government policies, programs, services and facilities on persons with disabilities.
 - (iv) Make recommendations during the budget development process regarding the funding of programs for persons with disabilities; review the County Executive's budget recommendations for such programs and make recommendations prior to the budget's submission to the County Council.
 - (v) Identify and recommend to the County Executive and the County Council appropriate sources of State and Federal financial assistance for purposes of comprehensively assisting persons with disabilities.
 - (vi) Subject to section 22.1000 of the County Code, submit an annual report to the County Council and the County Executive which sets forth the status of citizens with disabilities and makes recommendations for the most effective delivery of services and programs, annual priorities for delivery of services to individuals and funding proposals as may be appropriate.
 - (vii) Advise the County Executive on other matters related to persons with disabilities.
 - (3) *Compliance.* The Commission on Disabilities shall assist the County Government in ensuring compliance with the requirements of Section 504 of the rehabilitation act of 1973 and the Americans with Disabilities Act of 1990.

(C.B. 40, 1988; C.B. 62, 1988; C.B. 127, 1991; C.B. 14, 2000; C.B. 56, 2007, § 1; C.B. 14, 2014, § 1; C.B. 43, 2018, § 1; C.B. 49, 2018, § 1)

SUBTITLE 5. - OLDER HOWARD COUNTIANS ACT

Sec. 12.500. - Office on Aging and Independence.

- (a) *General Provisions.* General provisions applicable to this Office are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Head.* The Administrator on Aging and Independence shall head the Office on Aging and Independence. The Office is under the general supervision of the Director of Community Resources and Services.
- (c) *Qualifications of Administrator on Aging and Independence.* The Administrator on Aging and Independence shall be thoroughly trained and experienced in the principles and practices of a social services program with considerable knowledge of the financial, social, educational, organizational and other special needs and problems of the elderly. The Administrator shall have had five years of increasingly responsible experience in social service or related work, two years of which shall have been in a managerial position dealing with the provision of services of the elderly.
- (d) *Duties and Responsibilities.* The Office shall:
 - (1) Develop, in cooperation with the Commission on Aging and with other County organizations, both public and private, a comprehensive County-wide annual plan for a coordinated system of health, social and community services for the aged, including housing and institutional and noninstitutional care, and present such plan to the County Executive. The annual plan shall include statements of the long- and short-term needs of the elderly in Howard County, the long- and short-term plans for serving those needs, and the proposed funding sources and administrative responsibility for these plans.
 - (2) Administer those programs and activities for the aged designated as the responsibility of the Office in the annual plan.
 - (3) Subject to existing law, review and coordinate all local programs and services, both public and private, insofar as they relate and are important to the well-being of the County's aged, including, but not limited to, programs and services in the areas of income, maintenance, public health, mental health, housing and urban development, employment, education, recreation and rehabilitation of persons with disabilities.
 - (4) Review and formulate policy recommendations to the County and County Council in reference to publicly funded plans and programs which have an impact on the aged.
 - (5) Consult with the County Commission on Aging on all matters pertaining to policy and programs prior to making recommendations to the Executive and County Council.
 - (6) After consultation with the Commission on Aging, present plans for programs for the elderly to the County Executive and County Council for budgetary approval.
 - (7) Consult with and advise the head of the principal departments of the County Government with respect to programs and services for the aged, for which they are primarily responsible.
 - (8) Cooperate with State, Federal and other local governmental units and agencies in effectuating the purposes of this subtitle.
 - (9) Establish and administer any programs or services deemed desirable by the Commission on Aging and the County Executive, under direction of the State Department of Aging or the provisions of the Older Americans Act, as amended.
 - (10) After prior consultation with the Commission on Aging and approval by the County Executive, apply for, accept and use any State or Federal funds, or other grant, fund and contributions, public or private, available for the purposes specified in this subtitle.

- (11) Prepare and submit to the County Executive a budget for the Office and the Commission on Aging in accordance with customary budget procedures.
 - (12) Subject to section 22.1000 of the County Code, prepare and submit an annual report to the County Executive and the County Council, setting forth the activities of the Office and the Commission on Aging in the preceding year, and its recommendations for legislation and funding.
 - (13) Initiate and carry out any appropriate action, where relevant, to implement the above objectives, or other related objectives, as they become necessary and are deemed appropriate.
 - (14) The Office shall be the principal County agency responsible for the development of services to the aged and the medium through which organizations exchange information, coordinate programs and engage in joint endeavors.
 - (15) *Other duties and responsibilities* . The Office shall perform such other functions as may be prescribed by directive of the County Executive or by law.
- (e) *Guardianship Responsibilities*. The Administrator may serve as guardian of persons pursuant to section 13-707 of the estates and trusts article of the Annotated Code of Maryland.

(C.B. 36, 1975; C.B. 62, 1988; C.B. 152, 1991; C.B. 14, 2014, § 1; C.B. 12, 2016, § 1; C.B. 43, 2018, § 1)

Editor's note— Section 2 of C.B. 36, 1975, reads as follows:

"Section 2. And be it further enacted by the County Council of Howard County, Maryland, that the present Director and staff and all funds heretofore appropriated to the Howard County Commission on Aging created by resolution No. 13, 1969 legislative session of the Howard County Council, and all assets and records of the aforesaid agency, shall, upon the effective date of this Act, be transferred to the Office on Aging as constituted hereunder."

Section 52 of C.B. 62, 1988 repealed subsection (a) and added new subsections (a—c). Section 53 renumbered existing subsection (b) as (d) and added paragraphs (14) and (15). The editor changed the word "Director" in the introductory paragraph of subsection (d) to "office." C.B. 62, 1988 is effective July 1, 1989.

Sec. 12.501. - Commission on Aging.

- (a) *General Provisions*. General provisions applicable to this Commission are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members* . There is a Howard County Commission on Aging composed of no more than 15 members.
- (c) *Qualifications of Members* :
 - (1) All members shall be residents of Howard County.
 - (2) A majority of members of the Commission shall be at least 55 years old.
 - (3) Members shall be selected because of their interest in the problems of the aging and shall be broadly representative of the citizens of the County.

- (d) *Executive Secretary.* The Administrator on Aging and Independence, or the Administrator's designee, shall serve as Executive Secretary of the Commission and shall attend all meetings of the Commission.
- (e) *Duties of the Commission on Aging:*
- (1) The Commission shall make such surveys concerning the problems of the aging as it may determine, or as directed by the Executive or the County Council, and promote in every manner possible the welfare and betterment of the aged people of the County.
 - (2) The Commission shall act as the advisory body to the Office on Aging and Independence and shall review and make recommendations concerning all new programs proposed by the Administrator on aging prior to their implementation.
 - (3) The Commission shall review the proposed budget of the Office on Aging and Independence and make such recommendations as it deems appropriate to the Administrator on aging and the County Executive, prior to its submission to the County Council.
 - (4) Other matters. At the directive of the County Executive or by resolution of the County Council, the Commission on Aging shall review and make recommendations on any matter related to older residents of the County.

(C.B. 36, 1975; C.B. 47, 1979; C.B. 2, 1981; C.B. 62, 1988; C.B. 30, 2005, § 1; C.B. 12, 2016, § 1)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

SUBTITLE 6. - SMOKING IN PUBLIC PLACES⁵¹

Footnotes:

--- (5) ---

Editor's note— C.B. 38 of 2006, §§ 1, 2, repealed former Subtit. 6, §§ 12.600—12.613, and enacted new provisions as herein set out. Former subtit. 6 pertained to similar subject matter and derived from C.B. 45, 1988; C.B. 56, 1993; C.B. 29, 1994.

Section 3 of C.B. 38 of 2006 provides as follows

"(a) Until June 1, 2007, an owner, operator, manager, or person in control of a bar or restaurant with a separately enclosed and ventilated bar area in existence on April 1, 2006 may permit smoking in its separately enclosed and ventilated bar area in accordance with the provisions of title 12, subtitle 6 of the Howard County Code in existence on April 1, 2006. (b) Until June 1, 2007, an owner, operator, manager or person in control of a bar or restaurant with a separately enclosed and ventilated bar shall comply with all other provisions of this Act; and (c) Effective June 1, 2007, an owner, operator, manager or person in control of a bar or restaurant with a separately enclosed and ventilated bar area in existence on April 1, 2006 shall fully comply with all provisions of this Act."

State Law reference— Clean Indoor Air Act, Ann. Code of Md., Health article, § 24-501 et seq.; local antismoking ordinances. Ann. Code of Md., Health article, § 24-510.

Sec. 12.600. - Findings and purpose.

- (a) The Howard County Council finds that secondhand tobacco smoke is a hazard to the health of the public.

- (b) The purpose of this subtitle is:
 - (1) To protect the public health, safety, and welfare by prohibiting the smoking of tobacco products in public places, at public meetings, in certain government vehicles, in places of employment, and within certain distances from entrances to public places; and
 - (2) To protect the public from involuntary exposure to smoke from tobacco products.

(C.B. 38, 2006, § 2)

Sec. 12.601. - Definitions.

Terms in this subtitle have the meanings indicated.

- (a) *Bar* means an establishment, portion of an establishment, or area of a restaurant licensed under the State Code Article 2B to serve alcoholic beverages for consumption by individuals on the premises and where serving food is only incidental to the consumption of alcoholic beverages. *Bar* includes a cocktail lounge.
- (b) *Electronic smoking device* means any product containing or delivering nicotine or any other substance that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or vape pen, or similar product name or descriptor for such a device.
- (c) *Employee* means an individual who:
 - (1) Works for an employer in consideration for direct or indirect monetary wages or profit; or
 - (2) Volunteers services for a nonprofit entity or business entity.
- (d) *Employer* means a person, partnership, corporation, nonprofit entity, or other business entity that employs the services of one or more individuals.
- (e) *Enclosed area* means an area that is bounded on all sides by walls that extend from the floor to the ceiling regardless of whether the walls contain doors, windows, or vents.
- (f) *Government vehicle* means each car, bus, truck, or van owned or leased by Howard County.
- (g) *Health care facility* means an office or institution where individual care or treatment of a physical, mental, emotional, physiological, or psychological illness or condition is provided including, but not limited to, a hospital, clinic, nursing home, assisted living facility, ambulatory health care facility, limited care facility, adult day care center, home for the aging or chronically ill, medical laboratory, and the Office of a physician, dentist, psychologist, psychiatrist, physiologist, podiatrist, optometrist, chiropractor, or optician.
- (h) *International "No Smoking" symbol* means a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.
- (i) *Outdoor seating area* means any patio, courtyard, sidewalk cafe, backyard or other outdoor area of a restaurant or bar where food and/or beverages are served and/or consumed.
- (j) *Partially enclosed* means an outdoor seating area where the circulation of outdoor air is obstructed by a temporary or permanent wall, tarp, shield, blind, or other kind of covering, exclusive of a temporary or permanent roof, ceiling, overhang, or overhead structure and the perimeter of the adjoining enclosed restaurant or business.
- (k) *Person* means an individual, corporation, partnership, business trust, limited liability company, or any other type of business entity.
- (l) *Place of employment* means an area within a building that employees normally frequent during the course of employment that is under the control of their employer, including, but not limited to, a work

area, employee lounge, restroom, conference and meeting rooms, class room, cafeteria, photocopy room, private offices, elevator, auditorium, medical facility, stairs and hallway.

(m) *Public meeting* means a meeting, wherever held, open to the public and having no membership restraints.

(n) *Public place* means:

(1) An enclosed area to or in which members of the public are invited or permitted, including, but not limited to:

(i) An auditorium;

(ii) A bar;

(iii) A beauty or barber shop;

(iv) A bowling alley;

(v) A building owned or leased by Howard County including, but not limited to, any part of a building that is owned, leased, or occupied by the County or a County agency;

(vi) A building used for or designed for the primary purpose of exhibiting a motion picture, stage, drama, lecture, musical recital, concert or other similar performance;

(vii) A business organization open to the public, including a retail store, bank, credit union, and other financial institution, office, factory, or any other private business, office, or organization;

(viii) A common area of an apartment building, condominium, retirement facility, or other multiunit residential facility including, but not limited to, a lobby, hallway, laundry facility, storage facility, exercise facility, restroom, or garage;

(ix) A convention hall;

(x) An elevator, regardless of capacity, except an elevator in a single-family dwelling;

(xi) A facility meeting the definition of an assembly occupancy as defined in the Howard County Fire Code;

(xii) A facility offering private, community or school based camp, or recreational programs to minors;

(xiii) A health care facility, including, but not limited to, waiting rooms, hallways, wards, and private and semiprivate sleeping rooms;

(xiv) A library, museum, and gallery;

(xv) A pool hall;

(xvi) A public or private educational facility;

(xvii) A public transportation facility, including, but not limited to, a ticket, boarding, and waiting area;

(xviii) A public transportation vehicle, including, but not limited to, a bus or taxicab;

(xix) A restaurant;

(xx) A restroom;

(xxi) A room, chamber, or place used for a public meeting;

(xxii) A service line;

(xxiii) A shopping mall including, but not limited to, the common areas, hallways, restrooms and storage facilities;

- (xxiv) A sleeping room, common area, or banquet hall of a hotel or motel including, but not limited to, a lobby, hallway, laundry facility, exercise facility, storage facility, restroom, or garage; and
- (xxv) A sports arena; and
- (2) An outdoor seating or viewing area that is used by the public:
 - (i) To observe a concert, motion picture, stage drama, lecture, musical recital, or other similar performance; or
 - (ii) To observe or participate in an athletic event including the bleacher area of a ball field or sports arena.
- (o) *Restaurant* means:
 - (1) A place that offers for sale or sells food and drink to the public, guests, patrons, or employees including, but not limited to, a coffee shop, fast-food establishment, cafeteria, sandwich stand, private or public school cafeteria; and
 - (2) A kitchen where food is prepared on the premises for serving elsewhere, such as a catering facility.
- (p) *Retail store* means:
 - (1) An establishment whose primary purpose is to sell or offer for sale to consumers goods, wares, merchandise, food for consumption off the premises, or other tangible items; and
 - (2) All related and incidental activities, operations, and services.
- (q) *Retail tobacco store* means a retail store that primarily sells or offers for sale tobacco products and accessories, and where the sale of other products is incidental.
- (r) *Service line* means an indoor line where one or more individuals wait for or receive service of any kind, whether or not the service involves the exchange of money.
- (s) *Shared government vehicle* means any vehicle used expressly for Howard County Government purposes that is not assigned to any one employee for exclusive use.
- (t) *Smoking* means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. "Smoking" also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this article.
- (u) *Sports arena* means a sports pavilion, gymnasium, health spa, boxing arena, swimming pool, roller rink, ice rink, baseball field, football field, soccer field and other similar places where members of the public assemble to engage in physical exercise, participate in athletic competition, or to witness sports events.
- (v) (1) *Tobacco product* means any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff.
 - (2) "Tobacco product" includes electronic smoking devices.
 - (3) Notwithstanding any provision of this subsection to the contrary:
 - a. "Tobacco Product" includes any component, part, or accessory of a tobacco product, whether or not sold separately; and
 - b. "Tobacco Product" does not include patches intended for smoking cessation.
- (W) *Vaping or to vape* means the act of using an electronic smoking device to deliver nicotine or other substances.

(C.B. 38, 2006, § 2; C.B. 28, 2015, § 1)

Sec. 12.602. - Prohibition.

Except as otherwise provided in this subtitle, a person shall not smoke:

- (a) In a public place;
- (b) At a public meeting;
- (c) In a shared government vehicle or in any government vehicle when occupied by more than one person; or
- (d) In a place of employment.

(C.B. 38, 2006, § 2)

Sec. 12.603. - Distance from a public place or place of employment.

Smoking is prohibited within a distance of 15 feet outside public entrances and exits of an enclosed public place or place of employment where smoking is prohibited, except this does not apply in the Ellicott City Historic District or to restaurants and bars with outdoor seating areas that comply with section 12.604.

(C.B. 38, 2006, § 2)

Sec. 12.604. - Exceptions to prohibition.

- (a) The prohibitions in section 12.602 do not apply to:
 - (1) A private club or lodge owned and operated by a membership association licensed under article 2B of the State Code if:
 - (i) The association's duties are performed by its members, including, but not limited to, food preparation and security; and
 - (ii) The members do not receive compensation for the performance of the association's duties;
 - (2) A sleeping room of a hotel or motel, as long as that hotel or motel maintains at least 75 percent of all of its sleeping rooms as smoke-free;
 - (3) Outdoor seating areas. Smoking may be allowed in an outdoor seating area, provided that such area shall:
 - (i) Adjoin an enclosed restaurant or bar; and
 - (ii) Has seating that constitutes no more than 40 percent of the total enclosed seating capacity of the establishment; and
 - (iii) Is not enclosed or partially enclosed; and
 - (iv) Is located in such a way to minimize the likelihood that smoke from the outdoor seating area will infiltrate enclosed areas where smoking is prohibited as provided by the provisions of this subtitle.
 - (4) Smoking as an integral part of a theatrical performance held in a facility primarily used for theatrical performances;
 - (5) A retail tobacco store provided, however, that smoke from the retail tobacco store does not infiltrate areas where smoking is prohibited under the provisions of this subtitle;

- (b) Notwithstanding any other provision of this section, an owner, operator, manager, or other person who controls an establishment subject to this section may declare the establishment as a nonsmoking establishment.

(C.B. 38, 2006, § 2)

Sec. 12.605. - Notification of smoking prohibition in places of employment.

The prohibition on smoking in places of employment shall be communicated to all existing employees by the effective date of this subtitle and to all prospective employees upon their application for employment.

(C.B. 38, 2006, § 2)

Sec. 12.606. - Posting signs.

- (a) An owner, operator, manager, or person in control of a building or area regulated by this subtitle shall post a sign at each entrance used by the public that shall:
 - (1) State "Smoking, Carrying Lighted Tobacco Products, or Vaping Prohibited by Law. Violators are subject to a penalty not to exceed \$250.00"; and
 - (2) Display the international "No Smoking" symbol and a "No Vaping" symbol.
- (b) Each sign shall be conspicuously displayed and have letters of not less than one inch in height.
- (c) An establishment that sells tobacco products shall clearly display signs stating that the sale of tobacco products to minors is forbidden by law.
- (d) The owner, manager, or operator of a theatre or auditorium shall post signs in the lobby stating that smoking is prohibited within the theatre or auditorium.

(C.B. 38, 2006, § 2; C.B. 28, 2015, § 3)

Sec. 12.607. - Responsibilities of owner, operator, etc.

- (a) An owner, operator, manager, or person in control of a public place or place of employment shall remove from any area where smoking is prohibited by this subtitle, all ashtrays and other smoking paraphernalia.
- (b) An owner, operator, manager, or person in control of a restaurant or bar where smoking is prohibited must refuse to serve or seat any person who smokes where smoking is prohibited and must ask the person to leave the establishment if the person continues to smoke after an initial warning.

(C.B. 38, 2006, § 2)

Sec. 12.608. - Enforcement.

- (a) A person who observes a violation of this subtitle may file a complaint with the Police Department.
- (b) If, during an inspection of a building or area regulated by this subtitle, an inspector from the State Fire Marshal's Office, the Department of Fire and Rescue Services, the Health Department, or the Department of Inspections, Licenses and Permits, observes a violation of this subtitle, the inspector may issue a citation under this subtitle.

(C.B. 38, 2006, § 2)

Sec. 12.609. - Nonretaliation.

A person or employer shall not discharge, refuse to hire, or in any manner retaliate against an employee or Applicant for employment because the employee or Applicant exercises the right to a smoke-free environment afforded by this subtitle.

(C.B. 38, 2006, § 2)

Sec. 12.610. - Penalties.

- (a) (1) If an individual smokes in violation of section 12.602 of this subtitle, a Police Officer may issue a civil citation to the individual pursuant to title 24, "Civil Penalties," of this Code.
- (2) A violation of section 12.602 of this subtitle is a Class C offense.
- (3) Each day that a violation continues is a separate offense.
- (b) (1) If an owner, manager, operator, or person in control of a public place or place of employment violates section 12.605, section 12.606, or section 12.607 of this subtitle, a Police Officer may issue a civil citation pursuant to the title 24, "Civil Penalties," of this Code.
- (2) A violation of section 12.605, section 12.606, or section 12.607 of this subtitle is a Class B offense.
- (3) Each day that a violation continues is a separate offense.

(C.B. 38, 2006, § 2)

Sec. 12.611. - Public education.

The Public Information Office and the Health Department shall engage in a program to explain and clarify the purposes and requirements of this subtitle to persons affected by it and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this subtitle.

(C.B. 38, 2006, § 2)

Sec. 12.612. - Provisions cumulative to other laws and regulations.

The provisions of this subtitle are in addition to the provisions of any other Federal, State, or County law, ordinance, rule, or regulation.

(C.B. 38, 2006, § 2)

Sec. 12.613. - Severability.

If any provision of this subtitle or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity shall not affect other provisions or any other application of this subtitle which can be given effect without the invalid provision or application, and for this purpose the provisions of this subtitle are severable.

(C.B. 38, 2006, § 2)

SUBTITLE 7. - WOMEN'S ISSUES⁹¹

Footnotes:

--- (6) ---

Editor's note— Subtitle 7 was renamed from "Commission for Women" to "Women's Issues" by C.B. 62, 1988, effective July 1, 1989.

Sec. 12.700. - Establishment.

There is hereby established the Commission for Women, hereinafter "the Commission." The Commission shall have as its purpose the promotion of economic, social and political equality of women.

(C.B. 45, 1980)

Sec. 12.701. - Membership.

- (a) *General Provisions.* General provisions applicable to the Commission for Women are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members:* The Commission shall consist of 12 voting members.
- (c) *Qualifications:*
 - (1) All members shall be residents of Howard County.
 - (2) Members shall be broadly representative of the citizens of Howard County and shall have an active interest in the purposes of the Commission.
 - (3) There may be an ex officio nonvoting member selected by the Chairperson of the Human Rights Commission from the current membership of that Commission to serve as liaison between the Human Rights Commission and the Commission for Women.
 - (4) One member shall be a high school student appointed by March 15 of each year to serve a term from July 1 through June 30, except that in 2009 the student member shall be appointed by June 1, 2009.
 - (5) All members, except for the student member, shall serve a five-year term.
 - (6) No member shall serve more than two consecutive terms.
 - (7) The Commission's student member appointee may observe the current student member during the remainder of that student member's term.
- (d) *Executive Secretary.* The Executive Secretary of the Commission shall be the Director of Community Resources and Services or the Director's designee. The Executive Secretary shall attend all meetings and assist with the administrative affairs of the Commission, including preparing and submitting to the County Executive the Commission's recommendation on an annual budget.
- (e) *Meetings.* The Commission shall meet at least once a month or on the call of the Chairperson.
- (f) *Records.* The Commission shall keep a record of its resolutions, transactions, findings and recommendations. It shall keep minutes of its proceedings, all of which shall be filed with the Executive Secretary.

- (g) *Annual Report.* Subject to section 22.1000 of the County Code, the Commission shall submit to the County Executive and County Council annual reports of its activities and the work carried on under its direction.

(C.B. 45, 1980; C.B. 2, 1981; C.B. 62, 1988; C.B. 14, 1993; C.B. 63-2008, 1-5-2009, eff. 3-10-2009; C.B. 12, 2016, § 1; C.B. 43, 2018, § 1)

Editor's note— Section 55 of C.B. 62, 1988, effective July 1, 1989, combined former §§ 12.701, 12.702 into a single § 12.701 and renumbered § 12.703 as § 12.702.

Sec. 12.702. - Powers and duties.

- (1) The Commission may conduct studies, review progress, recommend action and carry on activities in areas including, but not limited to, the following:
 - (a) Assembling, analyzing and disseminating information which will assist in changing attitudes, eliminating discriminatory behavior and meeting the needs of women and referring individual complaints of discrimination to the Office of Human Rights.
 - (b) Studying conditions which demonstrate inequalities and unmet needs concerning women and recommending procedures or legislation to remedy them.
 - (c) Giving impetus to expand educational and employment opportunities for women and publicizing activities and services of interest to women.
 - (d) Promoting a positive image of women and securing recognition of their accomplishments.
 - (e) Encouraging qualified women to seek appointive and elective office.
 - (f) Issuing position papers.
- (2) The County may accept gifts, contributions and bequests of property of any kind on behalf of the Commission.
- (3) The Commission shall advise the County Government on the solicitation and use of grants to fund programs deemed necessary by the Commission.
- (4) The Commission shall stimulate and encourage study and review of the status of women and may act as a clearinghouse for women's activities in Howard County.

(C.B. 45, 1980; C.B. 62, 1988)

Note— See the editor's note to § 12.701.

SUBTITLE 8. - HOWARD COUNTY ARTS COUNCIL

Sec. 12.800. - Declaration of purpose.

The County Council of Howard County, Maryland, hereby finds and declares:

- (a) That the encouragement and support of the arts, while primarily a matter for private and community initiative, is also an appropriate matter of active concern to the County Government.
- (b) That it is necessary and appropriate for the County Government to complement, assist, encourage and promote programs for the advancement of the arts by individuals, groups and organizations, both private and public, within the County.

- (c) That in order to implement these findings, it is desirable for the County Government to encourage and assist a private, independent, nonpartisan County Arts Council.

(C.B. 79, 1980)

Sec. 12.801. - Definitions.

For the purposes of this subtitle, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Arts Council means the appropriate entity established pursuant to the provisions of section 12.802 of this subtitle.

The arts include, without limitation, the acts of creating, writing, composing, designing, studying, interpreting, executing, performing, exhibiting and presenting music (instrumental and vocal); dance; drama; literature; poetry; painting; sculpture; graphics; craft and folk arts; and the selecting and exhibiting of such arts; photography; industrial design; costume and fashion design; motion pictures; television; radio; puppetry; tape and sound recording; architecture; publishing and printing of books, papers and media prints; the history, criticism, theory and practice of the arts and the study and application of the arts to the human environment.

(C.B. 79, 1980)

Sec. 12.802. - Establishment.

The County Government is hereby authorized and encouraged to assist to the extent possible the establishment of a County-based, nonprofit organization to develop, promote and coordinate a County-wide effort for the support, encouragement and performance of the arts in the County.

(C.B. 79, 1980)

Sec. 12.803. - Membership and organization.

- (a) Membership in the Arts Council shall be open to all private and public agencies, organizations and individuals who are interested in, support, participate in, contribute to or generally enhance and promote the arts in the County. Membership in the Arts Council shall be nonpartisan and shall include representation from various areas and elements of the community.
- (b) Governance of the Arts Council shall be vested in a Board of Directors, which shall be elected in an open procedure after adequate public notice. Such notice shall include publication in at least one newspaper published in the County and notification, so far as possible, to all known arts organizations and to business, professional and community groups which may be interested in promoting or sponsoring arts activities in the County. The Board shall be elected under rules of procedure that will best assure that individual arts organizations are not disproportionately represented and that members include or represent:
- (1) Private citizens, organizations and groups who are recognized for their knowledge of or for their interest in the arts;
 - (2) Practicing artists, both professional and amateur;
 - (3) The various disciplines encompassed within the arts;
 - (4) The general public, with representation from minority interests, community groups and organizations which sponsor or may sponsor arts activities or events, the business and professional community, and government agencies with activities or facilities relevant or useful to the arts.

- (c) To avoid conflicts of interest, or the appearance thereof, the bylaws of the Arts Council shall provide that any of its members who are closely connected with, or are Officers of, an arts organization requesting funding from the Arts Council shall abstain from voting on grants for such organizations.

(C.B. 79, 1980)

Sec. 12.804. - Recognition requirements; recognition by County Council; withdrawal of recognition.

- (a) Any organization seeking recognition as the County Arts Council under this subtitle shall submit to the County Council an application which includes:
- (1) A general description of its membership and of the actions which have been and are being taken to obtain members;
 - (2) A copy of its Charter and bylaws;
 - (3) A listing of its Officers and Directors, together with a full explanation of the method followed to select the same, including the notification and publication procedure, the organizations and individuals notified, and the membership of and procedures and criteria employed by any nominating committee or similar group which undertook to evaluate candidates for office;
 - (4) A statement of the criteria and procedures which the organization proposes to use in awarding grants, including the categories of eligible recipients, the provisions to assure that there will be adequate public advertising and notification to potential Applicants, and the procedures to provide for timely action on grant requests and prompt notification of approvals or disapprovals with appropriate explanations;
 - (5) A statement of the general nature of, and the manner in which the Arts Council proposes to provide services to local artists and art organizations, including the place or places from which those services will be provided, the extent to which the Arts Council expects to use paid staff, volunteer services, or services provided by the County Government or other organizations, and including also a job description for the person who will serve as principal staff Officer;
 - (6) A statement of the procedures, including procedures for an Advisory Board of Local Arts organizations and for other membership and public participation, to be followed in developing and carrying out a County arts program that will include the elements specified in subsection (b).
- (b) Any organization seeking recognition as the County Arts Council shall endeavor to develop and carry out a program of services and financial assistance that will include at least the following activities:
- (1) Arts coordination and promotion activities, to include making and publishing an inventory of local artists and art groups, helping coordinate arts events through a continuing calendar or other means, publicizing local arts events and activities, acting to expand exhibition and performance opportunities, and providing to the local arts community representation services, appropriate administrative support, and technical assistance, consultation and advice;
 - (2) Arts facilities activities, to include developing an inventory of and a program for expanding the facilities available for visual and performing arts in various areas of the County, with appropriate steps to increase the flexibility of existing facilities and to encourage the donation or low-cost availability of school and other public and private facilities;
 - (3) Community service activities, to include actions to make art experiences available to groups and areas who would otherwise be excluded because of income, location or lack of mobility, to provide art education opportunities not otherwise available, and to encourage the use of art resources in support of community service activities of local government and private organizations;

- (4) Arts financing activities, to include making a continuing evaluation of the grants program, encouraging expanded business and private support for the arts, developing budget and grant requests that will reflect diverse needs within the community, helping arts groups improve their budgeting, financing and fundraising procedures, and making a general assessment of the financial needs of the arts in Howard County that will be useful in public and private planning.
- (c) On the basis of the submissions made under this section, the County Council, after receiving the recommendations of the County Executive, may by resolution and after a public hearing recognize the Applicant as the County Arts Council. This recognition shall be provisional until such time, within two years, as the Arts Council submits evidence that it has a program in accordance with subsection (b), and the County Council, after reviewing the activities completed, underway and planned, approves the submission as satisfactory.
- (d) It shall be a condition of continued recognition under this subtitle that the Arts Council shall establish an adequate system for maintaining and updating its arts program, with reasonable annual goals and priorities, and that it make, at least annually, a written report to the County Council and the public on its progress and problems in carrying out its responsibilities.
- (e) The County Council may by resolution and after public hearing withdraw its recognition of the Arts Council, if it deems that the Arts Council has ceased to fulfill the recognition requirements of this section.

(C.B. 79, 1980)

Sec. 12.805. - Support from County and State government.

- (a) The County Government is authorized to provide administrative and financial support, within the limits of available funds, to the Arts Council, including but not limited to grants for local arts activities, the provisions of public facilities, and such other appropriate assistance as may be legally authorized.
- (b) The Arts Council shall be the designated recipient of the funds allocated to Howard County from the Maryland State Arts Council's State/County partnership program and other similar programs.

(C.B. 79, 1980)

Sec. 12.806. - Arts and cultural activities in the Baltimore City area.

- (a) *Funding for Baltimore City Programs and Activities.* There are many arts programs and cultural activities located in Baltimore City which serve residents of the surrounding counties in addition to the residents of the city. Howard County has long recognized that a portion of its arts funding should be reserved for these city programs and facilities which serve Howard County residents and has made grants to these institutions.
- (b) *Role of Arts Council.* In addition to other duties set forth in this subtitle, the Arts Council may be designated to forward grants, on behalf of the County, to arts programs and cultural activities in Baltimore City which serve Howard County residents. The County Executive shall seek the advice of the Arts Council in:
 - (1) Determining which programs and activities shall receive grants; and
 - (2) How much each program or activity shall receive.

(C.B. 44, 1993)

SUBTITLE 9. - DEPARTMENT OF COMMUNITY RESOURCES AND SERVICES^[7]

Footnotes:

--- (7) ---

Editor's note— Subtitle 9, §§ 12.900—12.902, was added by C.B. 62, 1988, effective July 1, 1989. C.B. 12, 2016, changed the title of Subtitle 9 from "Department of Citizen Services" to "Department of Community Resources and Services."

Sec. 12.900. - General provisions.

General provisions applicable to this Department are set forth in subtitle 2, "Administrative Departments and Offices" of title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 62, 1988)

Sec. 12.901. - Department of Community Resources and Services.

- (a) *Head*: The Director of Community Resources and Services shall head the Department of Community Resources and Services.
- (b) *Qualifications of the Director* . The Director shall be thoroughly trained and experienced in the principles and practices of human services and their administration. The Director shall have had at least ten years of increasingly responsible experience in human services administration, including a minimum of five years in a managerial position.
- (c) *Duties and Responsibilities* . The Department is responsible for the County's human services programs, including but not limited to:
 - (1) Overall supervision of program development and operations for the following functions:
 - (i) Aging.
 - (ii) Consumer protection.
 - (iii) Children and family services.
 - (iv) Support services for veterans.
 - (v) Services for persons with disabilities.
 - (vi) Community partnerships.
 - (vii) Coordination of the Americans with Disabilities Act.
 - (viii) Selected emergency management responsibilities.
 - (ix) Administering the Plan to End Homelessness.
 - (2) *Other duties and responsibilities* . The Department shall perform such other functions as may be prescribed by directive of the County Executive or by law.
 - (3) *Setting of fees* . The Department may set fees for programs, which may include the establishment of a procedure for payment of a reduced fee based upon a participant's financial ability to pay.
- (d) *Authority to Adopt Regulations* . The Director may adopt regulations to establish eligibility for those County Government human service programs that provide financial support for elderly, disabled, or low or moderate income individuals, families and households and the requirements of the

Administrative Procedure Act as defined in title 2 of the Howard County Code shall be followed with regard to the adoption of the regulations described in this subsection.

(C.B. 62, 1988; C.B. 151, 1991; C.B. 6, 1992; C.B. 33, 2000; C.B. 42, 2006, § 1; C.B. 12, 2016, § 1)

Sec. 12.902. - Reserved.

Editor's note— Section 12.902 was renumbered § 13.404 by C.B. 151, 1991.

SUBTITLE 10. - ALCOHOL AND DRUG ABUSE⁶¹

Footnotes:

--- (8) ---

Editor's note— C.B. No. 67, 1989, added subtitle 9, § 12.900, to title 12. The editor has redesignated the provisions as subtitle 10, § 12.1000, since C.B. 62, 1988 had previously added subtitle 9.

Sec. 12.1000. - Local Behavioral Health Advisory Board.

- (a) *General Provisions.* General provisions applicable to the Local Behavioral Health Advisory Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code:
- (b) *Number of Members.* The Board shall have 18 appointed members and 10 ex officio members.
- (c) *Ex Officio Members.* The ex officio members shall be:
 - (1) The Chief of Police or the Chief's designee;
 - (2) The Superintendent of the Public School System or the Superintendent's designee;
 - (3) The Director of the Department of Community Resources and Services, or the Director's designee;
 - (4) The Administrative Judge of the Circuit Court (5th Judicial District) or the judge's designee, who shall be a judge from the district or circuit courts in Howard County;
 - (5) The Director of the Department of Corrections or the Director's designee;
 - (6) The State's Attorney or the State's Attorney's designee;
 - (7) The Director of the Local Department of Social Services or the Director's designee;
 - (8) The District Public Defender for the 5th Judicial District or the District Public Defender's designee;
 - (9) The Regional Director of the Department of Juvenile Services, or the Director's designee; and
 - (10) The Regional Director of the Division of Parole and Probation, or the Director's designee.
- (d) *Qualifications of the Appointed Members:*
 - (1) Seven members shall be family members of an individual who has experienced a behavioral health condition of which:
 - a. Three members shall be the family members of an individual with a mental health condition;

- b. Three members shall be the family members of an individual with a substance use disorder; and
 - c. One member shall be the family member of an individual with either a mental health condition or a substance use disorder;
- (2) Seven members shall be consumers of behavioral health treatment services of which:
- a. three members shall be the consumers of mental health treatment services;
 - b. three members shall be the consumers of substance use disorder treatment services; and
 - c. One member shall be the consumer of either mental health treatment services or substance use disorder treatment services;
- (3) Two members shall be advocates or behavioral health professionals that provide education, treatment, or prevention of which:
- a. One member shall be a mental health professional; and
 - b. One member shall be a substance use disorder professional; and
- (4) Two members shall be members of the general public of which one shall have interest in mental health and one shall have interest in substance use disorders.
- (e) *Staff Support.* The Health Department shall provide staff support to the Board.
- (f) *Meetings.* The Board shall meet at least nine times per year. Special meetings may be held at any time, at the call of the chair or upon written request of at least six members.
- (g) *Quorum.* A quorum shall consist of a majority of members.
- (h) *Duties and Responsibilities .* The Local Behavioral Health Advisory Board's mission is to advise the County Health Officer and the County Executive in their responsibility to plan, manage, and monitor behavioral health programs and services for Howard County residents. The Board shall:
- (1) Serve as advocates for clients/consumers/family members in need of short and long-term care in the local behavioral health community;
 - (2) Coordinate with and support the efforts of individuals and community organizations on behavioral health;
 - (3) Make recommendations as needed to the County Health Officer and County Executive concerning behavioral health topics, including:
 - (i) Best-in-class services and facilities;
 - (ii) Education and treatment;
 - (iii) Strengths and weaknesses of existing and new opportunities to provide Howard County residents with behavioral health related resources and services;
 - (4) Proactively or at the direction of the County Executive or by resolution of the County Council, review and make recommendations on any matter related to local behavioral health needs;
 - (5) Subject to section 22.1000 of the County Code, prepare an annual report submitted to the County Health Officer, County Executive, and the County Council on the local behavioral needs and resources available in the community; and
 - (6) Carry out any other duty or responsibility assigned by law.
 - (i) *Designation under State law .* The Local Behavioral Health Advisory Board shall serve as Howard County's Local Drug and Alcohol Abuse Council, as provided by Section 8-1001 of the Health General Article of the Annotated Code of Maryland.

(C.B. 67, 1989; C.B. 91, 1991; C.B. 106, 1992; C.B. 73, 1993; C.B. 9, 2003, § 1; C.B. 10, 2004, § 1; C.B. 77, 2004, § 1; C.B. 54, 2008, § 1; C.B. 13, 2018, § 1; C.B. 43, 2018, § 1; C.B. 7, 2019, § 1)

Secs. 12.1001—12.1099. - Reserved.

SUBTITLE 12. - PLACEMENT OF TOBACCO PRODUCTS

Sec. 12.1200. - Purpose.

The Howard County Council finds and declares that tobacco products are a hazard to the health of the general public, especially youth, and that tobacco products should be made accessible at retail places only through the intervention of the retail seller or seller's employee.

(C.B. 51, 2000)

Sec. 12.1201. - Placement of tobacco products.

- (a) A retail seller of any tobacco product must not display or store the product in any place that is accessible to buyers of the product without the intervention of the seller or an employee of the seller.
- (b) Tobacco product means any substance containing tobacco, including cigarettes, cigars, smoking tobacco, snuff or smokeless tobacco.
- (c) This section does not apply to:
 - (1) The sale of any tobacco product from a vending machine that complies with all requirements of State law; and
 - (2) Any store where only or primarily tobacco products are sold.

(C.B. 51, 2000)

Sec. 12.1202. - Enforcement.

- (a) An owner or person in charge of a retail establishment covered by this subtitle shall comply with all the requirements herein.
- (b) Any citizen who desires to register a complaint under this subtitle may file a complaint with the County Health Officer.
- (c) If, during routine inspections of retail establishments covered by this subtitle, the County Department of Fire and Rescue or Inspectors under the County Health Officer or the Board of License Commissioners find that the requirements of this subtitle are not being met, they shall report such noncompliance to the Health Officer.

(C.B. 51, 2000)

Sec. 12.1203. - Penalties.

- (a) It shall be unlawful for a person to store or display tobacco products in a retail establishment if not in compliance with the provisions of this subtitle.
- (b) A violation of this subtitle is a civil offense and is subject to a penalty based on the following schedule and costs:

First Offense	\$250.00 fine imposed on offender and offender is given two weeks to comply with the provisions of this subtitle before being subject to a fine for a second offense
Second Offense	500.00 fine imposed on offender
Third Offense	750.00 fine imposed on offender
Fourth Offense	1,000.00 fine imposed on offender

(C.B. 51, 2000)

SUBTITLE 13. - DISTRIBUTION OF TOBACCO PRODUCTS TO MINORS⁽¹⁰⁾

Footnotes:

--- (10) ---

State Law reference— Distribution of tobacco product or paraphernalia to minor, Ann. Code of Md., Criminal Law article, § 10-107.

Sec. 12.1300. - Definitions.

In this subtitle the following words have the meanings indicated:

- (a) *Distribute* means to:
 - (1) Give away, sell, deliver, dispense, or issue;
 - (2) Offer to give away, sell, deliver, dispense, or issue; or
 - (3) Cause or hire any person to give away, sell, deliver, dispense, or issue or offer to give away, sell, deliver, dispense, or issue.
- (b) *Employee* means an individual employed by an owner.
- (c) *Minor* means an individual under the age of 18.
- (d) *Owner* means a person engaged in the business of selling or otherwise distributing tobacco products for commercial purposes.
- (e) *Tobacco product* means any substance containing tobacco, including cigarettes, cigars, smoking tobacco, snuff, or smokeless tobacco.

(C.B. 14, 2001)

Sec. 12.1301. - Unlawful distribution.

- (a) A person engaged in the business of selling or otherwise distributing tobacco products for commercial purposes shall not:
 - (1) Distribute any tobacco product to a minor, unless the minor is acting solely as the agent of the minor's employer who is engaged in the business of distributing tobacco products;
 - (2) Distribute cigarette rolling papers to a minor; or
 - (3) Distribute to a minor a coupon redeemable for any tobacco product.
- (b) A person, who is not a person described under subsection (a) of this section, shall not:
 - (1) Buy for or sell to a minor any tobacco product; or
 - (2) Buy for or sell to a minor cigarette rolling papers.
- (c) This section does not apply to the distribution of a coupon which is redeemable for any tobacco product when the coupon is contained in a newspaper, a magazine, or any other type of publication in which the coupon is incidental to the primary purpose of the publication, or sent through the mail.
- (d) A person has not violated this section if:
 - (1) The person examined a driver's license or another valid identification issued by an employer, a government entity, or an institution of higher learning; and
 - (2) The license or other identification identified the buyer or recipient of a tobacco product as being at least 18 years old.
- (e) If a minor bought a tobacco product from a vending machine, this section does not apply to the owner of the vending machine or any other person with control over the vending machine.

(C.B. 14, 2001)

Sec. 12.1302. - Enforcement and penalties.

- (a) This subtitle shall be enforced by the Health Officer.
- (b) A person who believes that a violation of this subtitle has occurred may file a complaint with the Health Officer.
- (c) A person who violates subsection 12.1301(a) of this subtitle is subject to a civil penalty under title 24 of this Code, as follows:
 - (1) A violation by an owner is a Class B offense, and a subsequent violation within one year is a Class A offense;
 - (2) A violation by an employee is:
 - i. For the employee a Class D offense, and for a subsequent violation within one year a Class C offense; and
 - ii. For the owner a Class B offense, and for a subsequent violation within one year a Class A offense.
- (d) A violation of subsection 12.1301(b) of this subtitle is a Class D offense.
- (e) For the purposes of this section, a subsequent violation means a separate and distinct action at a different time and occasion.

(C.B. 14, 2001)

SUBTITLE 14. - DISTRIBUTION OF TOBACCO PRODUCTS

Sec. 12.1400. - Purpose.

The distribution of tobacco products, free of charge, particularly at public gatherings, increases the accessibility of tobacco products to minors. The purpose of this bill is to eliminate the accessibility to minors by prohibiting the distribution of free tobacco products.

(C.B. 10, 2003, § 1)

Sec. 12.1401. - Definitions.

In this subtitle the following words have the meaning indicated:

(a) *Tobacco product* means:

- (1) Any substance containing tobacco, including cigarettes, cigars, smoking tobacco, snuff, or tobacco in any other form that may be chewed or held in the mouth or inhaled through the nostrils.
- (2) Any tobacco or nicotine product that is now, or in the future, defined in subtitle 1 of title 10 of the Criminal Law Article of the Maryland Annotated Code and made illegal to distribute to a minor.

(b) *Distribute* means to give, dispense, issue, deliver or offer to give dispense, deliver or issue; or to cause or hire any person to give, dispense, issue, deliver or offer to give, dispense, deliver or issue.

(C.B. 10, 2003, § 1)

Sec. 12.1402. - Prohibited.

A person who distributes tobacco products for commercial purposes, including a person licensed under title 16 of the Business Regulation Article of the Maryland Annotated Code, may not distribute a tobacco product free of charge, to any consumer.

(C.B. 10, 2003, § 1)

Sec. 12.1403. - Enforcement and penalties.

- (a) This subtitle shall be enforced by the Health Officer or Health Officer's designee.
- (b) A person who believes that a violation of this subtitle has occurred may file a complaint with the Health Officer.
- (c) A person who violates section 12.1402 of this subtitle is subject to a civil penalty under title 24 of this Code, as follows:

An initial violation is a Class C offense and a subsequent violation within one year is a Class B offense.

- (d) For the purpose of this section, a subsequent violation means a separate and distinct action at a different time and occasion.

(C.B. 10, 2003, § 1)

Sec. 12.1404. - Severability.

If any portion of this subtitle is held invalid or unconstitutional by a court of competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision; and the holding shall not affect the validity of the remaining portions of the subtitle.

(C.B. 10, 2003, § 1)

SUBTITLE 15. - SERVICES FOR CHILDREN AND FAMILIES⁽¹¹⁾

Footnotes:

--- (11) ---

Editor's note— Section 1 of Council Bill 12, 2016, adopted April 14, 2016, amended subtitle 14 in its entirety to read as herein set out. Former subtitle 15, § 12.1500, pertained to children's services, and derived from C.B. 11, 2003, § 2.

Sec. 12.1500. - Office of Children and Families.

- (a) *Office* . There is an Office of Children and Families in the Department of Community Resources and Services.
- (b) *General Provisions* . General provisions applicable to this Office are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (c) *Head* . The Administrator of Children and Families shall head the Office of Children and Families. The Office and the Administrator are under the general supervision of the Director of Community Resources and Services.
- (d) *Qualifications of Administrator* . The Administrator of the Office shall be thoroughly trained and experienced in the principles and practices of a social services program with considerable knowledge of the financial, social, educational, organizational and other special needs and problems of children and youth. The Administrator shall have had five years of increasingly responsible experience in social service or related work, two years of which shall have been in a managerial position dealing with the provision of services for children, youth and families.
- (e) *Duties and Responsibilities* . Under the direction of the Director of Community Resources and Services, the Office of Children and Families shall:
 - (1) Develop, in cooperation with other County organizations, both public and private, a comprehensive County-wide annual plan for a coordinated system of health, social and community services for children and youth. The system will provide an integrated continuum of care and services that is child centered and family oriented the annual plan shall be presented to the County Executive and include statements of the long- and short-term needs of children and youth in Howard County, the long- and short-term plans for serving those needs, and the proposed funding sources and administrative responsibility for these plans.
 - (2) Consult with the Howard County Local Children's Board on all matters pertaining to policy and programs prior to making recommendations to the County Executive and County Council.
 - (3) Monitor the delivery of services for programs funded through the Howard County Local Children's Board to ensure access to effective programs, track outcomes, and track expenditures for reporting on service delivery.

- (4) Subject to existing laws, review and coordinate all local programs and services, both public and private, insofar as they relate and are important to and promote the well-being of the County's children and youth.
 - (5) Review and formulate policy recommendations for the County Executive and County Council in reference to publicly funded plans and programs that have an impact on children and youth.
 - (6) Cooperate with State, Federal and other local governmental units and agencies in effectuating the purposes of this subtitle.
 - (7) Work collaboratively with the Local Children's Board and with the approval of the County Executive, apply for, accept and use any State or Federal funds, or other grant, fund and contributions, public or private, available for the purposes specified in this subtitle.
 - (8) Prepare and submit to the County Executive a budget for the Office and Local Children's Board in accordance with customary budget procedures.
 - (9) Subject to section 22.1000 of the County Code, prepare and submit an annual report to the County Executive and the County Council, setting forth the activities of the Office and the Local Children's Board in the preceding year, and the Office's recommendations for legislation and funding.
 - (10) Initiate and carry out any appropriate action, where relevant, to implement the above objectives, or other related objectives, as they become necessary and are deemed appropriate.
 - (11) In collaboration with the Local Children's Board, be the principal County agency, outside the Howard County Public School System, responsible for the development of services to the children and youth and the medium through which organizations exchange information, coordinate programs and engage in joint endeavors.
 - (12) Perform such other functions as may be prescribed by directive of the Director of Community Resources and Services, the County Executive or by law.
- (f) *Staffing of the Howard County Local Children's Board* . The Administrator of the Office of Children and Families shall be responsible for providing staff support for the Howard County Local Children's Board.

(C.B. 12, 2016, § 1; C.B. 43, 2018, § 1)

SUBTITLE 16. - COLLECTION OF COMMERCIAL GARBAGE DUMPSTERS

Sec. 12.1601. - Nighttime collection prohibited.

- (a) *Findings*. Noise caused by emptying commercial dumpsters is disturbing to residents in the vicinity and is particularly detrimental during nighttime hours.
- (b) *Authority*. This section supplements other State and local laws regulating noise. Section 3-105 of the Environmental Article of the Maryland Annotated Code specifically allows local noise control ordinances as long as they are not less stringent than adopted by the State rules and regulations.
- (c) *Prohibition*. It shall be unlawful to collect, arrange for, or permit the collection of garbage, trash, or refuse from a commercial dumpster located within 500 feet from the property line of a parcel of property containing a residential dwelling between the hours of 10:00 p.m. and 7:00 a.m.
- (d) *Dumpster Posting Requirements*. Any person leasing, owning, or otherwise using a commercial garbage dumpster located within 500 feet from the property line of a parcel of property containing a residential dwelling shall attach a notice that lists prohibited hours of garbage collection and a responsible contact to notify of any violation.
- (e) *Penalties*:

- (1) In addition to all remedies provided by law, any person violating subsection (c) above may be issued a civil citation and is subject to civil penalties pursuant to title 24 "Civil Penalties" of the Howard County Code as follows:
 - a. A first violation shall be a Class D offense;
 - b. A second violation shall be a Class A offense; and
 - c. Any subsequent violation shall be subject to the maximum fine of a Class A offense.
- (2) A violation of the notification requirements in subsection (d) above is a Class D offense.
- (f) *Enforcement.* A civil citation under this section may be issued by the Howard County Police Department, the Health Officer, and any County employee designated by the County Executive.

(C.B. 35, 2004)

SUBTITLE 17. - BOARD TO PROMOTE SELF-SUFFICIENCY⁽¹²⁾

Footnotes:

--- (12) ---

Editor's note— The section numbering used in § 3 of C.B. 23, 2008, which enacted this subtitle, has been changed by the editor to conform to the system used in this Code.

Sec. 12.1700. - General provisions; purpose.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch" of this Code.
- (b) *Purpose of the Board.* The purpose of the Board is to:
 - (1) Support the goal of the Human Services Master Plan to build a community that enables individuals and families to have adequate income and resources to meet their basic needs;
 - (2) Act as the planning and coordinating mechanism for initiatives to:
 - (i) Promote the economic stability of individuals and families; and
 - (ii) Reduce the incidence of poverty in Howard County; and
 - (3) Serve as the governance body for the distribution of certain resources that support initiatives of the Board.

(C.B. 23, 2008, § 2)

Sec. 12.1701. - Membership.

- (a) *Number of Members.* The Board shall have a minimum of 20 members and a maximum of 27 members.
- (b) *Apportionment of Representation.* As practicable, the Board shall consist of a majority private sector representation and a minority public sector representation.
- (c) *Method of Appointment.* Each appointed member shall be appointed by the County Executive and confirmed by the County Council.

(d) *Qualifications of Members:*

- (1) All members shall either reside or work in Howard County.
- (2) As practicable, the Board shall reflect the gender, geographic, ethnic, and racial makeup of the County.
- (3) Ex-officio members from the public sector shall include the following:
 - (i) The Director of the Department of Social Services, or the Director's designee;
 - (ii) The Director of the Department of Community Resources and Services, or the Director's designee;
 - (iii) The Director of the Howard County Health Department, or the Director's designee;
 - (iv) The Director of the Department of Housing and Community Development or the Director's designee;
 - (v) The Director of the Department of Corrections, or the Director's designee;
 - (vi) The Administrator of the Office of Workforce Development, or the Administrator's designee;
 - (vii) The President of Howard Community College, or the President's designee;
 - (viii) The Superintendent of the Howard County Public School System, or the Superintendent's designee; and
 - (ix) The Chairperson of the Howard County Housing Commission or the Chairperson's Designee.
- (4) Ex-officio members from the public sector may include:
 - (i) The Chief of the Department of Police, or the Chief's designee; and
 - (ii) The Director of the Department of Planning and Zoning, or the Director's designee.
- (5) Appointed members from the private sector shall include:
 - (i) A representative from the Community Action Council or any other Federally designated anti-poverty agency;
 - (ii) A representative from grassroots or any other homeless shelter serving both individuals and families;
 - (iii) A representative from congregations concerned for the homeless or any other provider of family stabilization services;
 - (iv) A representative from the Association of Community Services or any other network of human services providers and advocates focused on serving families in Howard County;
 - (v) At least one individual who is, or was, homeless or a recipient of emergency, transitional, or subsidized housing services;
 - (vi) At least one individual who is, or was, a recipient of cash benefits or services, or both, to support their transition from welfare to work;
 - (vii) A representative of a business that provides entry and midlevel employment opportunities;
 - (viii) A representative of the Howard County Chamber of Commerce or any other organization whose purpose is to facilitate the success of businesses;
 - (ix) A representative of a faith-based organization;
 - (x) An individual or representative of a business that provides financial services; and

- (xi) A representative of an organization that provides, or advocates for, transportation services.
- (6) Appointed members from the private sector may include other community members or representatives from nonprofit organizations, for-profit organizations, or faith-based organizations that:
 - (i) Provide crisis intervention services;
 - (ii) Support the financial stability of individuals and families;
 - (iii) Advocate for the basic needs of County residents; or
 - (iv) Represent the needs of children and families, seniors, or people with mental or physical disabilities.

(C.B. 23, 2008, § 2; C.B. 12, 2016, § 1; C.B. 13, 2018, § 1)

Sec. 12.1702. - Terms of membership.

Appointed members of the Board shall serve overlapping terms of five years or until a successor is confirmed as provided in section 6.300 of this Code.

(C.B. 23, 2008, § 2)

Sec. 12.1703. - Responsibilities of the Board.

The Board shall:

- (a) Review data and analyze the nature and characteristics of poverty within Howard County, barriers to, and gaps in, existing services, and best practices from other jurisdictions;
- (b) Participate in the development of a collaborative, multidisciplinary plan for an integrated strategy that emphasizes prevention and early intervention;
- (c) Encourage and promote services and partnerships which support the implementation of the plan, maximize the efficient use of available resources, and generate additional resources;
- (d) Support the development of an integrated approach to data collection and information management;
- (e) Evaluate the impact, effectiveness, and cost benefit of self-sufficiency initiatives;
- (f) If requested by a County agency, make recommendations to a County agency on the use and distribution of Federal, State, or local funds for crisis intervention, financial literacy, crisis prevention, and self-sufficiency activities including, but not limited to, funds received under the Stewart B. McKinney-Vento Homelessness Assistance Act;
- (g) Act as a County advocate for issues related to poverty, financial literacy and self-sufficiency, and undertake activities which will educate and increase public awareness of these issues;
- (h) Subject to section 22.1000 of the County Code, by December 1 of each year, submit a report to the County Executive and County Council describing achievements for the previous fiscal year, and providing recommendations regarding policies, legislation, and funding strategies deemed necessary to accomplish the responsibilities and duties established by this section; and
 - (i) At the directive of the County Executive, or by resolution of the County Council, review and make recommendations on any matter related to issues of poverty or economic self-sufficiency in Howard County.

(C.B. 23, 2008, § 2; C.B. 43, 2018, § 1)

Sec. 12.1704. - Officers.

- (a) *Election of Officers.* The Board shall elect a Chairperson and a Vice-Chairperson from among its members to serve as the Board's Officers as follows:
 - (1) One Officer shall be from the public sector; and
 - (2) One Officer shall be from the private sector.
- (b) *Vacancy.* If there is a vacancy during the term of an Officer, the Board shall elect an Officer to fill the remainder of the term.

(C.B. 23, 2008, § 2)

Sec. 12.1705. - Meetings; voting.

- (a) *Number and Place.* The Board shall meet at least quarterly at the times and places it determines. The Board may meet more often for special meetings at the call of the Chairperson with ten days' notice to members.
- (b) *Board Meetings Are Public.* All meetings of the Board are open to the public except:
 - (1) When funding decisions are being made; or
 - (2) When a meeting is closed as authorized under Federal, State, or local law.
- (c) *Voting.*
 - (1) All members of the Board are voting members.
 - (2) A simple majority of current members shall constitute a quorum.
 - (3) Action may be taken by the Board upon a vote of a simple majority of the members present at a meeting at which there is a quorum.

(C.B. 23, 2008, § 2)

Sec. 12.1706. - Committees; operating procedures; staffing.

- (a) *Authority to Establish Committees.* The Board may establish committees and subcommittees as it deems necessary to carry out its purpose and responsibilities.
- (b) *Authority to Establish Operating Procedures.* The Board shall adopt operating procedures that set forth:
 - (1) Committee responsibilities;
 - (2) General operations of the Board; and
 - (3) Terms and term limits for Officers.
- (c) *Delegation of Authority.* The Board may delegate certain decision-making authority to a committee as deemed necessary to meet the Committee's assigned responsibilities.
- (d) *Committee Membership.* A Committee may include members of the community in addition to members of the Board but the Chairperson of the Committee shall be a member of the Board.
- (e) *Department of Community Resources and Services.* The Department of Community Resources and Services shall provide staffing for the Board.

(C.B. 23, 2008, § 2; C.B. 12, 2016, § 1)

SUBTITLE 18. - HEALTHY FOOD AND BEVERAGES—COUNTY PROPERTY

Sec. 12.1800. - Definitions.

- (a) In this subtitle the following words have the meanings indicated.
- (1) *County-sponsored event* means any activity, event, meeting, or program that is hosted by a County agency, department or office, excluding those sponsored directly by the Howard County Public School System.
 - (2) *County property* means any property owned, leased or operated by Howard County. County property does not include property managed by the Howard County Public School System.
 - (3) *Food or beverage vending machine* means a self-service machine offered for public use which, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses servings of food or beverage in bulk or in packages, or prepared by the machine, without the necessity of replenishing the device between each vending operation.
 - (4) *Healthy food or beverage option* means any packaged food or beverage that meets the Howard County healthy food and beverage standards as established in section 12.1801 of this subtitle.
 - (5) *Packaged* means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant. "Packaged" does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.
 - (6) *Youth-oriented County government program* means any County-sponsored program designed for youth participation without parental supervision, including before and after school programs, recreation programs, and day camps.

(C.B. 17, 2015, § 1)

Sec. 12.1801. - Howard County healthy food and beverage standards.

- (a) Healthy beverage options shall contain no more than 40 calories per package except:
- (1) Milk, including non-fat, or low-fat milk, soy milk, rice milk or other similar dairy or nondairy milk with no more than 130 calories per eight ounces packaged in containers no larger than 12 ounces;
 - (2) Packages of eight ounces or less of 100 percent fruit or vegetable juice or fruit juice combined with water, with no added caloric sweeteners, and no more than 140 mg of sodium per package.
- (b) Water with no added caloric or non-caloric sweeteners must be sold as part of the total beverage offerings in any beverage vending machine on County property.
- (c) Diet drinks with non-caloric sweeteners shall constitute no more than one-third of the total beverage offerings in a vending machine on County property.
- (d) Healthy food options shall meet the following standards:
- (1) Contain no trans-fat (0.5 g or less per serving);
 - (2) Contain no more than 200 calories per package;
 - (3) Contain less than 35 percent of calories from fat, except for food containing 100 percent nuts or seeds;

- (4) Contain less than ten percent of calories from saturated fat;
- (5) Contain no more than 35 percent of calories from total sugars, except for low fat (one percent or two percent) or nonfat dairy or nondairy milk products, and fruits or vegetables; and
- (6) Contain no more than 200 mg of sodium per package.

(C.B. 17, 2015, § 1)

Sec. 12.1802. - Food and beverages on County property.

- (a) All packaged food or beverage items, served or sold as part of youth-oriented County government programs, shall be healthy food or beverage options.
- (b) On all County property, at least 75 percent of the packaged food and beverage options offered in vending machines shall be healthy food or beverage options.

(C.B. 17, 2015, § 1)

Sec. 12.1803. - Exemptions.

- (a) The requirements of this subtitle do not apply to the following:
 - (1) Property managed by Howard County Public School System.
 - (2) County-sponsored events held on private property, including the July 4th Festival and Fireworks and Wine in the Woods.
 - (3) Packaged food and beverages sold by non-profit organizations on County property for fundraising purposes.
 - (4) Packaged food or beverages offered or provided by County employees for their own consumption or consumption by fellow County employees.

(C.B. 17, 2015, § 1)

Sec. 12.1804. - Packaged food and beverage placement.

- (a) All healthy food or beverages offered for sale in vending machines on County property must be displayed in ways that are easily visible and distinguishable from less-healthy items.
- (b) Healthy food and beverage options shall comprise at least half of each row of display space in vending machines on County property so that healthy options are easily visible at every level.

(C.B. 17, 2015, § 1)

Sec. 12.1805. - Food and beverage contracts.

- (a) In the absence of any existing binding contract or agreement, all packaged food and beverages offered for sale in vending machines on County property or served or sold as part of youth-oriented County government programs, shall comply with this subtitle.
- (b) In cases where County property is leased to a private entity, the County will encourage tenants to adopt the Howard County healthy food and beverage standards.

(C.B. 17, 2015, § 1)

Sec. 12.1806. - Monitoring and recommendations.

- (a) The Department of County Administration shall review the Howard County healthy food and beverage standards and, subject to section 22.1000 of the County Code, submit a biennial report (from the date of implementation) to the County Executive, the County Council and the County Board of Health.
- (b) The biennial report shall review the Howard County healthy food and beverage standards and make recommendations on the best practice nutrition standards for packaged food and beverages offered for sale in vending machines on County property or served or sold as part of youth-oriented County government programs and may:
 - (1) Develop a healthy food and beverage guide to support compliance;
 - (2) Maintain a list of products that meet the Howard County healthy food and beverage standards as established in section 12.1801; and
 - (3) Report on the top selling packaged food and beverages sold by quarter, as well as total revenues per machine over time.

(C.B. 17, 2015, § 1; C.B. 43, 2018, § 1)

Sec. 12.1807. - Enforcement and compliance.

- (a) This subtitle shall be enforced by the Department of County Administration.
- (b) Compliance will be monitored by the Department of County Administration through complaint-based inspections.
- (c) Non-compliance will be addressed through on-going training and support to vendors; continued non-compliance may result in termination of the contract.

(C.B. 17, 2015, § 1)

SUBTITLE 19. - OFFICE OF COMMUNITY PARTNERSHIPS

Sec. 12.1900. - Office of Community Partnerships.

- (a) *Office.* There is an Office of Community Partnerships in the Department of Community Resources and Services.
- (b) *General Provisions.* General provisions applicable to this Office are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (c) *Head.* The Administrator of the Office of Community Partnerships shall head the Office of Community Partnerships and the Administrator is under the general supervision of the Director of the Department of Community Resources and Services.
- (d) *Qualifications of Administrator.* The Administrator of the Office of Community Partnerships shall have a thorough knowledge of human service delivery systems including, but not limited to, principles of strategic community planning; management of site based social service delivery models; grant making from local, state and national sources relevant to a wide range of human services; coordinated models that reduce homelessness; and the role of non-profit organizations as part of the human service system. At the time of appointment the Administrator shall have had at least five years experience in human service systems and at least two years in a managerial capacity.

- (e) *Duties and Responsibilities.* Under the direction of the Director of Community Resources and Services, the Office of Community Partnerships shall:
- (1) *Administration of grants.* Administer the Community Service Partnership Grant program, the Howard County Government funding program; coordinate with relevant state and federal grants; provide technical support to nonprofit grantees or contractors; and monitor the effectiveness of programs and grantees.
 - (2) *Participation.* Participate in community-based organizations with membership of nonprofit agencies to integrate human service and housing efforts of County Government with nonprofit agencies.
 - (3) *Implementing Plans.* Administer the Continuum of Care system and related organizational units in the Plan to End Homelessness.
 - (4) *Facilities.* Administer site- or center-based programs that offer consumers access to multiple services in a single community based location.
 - (5) *Policy recommendations.* Review and formulate policy recommendations for the County Executive and County Council in reference to publicly funded plans and programs that have an impact on populations seeking affordable housing, moving out of homelessness, or other issues covered in this Office.
 - (6) Initiate and carry out any appropriate action, where relevant, to implement the above objectives, or other related objectives, as they become necessary and are deemed appropriate.

(C.B. 12, 2016, § 1)

SUBTITLE 20. - COMMISSION FOR TRANSITIONING STUDENTS WITH DISABILITIES⁽¹³⁾

Footnotes:

--- (13) ---

Editor's note— Section 2 of C.B. 36, 2016, adopted July 8, 2016, set out provisions intended for use as subtitle 19 §§ 12.1900—12.1903. Inasmuch as there were already provisions so designated, C.B. 36, 2016, § 2, has been codified as set out herein, at the discretion of the editor.

Sec. 12.2000. - Commission for Transitioning Students with Disabilities; General Provisions; Purpose.

- (a) *General provisions.* There is a Howard County Commission for Transitioning Students with Disabilities. General provisions applicable to the Commission for Transitioning Students with Disabilities are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch" of this Code.
- (b) *Purpose.* The purpose of the Commission is to make recommendations on ways to establish an effective, efficient, and comprehensive delivery of services that will most successfully meet the transition needs of Howard County students with disabilities as they transition from high school to post-secondary education and employment.
- (c) *Definitions.* For purposes of this Subtitle, HCPSS means the Howard County Public School System.

(C.B. 36, 2016, § 1)

Sec. 12.2001. - Membership.

- (a) *Number of members* . The Commission shall consist of a minimum of 22 members and a maximum of 30 members.
- (b) *Qualifications* . All members shall either reside or work in Howard County.
- (c) *Membership* . The commission shall be comprised of the following:
 - (1) Ex officio members:
 - (i) Program Head, Transition Services, HCPSS;
 - (ii) Instructional Facilitator, Secondary Education, HCPSS;
 - (iii) Coordinator, Career and Technology Education, HCPSS;
 - (iv) Executive Director, Special Education and Student Services;
 - (v) Parent Coordinator, HCPSS;
 - (vi) Coordinator, School Counseling Services, HCPSS;
 - (vii) Manager, Teacher Recruitment and Retention, HCPSS;
 - (viii) Director, Department of Community resources and Services, Howard County Government;
 - (ix) ADA Coordinator, Department of Community resources and Services, Howard County Government;
 - (x) Administrator, Office of Human Resources, Howard County Government;
 - (xi) Administrator, Office of Workforce Development, Howard County Government;
 - (xii) Administrator, Office of Human Rights, Howard County Government;
 - (xiii) Administrator, Division of Rehabilitation Services, Region V, State of Maryland;
 - (xiv) Representative, Resource Coordination Providers;
 - (xv) Representative, Howard Community College; and
 - (xvi) Manager, Therapeutic Recreation, Department of Recreation and Parks, Howard County Government; and
 - (2) Appointed members of the private sector:
 - (i) Two representatives, Howard County business community;
 - (ii) Three parent representatives;
 - (iii) An individual with a disability; and
 - (iv) Up to eight community members interested in supporting the Commission and its work.
- (d) *Commission Chairperson* . The Commission shall be chaired jointly by a representative of the Department of Special Education, Howard County Public School System, and a family member of a student with a disability.
- (e) *Method of appointment*. Each appointed member shall be appointed by the County Executive and confirmed by the County Council.
- (f) *Staffing* . The Department of Community Resources and Services shall provide staffing for the Commission.
- (g) *Meetings* . The Commission shall meet at least quarterly.

(C.B. 36, 2016, § 1)

Sec. 12.2002. - General powers and duties of the Commission.

- (a) *In general.* The Howard County Commission for Transitioning Students with Disabilities may:
- (1) Advocate for policy on behalf of students with developmental, intellectual, and/or physical disabilities;
 - (2) Examine current practices and make recommendations on ways to improve postsecondary outcomes for students with disabilities;
 - (3) Make recommendations that would facilitate successful customized employment and postsecondary education for students exiting the Howard County Public School System; and
 - (4) Foster greater collaboration between business, academic, non-profit, and public sectors to engage in successful initiatives designed to immerse students with disabilities in a work environment and provide important job skills.

(C.B. 36, 2016, § 1)

Sec. 12.2003. - Annual Report.

Subject to section 22.1000 of the County Code, on or before January 31 of each year, the Commission shall submit an annual report to the County Council and the County Executive on its activities during the previous calendar year. The report may include recommendations on any matter related to the work of the Commission.

(C.B. 36, 2016, § 1; C.B. 43, 2018, § 1)

TITLE 13 - HOUSING AND COMMUNITY DEVELOPMENT¹³

Footnotes:

--- (1) ---

Editor's note— C.B. 59, 2001, §§ 4—11, amended Title 13 in its entirety, by changing the title from "Housing, Urban Renewal and Economic Development" to "Housing and Community Development" (§ 4), and by the following: (§ 5) repealing former subtitle 5, "Housing and Community Development", and adding new subtitle 1, "Department of Housing and Community Development"; (§ 6) renumbering former subtitle 2, "Urban Renewal", as new subtitle 11, and adding a new subtitle 2, "Housing and Community Development Board"; (§ 7) repealing and reenacting with amendments subtitle 3, "Rehabilitation Fund", and subtitle 4, "Moderate Income Housing Units"; (§ 8) repealing and reenacting with amendments former subtitle 11, "Tenant Retrofit Loan and Grant Program", renumbered as new subtitle 5; (§ 9) renumbering former subtitle 6, "Lease Extensions—Conversions of Rental Housing to a Condominium Regime", as a new subtitle 12, and repealing and reenacting with amendments former subtitle 12, "Housing Initiatives Loan Program", renumbered as new subtitle 6; (§ 10) repealing and reenacting subtitle 7, "Rental Housing Expense Assistance Program", subtitle 8, "Rental Housing Development Program", and subtitle 9, "Homeownership Assistance Program"; and (§ 11) renumbering former subtitle 10, "Howard County Housing Commission Articles of Organization", as new subtitle 13, and repealing and reenacting with amendments former subtitle 13, "Displacement Assistance Program", renumbered as new subtitle 10. History notes have been retained where appropriate. For a complete disposition of these amendments, see the Code Comparative Table.

SUBTITLE 1. - DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Sec. 13.100. - General provisions.

General provisions applicable to this Department are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 59, 2001)

Sec. 13.101. - Department of Housing and Community Development.

- (a) *Head.* The Director of Housing and Community Development shall head the Department of Housing and Community Development.
- (b) *Qualifications of Director of Housing and Community Development.* The Director of Housing and Community Development shall have a thorough knowledge of the methods and principles of community development, housing management, rehabilitation of existing housing, and community planning, including grant programs associated with these functions. At the time of appointment the Director shall have had at least five years' experience in community development, housing and/or real estate, including at least two years in a managerial capacity.
- (c) *Executive Secretary.* The Director of Housing and Community Development shall serve as Executive Secretary of the Housing and Community Development Board.
- (d) *Duties and Responsibilities .* The Department of Housing and Community Development develops, manages and implements various programs designed to secure safe and decent housing for the citizens of Howard County, including but not limited to the following:
 - (1) *Policy and plans.* Consulting with other County agencies and with public and private organizations to develop policy and plans related to housing, community development and urban renewal.
 - (2) *Coordination.* Reviewing, analyzing and coordinating housing or community development projects, especially those which involve more than one Department of County Government.
 - (3) *Grants.* Designing, writing and negotiating housing and community development related grant proposals and applications.
 - (4) *Liaison.* Maintaining liaison with other County, State and Federal agencies with programs or services affecting housing policy and specific housing and community development programs.
 - (5) *Administering programs .* Administering various local, State and Federal loan and grant programs for moderate- and low-income individuals and families including, but not limited to, the overall supervision of program development and operations for the following:
 - (i) The Community Development Block Grant Program;
 - (ii) The Home Investment Partnership Program; and
 - (iii) The Community Legacy Program and other programs offered by the State of Maryland.
 - (6) *Other duties and responsibilities .* Performing such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 59, 2001; C.B. 60, 2003, § 1; C.B. 11, 2006, § 1; C.B. 12, 2016, § 1)

Sec. 13.102. - Transitional provision.

All agreements and contracts to which the Office of Housing and Community Development is a party shall continue in effect as though made by the Department of Housing and Community Development.

(C.B. 59, 2001)

Sec. 13.103. - Federal, State, and local grants.

- (a) *Application for Grant.* The Department may apply on behalf of Howard County to any source for any grant, gift, contribution, or aid of any kind for the purpose of implementing approved urban renewal and community development plans subject to the approvals required by law.
- (b) *Acceptance of Grants.* The Department may accept grants, gifts, contributions, or bequests of property of any kind on behalf of Howard County for the purpose of implementing approved urban renewal and community development plans. Such acceptance shall be subject to the approvals required by law, including normal budgetary approval.
- (c) *Council Approval of Plan .* The Department shall obtain County Council approval, through a resolution, of its Annual Action Plan for Community Development Block Grant and Home Investment Partnership Program funds before submitting the plan to the United States Department of Housing and Urban Development.
- (d) *Authority to Award Grants and Loans .* Council approval of the plan under subsection (c) of this section shall be deemed to authorize the Department to award grants and loans in accordance with the programs approved in the plan or grant.

(C.B. 11, 2006, § 2; C.B. 12, 2016, § 1)

SUBTITLE 2. - HOUSING AND COMMUNITY DEVELOPMENT BOARD

Sec. 13.200. - General provisions.

General provisions applicable to the Housing and Community Development Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 59, 2001)

Sec. 13.201. - Organization.

- (a) *Number of Members.* There is a Housing and Community Development Board consisting of seven voting members and one nonvoting member.
- (b) *Qualifications:*
 - (1) *Voting members:*
 - (i) All members shall be residents of Howard County.
 - (ii) Members shall be broadly representative of the citizens of Howard County.
 - (iii) Members shall have no financial interests in any land or property which is acquired or held for an urban renewal or community development project.
 - (iv) No members shall serve more than two consecutive full terms.
 - (2) *Nonvoting member.* The nonvoting member of the Board shall be a member of the Howard County Housing Commission selected in accordance with subsection 13.1307(b) of this Code.
- (c) *Executive Secretary.* The Director of Housing and Community Development or the Director's designee shall serve as Executive Secretary to the Board and shall attend all meetings.
- (d) *Liaison to Housing Commission.* By majority vote of all members, the Board shall annually select from among its members a liaison to the Howard County Housing Commission. The selected

member shall serve as a nonvoting ex officio member of the Housing Commission in accordance with subsection 13.1305(a)(2)(i) of this Code.

- (e) *Meetings.* The Board shall meet at least monthly to carry out its duties. Special meetings may be called at the request of the Chairperson or at the request of a majority of the members of the Board. Members shall be entitled to at least seven days' advance notice of all meetings unless the entire Board votes to waive such notice.
- (f) *Quorum.* A majority vote consists of four or more votes of the total membership. A quorum consists of four voting members. Official action of the Board shall be taken only upon approval by a majority of the total voting membership.
- (g) *Records.* The Board shall keep a record of its resolutions, transactions, findings and recommendations. It shall keep minutes of its proceedings.

(C.B. 59, 2001)

Sec. 13.202. - Powers and duties.

The Board shall have the following powers and duties:

- (1) To give guidance for dealing with the problems of slums and blight within the community and guidance for the establishment, reestablishment and/or preservation of well planned communities with well organized neighborhoods.
- (2) To give guidance for the undertaking of feasible community activities designed to achieve the purposes of the Howard County Urban Renewal Law. Recommendations shall be for separable urban renewal projects which can be undertaken independently to achieve identifiable goals and stated public policy.
- (3) To review and make recommendations to the County Executive and the County Council concerning:
 - (i) An urban renewal plan for Howard County, which may include subarea plans for all areas of the County exhibiting signs of significant decay and/or deterioration.
 - (ii) An operating and capital budget to support any approved urban renewal project.
 - (iii) Any administrative procedures to implement Howard County laws which have been promulgated by the Department of Housing and Community Development.
 - (iv) Community development block grant applications and other community development grant applications.
 - (v) Community development block grant performance reports.
 - (vi) A housing assistance plan for Howard County.
- (4) To act as a grievance panel when so designated in administrative procedures by the Department of Housing and Community Development.
- (5) To plan and promote auxiliary social or community service programs for the residents of areas which are moral, economic and/or physical liabilities to Howard County.
- (6) To review applications for housing-related industrial revenue bonds and MIDFA loans and bonds and make recommendations to the Industrial Revenue Bond Review Subcommittee of the Economic Development Authority.
- (7) To perform such other duties as may be designated by the County Executive pursuant to section 13.1103, "Powers, Authority," subsection (o).
- (8) At the direction of the County Executive, or by resolution of the County Council, the Board shall review and make recommendations on any matter related to housing in the County.

(C.B. 59, 2001; C.B. 22, 2006, § 1; C.B. 12, 2016, § 1)

SUBTITLE 3. - REHABILITATION FUND

Sec. 13.300. - Purpose.

- (a) A County-wide rehabilitation loan fund is established for the purpose of making available certain funds for the primary residence of owners of improved real property or mobile homes within Howard County, for the purpose of making low-interest loans for a homeowner's primary residence for home improvements in order that they may meet conditions related to public health, safety, welfare, and revitalization.
- (b) *Mobile home* means a structure that is:
 - (1) Transportable in one or more sections;
 - (2) Eight or more body feet in width and 30 or more body feet in length;
 - (3) Built on a permanent chassis; and
 - (4) Designed to be used as dwelling, with or without a permanent foundation when connected to the required utilities.

Mobile home includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

(C.B. 37, 1975; C.B. 137, 1991; C.B. 59, 2001; C.B. 18, 2014, § 1)

Sec. 13.301. - Application.

- (a) The loan shall be made available to Howard County residents who are unable to obtain credit from private institutions on terms and conditions they can reasonably be expected to meet. The rehabilitation loans are for home improvements, including, but not limited to, expansions, renovations, water and sewer connections, plumbing repairs, central heating installation and repairs, home insulation, roof repairs, transportation of mobile homes, trailer tiedowns and other structural repairs.
- (b) The length of the loan and its terms shall be determined by the homeowner's ability to repay the money, but for a period not to exceed 30 years. Interest rates shall be lower than the market rate based on adjusted family income and shall be made a part of the rules and procedures administering this fund.
- (c) If the loan is for improvements to real property and is made for more than \$500.00, a mortgage shall be obtained from the property owner to secure the loan before the work for which the loan is obtained is commenced.
- (d) If the loan is for improvements to a mobile home and is for more than \$500.00, the owner of the mobile home shall provide the County, before the work begins, with a security interest in the mobile home to secure the loan.

(C.B. 37, 1975; C.B. 137, 1991; C.B. 59, 2001; C.B. 18, 2014; § 1)

Sec. 13.302. - Authorization procedure.

- (a) The Department of Housing and Community Development is authorized to establish and administer rules and procedures for the County-wide rehabilitation fund in accordance with section 2.103 of the Howard County Code.

- (b) No loan shall be issued until the funds have been certified as available by the Director of Finance of Howard County.

(C.B. 37, 1975; C.B. 59, 2001)

Sec. 13.303. - Remedy for nonpayment.

If the property owner defaults on payment of his loan, the County may enforce the terms of the loan and/or mortgage obtained pursuant to the loan against the owner of record at the time the loan was granted or the owner of record at time a suit is filed, or any owner of record between said dates.

(C.B. 37, 1975; C.B. 59, 2001; C.B. 12, 2016, § 1)

SUBTITLE 4. - MODERATE INCOME HOUSING UNITS

Sec. 13.400. - Applicability.

This subtitle applies to:

- (a) Any residential zoning district, or portion of a zoning district, where a moderate income housing unit obligation is required by the Zoning Regulations; and
- (b) Any development for which the provision of moderate income housing is proffered by the petitioner and made a condition of approval in a preliminary development plan approved by the Zoning Board.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 21, 2003, § 1; C.B. 22, 2006, § 2; C.B. 55, 2016, § 1)

Sec. 13.401. - Definitions.

- (a) *In General.* In this subtitle, the following words have the meanings indicated:
- (b) *Commission* means the Howard County Housing Commission.
- (c) *Department* means the Howard County Department of Housing and Community Development.
- (d) *Designee* means the Howard County Housing Commission, a nonprofit corporation, or a quasi-public housing development organization designated by the Department as eligible to operate and maintain moderate income housing units on a long-term basis.
- (e) *Director* means the Director of the Department of Housing and Community Development.
- (f) *Dwelling unit* has the meaning stated in the Howard County Zoning Regulations.
- (g) *Eligible purchaser* means a holder of a certificate of eligibility under section 13.406 of this subtitle who has been prequalified by the Department to obtain a mortgage in an amount sufficient to enable the individual to purchase a moderate income housing unit.
- (h) *First-time home buyer* means an individual who, during the three years before receiving a certificate of eligibility:
 - (1) Has not owned any property used or usable as a residence; or
 - (2) Has owned a personal residence but, because of the separation or divorce of the joint tenants or the death of one of the joint tenants, needs to purchase a personal residence without the former joint tenant.

- (i) *Initial sale price* means the price set by the Housing and Community Development Board under section 13.403 of this subtitle for the first sale of a type of moderate income housing unit.
- (j) *Median income* means the median annual income of Howard County as determined by the U.S. Census Bureau.
- (k) *Moderate income* means an annual household income of up to 80 percent of the median income in Howard County.
- (l) *Moderate income housing unit* means a dwelling unit offered for sale or rent to households with moderate incomes.
- (m) *Moderate income housing unit offered for sale* means a unit that is built on a subdivided lot or subject to a condominium regime, as provided in a moderate income housing unit agreement under subsection 13.402(b) of this subtitle.
- (n) *Proffered unit* means a moderate income housing unit in a development for which the provision of moderate income housing is proffered by the petitioner and made a condition of approval in a preliminary development plan approved by the Zoning Board.
- (o) *Rehabilitated existing moderate income housing unit* means an existing residential housing unit that has been determined by the Department of Housing and Community Development to have met the specified eligibility criteria and rehabilitation requirements for such units as provided in this subtitle and that is subject to and bound to comply with all of the requirements in this subtitle applicable to newly built moderate income housing units.
- (p) *Rental unit* means a moderate income housing unit that is not a moderate income housing unit offered for sale.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 21, 2003, § 1; C.B. 66, 2003, § 1; C.B. 22, 2006, § 2; C.B. 74, 2007, § 1)

Sec. 13.402. - Development procedures; moderate income housing unit agreement; alternative.

(a) *Development Procedures:*

- (1) When a development is subject to this subtitle, the developer shall submit to the Department of Planning and Zoning, concurrent with the submission of the original final plat or original site development plan for approval; as applicable:
 - (i) An agreement to meet moderate income housing unit requirements; and
 - (ii) Recordable covenants approved by the Department and the County Solicitor.
 - (2) Covenants under this subsection shall be recorded among the land records of Howard County concurrently with the recordation of the final subdivision plat or site development plan approval, as applicable.
 - (3) Covenants under this subsection shall be extinguished in accordance with the agreement under subsection (b) of this section.
- (b) *Moderate Income Housing Unit Agreement.* The moderate income housing unit agreement under this section shall be in a form prescribed by the Department and shall include:
- (1) A statement of the number of moderate income housing units required under the zoning regulations;
 - (2) A requirement that the developer comply with the minimum specifications for moderate income housing units established by the Department;
 - (3) A plan for construction of moderate income housing units offered for sale and rental units, which shall, to the extent practicable, taking into account current market conditions, the needs

of eligible purchasers, and planning considerations, require that each phase of the development contain its proportionate share of the total number of moderate income housing units required under the approved final plan or site development plan; and

- (4) A statement of how moderate income housing units will be provided that shall include the number of units, types of units, and location of units.
- (c) *Covenants.* The covenants under this section shall be in a form prescribed by the Department and shall include provisions prohibiting the sale or rental of a moderate income housing unit except to an eligible purchaser, the Commission, the County, or a designee in accordance with this subtitle.
- (d) *Requirements Applicable to Moderate Income Housing Units.* Except as provided in subsections (e) and (f) of this section, and except as provided in section 13.402A of this subtitle, a developer obligated to provide moderate income housing units in accordance with the zoning regulations as part of a development shall provide all of the units:
 - (1) On the site of the development project;
 - (2) In the same ratio of unit types as proposed for the development; and
 - (3) Evenly distributed within each phase of development.
- (e) *Optional Methods:*
 - (1) A developer required to provide moderate income housing units under the zoning regulations may request permission to provide the required units:
 - (i) At a different location; or
 - (ii) As a different ratio of unit types.
 - (2) A developer may use an optional method under this subsection if the Director, upon recommendation from the Housing and Community Development Board and in consultation with the Director of Planning and Zoning and the Director of Community Resources and Services, determines that:
 - (i) a. The number of moderate income housing units to be constructed in the development will render the development economically unfeasible; or
 - b. The development proposes an indivisible package of services and facilities to all residents that would cost the moderate income housing unit owners so much that the units would be rendered unaffordable to eligible purchasers; and
 - (ii) The optional method results in geographic distribution of moderate income housing units throughout the County.
 - (3) A developer who uses an optional method of providing moderate income housing units in accordance with paragraph (1) of this subsection shall calculate the number of units to be provided as set forth below:

- (i) For every one moderate income single-family detached housing unit required by the zoning regulations, the requirement shall be increased by the multiplier in the following chart:

Type of Unit	On-site	Off-site
Single Family Detached	Not Applicable	1.5 Moderate Income Units
Single Family Attached	1.5 Moderate Income Units	1.75 Moderate Income Units

Apartment	1.75 Moderate Income Units	2.0 Moderate Income Units
-----------	----------------------------	---------------------------

(ii) For every one single-family attached moderate income housing unit required by the zoning regulations, the requirement shall be increased by the multiplier in the following chart:

Type of Unit	On-site	Off-site
Single Family Attached	Not Applicable	1.5 Moderate Income Units
Apartment	1.5 Moderate Income Units	1.75 Moderate Income Units

(iii) For every one moderate income apartment required by the zoning regulations, the requirement shall be modified by the multiplier in the following chart:

Type of Unit	On-site	Off-site, Apartment Units
Apartment	Not Applicable	1.5 Moderate Income Units
Single Family Attached	Not Applicable	.67 Moderate income Units

(f) *Alternative Compliance to Optional Methods.*

- (1) A developer may request permission from the Director to use a method other than those set forth in subsection (e) of this section to provide moderate income housing units.
- (2) A request shall include the following information:
 - (i) A description of the alternative compliance proposal, including a comparison of the required and proposed units, in terms of the location, numbers, types, bedrooms, and square footage; and
 - (ii) The projected fair market value of the required and proposed units.
- (3) In determining whether to approve a request under this subsection, the Director, upon recommendation from the Housing and Community Development Board and in consultation with the Director of Planning and Zoning and the Director of Community Resources and Services, shall consider whether:
 - (i) The phasing of moderate income housing units will be provided sooner than would be required by the phasing of market rate units;

- (ii) The units present innovative architecture or site design features that contribute to affordability;
 - (iii) The design reduces operating and maintenance costs;
 - (iv) The location of the proposed alternative is part of a mixed-use development with existing or potential transit service; and
 - (v) The development provides a package of services or amenities for the benefit of moderate income residents.
- (4) In granting a request under this subsection, the Director may reduce the number of units that would have been required under subsection (e) of this section, but may not reduce the number of units below the number required by the zoning regulations.
- (g) *Alternative of Providing Rehabilitated Existing Moderate Income Housing Units.* The developer of a housing development subject to this subtitle may provide up to five rehabilitated existing moderate income housing units if the developer's requirement is for 29 or fewer moderate income housing units or, if the developer's requirement is for 30 or more moderate income housing units, the developer may provide a maximum of 20 percent of the required moderate income housing units by providing rehabilitated existing moderate income housing units provided that:
- (1) Prior to approval of a final subdivision plat or, if the property is not being subdivided, a site development plan:
 - (i) The developer provides:
 - a. One rehabilitated existing moderate income housing unit certificate approved by the Department as provided below for each moderate income housing unit required by this subtitle; or
 - b. Two rehabilitated existing moderate income housing unit certificates for condominium apartment units approved by the Department as provided below for each moderate income housing unit required by this subtitle; and
 - (ii) The developer executes all of the required agreements and covenants relating to the provision of newly built moderate income housing units in this subtitle.
 - (2) (i) If a developer is required to provide age-restricted moderate income housing units by the zoning regulations, the developer may use the alternative of providing rehabilitated units as permitted by this subsection.
 - (ii) A developer may use a non-age-restricted rehabilitated unit instead of an age-restricted rehabilitated unit under this subsection if the Director, with the concurrence of the Chief Administrative Officer:
 - a. Has made a good faith effort to find, but is unable to find, any eligible purchaser who meets the criteria for the age-restricted moderate income housing unit consistent with Federal discrimination law exemptions; or
 - b. Has determined that the unit is not physically suited for use by an age-restricted eligible purchaser.
 - (iii) The total number of non-age-restricted rehabilitated units that are substituted for age-restricted units shall not exceed ten.
 - (3) Except as provided in subsection (i) of this section, the rehabilitated existing moderate income housing units are subject to all of the requirements applicable to newly built moderate income housing units in this subtitle.
- (h) *Approval of Certificates for Rehabilitated Existing Moderate Income Housing Units; Sale of Certificates.* The application, approval and sale of certificates for rehabilitated existing moderate income housing units shall be governed by the following criteria and procedures:

- (1)
 - (i) The owner of a residential housing unit or units or an Applicant acting on their behalf may apply to the Department for eligibility to apply for a certificate for a rehabilitated existing moderate income housing unit.
 - (ii) Within 20 business days following application, the Department shall approve such a unit as eligible for a certificate application if it finds:
 - a. That the unit is in need of substantial repairs based on an itemized estimate of cost of repairs submitted by the Applicant;
 - b. That the unit shall not be or previously have been a moderate income housing unit approved pursuant to this subtitle; and
 - c. That the unit will add to the stock of needed moderate income housing units in the County.
- (2)
 - (i) If the Department approves a unit as being eligible for certificate application, the owner of the unit or an Applicant acting in his behalf may apply for that certificate.
 - (ii) The Department shall approve the application and issue a certificate for a rehabilitated existing moderate income housing unit if it finds that the Applicant has executed the required moderate income housing unit covenants and agreements and met the following rehabilitation requirements for the unit:
 - a. Kitchen and bath cabinets shall be new or updated in the last ten years and in good condition; kitchen and bath fixtures shall conform to current maximum water usage standards; and all major kitchen appliances shall be new and warranted for at least one year;
 - b. All carpets and flooring shall be new except for hardwood flooring that is new or newly refinished;
 - c. The heating and cooling systems shall be new or have been replaced in the last ten years and be in good working order;
 - d. All drywall or other wall materials shall be in good condition with no outdated finishes;
 - e. All doors and locks shall be in good working order;
 - f. All windows shall be new or replaced in the last ten years, have insulated glass or storm windows and be in good condition;
 - g. The roof shall be new or replaced in the last ten years, be in good condition, and have at least a 20-year manufacturer's warranty remaining at the time of sale;
 - h. Fasia, gutters and downspouts shall be in good condition;
 - i. The Applicant shall certify that the unit complies with all applicable asbestos and lead paint laws;
 - j. Exterior paint shall be new and siding shall be new or replaced in the last ten years and be in good condition;
 - k. Decks shall be power washed and stained and be in good condition;
 - l. The yard shall be in good condition with adequate and appropriate ground cover, trimmed trees and bushes, if any, fences in good condition, if any, and with any sidewalks and driveways in good condition and not in need of repairs; and
 - m. The Applicant shall provide the following items for the purchaser of the moderate income housing unit:
 - i. A new power mower, for units having a lawn;
 - ii. Pruning shears, for units having shrubs or other similar landscaping;

- iii. A power edger, for units having a lawn;
- iv. A rake, for units having a lawn;
- v. One gallon of interior paint in each color used;
- vi. One gallon of exterior paint in each color used, where appropriate; and
- vii. Paint brushes and rollers for interior and exterior surfaces.

All rehabilitation done to the outside of apartment units pursuant to this section shall be consistent with other units in the structure.

- (3) The Department shall have the unit inspected by an independent inspector who will certify that the unit meets the above rehabilitation requirements prior to the Department's decision on the application. The Applicant shall pay the costs of this inspection before the Department makes a decision on the application.
- (4) The owner of the rehabilitated existing moderate income housing unit is the holder of the certificate for that unit once it is issued by the Department and may:
 - (i) Receive credit for providing alternative moderate priced housing units pursuant to subsection (g) of this section, which units shall be sold and, except as provided in subsection (i) of this section, otherwise subject to all of the requirements applicable to newly built moderate priced housing units in this subtitle; or
 - (ii) Sell the certificate and the unit to which it applies to a developer of moderate income housing units at a price to be agreed to by the holder and developer who shall then receive credit for providing alternative moderate income housing units pursuant to subsection (g) of this section, which units shall be subject to all of the requirements applicable to newly built moderate priced housing units in this subtitle.
- (i) *Initial Sale Price for Units Sold through the Moderate Income Housing Unit Community Revitalization Program.* The Housing and Community Development Board shall:
 - (1) Establish the initial sale price for rehabilitated units provided through the moderate income housing unit community revitalization program; and
 - (2) Adopt regulations setting the standards to be used for establishing the initial sale price.
- (j) *Annual Analysis of the Moderate Income Housing Programs.* The Director shall complete an annual analysis of the moderate income housing unit programs and, subject to section 22.1000 of the County Code, shall submit the analysis to the County Executive and to the County Council, along with a presentation in a public meeting to the County Council, by April 1 of each year. The analysis shall include:
 - (1) The number, types, and location of moderate income housing units provided on-site and as required by the zoning regulations;
 - (2) Moderate income housing units provided as an optional method under subsection (e) of this section and as an alternative compliance under subsection (f) of this section;
 - (3) The number of moderate income housing units that have been renovated and the financial costs of renovating the unit;
 - (4) The range of sale prices and rental rates, including the average sales price and rental-rate;
 - (5) Income information on the home buyers and renters participating in the program;
 - (6) The number of applicants selected to purchase a moderate income housing unit and the priority categories for which they qualify under section 13.406(e); and
 - (7) All marketing and outreach efforts of the department to each of the categories in section 13.406(e).

- (k) *Alternative of Satisfying Moderate Income Housing Unit Requirement in Residential Mobile Home Development.* The developer of a housing development in an R-MH zoning district which is subject to this subtitle may satisfy all, or a portion of, its moderate income housing unit requirement by providing for the sale of lots in an adjoining subdivision to the Commission or designee as defined in this subtitle at below market price by an agreement with the Commission or designee as defined in this subtitle provided that:
- (1) The housing development and the adjoining subdivision were part of the same original sketch plan;
 - (2) The adjoining subdivision shall be zoned residential-mobile home and shall consist of previously leased pad sites in a mobile home park;
 - (3) The residential mobile home development and the adjoining subdivision share a stormwater management facility;
 - (4) The lots shall be sold to the Commission or designee as defined in this subtitle at below market price for either conveyance through shared equity financing to an eligible purchaser or rental to an individual of moderate income;
 - (5) Each lot sold to the Commission or designee as defined in this subtitle shall equal one moderate income housing unit required in the adjacent housing development;
 - (6) Concurrent with, prior to, or within 120 days subsequent to the approval of a site development plan or the final plat of subdivision for the housing development, the developer and the Commission or designee as defined in this subtitle shall execute an agreement which satisfies the requirements of this section;
 - (7) The agreement shall provide that any covenant to provide moderate income housing units which is already recorded shall be extinguished upon the sale of the same number of lots to the Commission or designee as defined in this subtitle; and
 - (8) An existing resident in the adjoining subdivision who meets the eligibility requirements of this subtitle shall be given first priority as an eligible purchaser of a lot or as a tenant of a lot owned by the Commission or designee as defined in this subtitle.
- (l) *Prohibited Transfers.* A developer using an optional or alternative method of compliance may not provide the required moderate income housing units on property:
- (1) Wholly owned by the Howard County Housing Commission;
 - (2) Owned by a limited partnership or limited liability company formed solely for the purpose of obtaining the benefit of low income housing tax credits under section 42 of the Internal Revenue Code and in which the Commission is the general partner or managing member;
 - (3) Owned by the County; or
 - (4) In a census tract block group where the poverty level is ten percent or greater according to the most recent census.
- (m) *Calculations—Fractions of a Unit.* If a calculation to determine the number of moderate income housing units a developer is required to provide under the Zoning Regulations results in a fraction of a moderate income housing unit, the developer shall provide an additional moderate income housing unit.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 58, 2002, § 1; C.B. 13, 2003, § 1; C.B. 21, 2003, § 1; C.B. 66, 2003, § 1; C.B. 29, 2004, § 1; C.B. 14, 2005, § 1; C.B. 78, 2004, § 1; C.B. 22, 2006, § 2; C.B. 61, 2006, § 2; C.B. 74, 2007, § 1; C.B. 6, 2008, § 1; C.B. 10, 2011, § 1; C.B. 43, 2013, § 1; C.B. 18, 2014, § 1; C.B. 12, 2016, § 1; C.B. 43, 2018, § 1)

Editor's note— Section 2 of C.B. 74, 2007 provided that the prohibition of subsection (m) of section 13.402 shall not apply to transfers approved on or before January 1, 2010 for which site development plans are technically complete on or before January 1, 2008.

Sec. 13.402A. - Market-based required alternatives to moderate income housing unit obligation.

- (a) *Application.* This section shall apply when the base sales price for a moderate income housing unit, as determined by the Department at the time the seller offers the unit for sale pursuant to section 13.404 of this subtitle, is 90 percent or more of the market price. For purposes of this section, market price is the net price offered to the public by the seller for a comparable unit within the development. In this instance, instead of providing moderate income housing units as required by section 13.402 of this subtitle, the developer shall pursue one or a combination of the alternatives set forth in subsection (b), (c), or (d) of this section.
- (b) *Units in Foreclosure.* The developer shall substitute units by purchasing, rehabilitating, and offering for sale existing housing units that are in foreclosure and are located throughout the County as follows:
 - (1) A substitute unit is eligible under this option if it:
 - (i) Has had mortgage or tax foreclosure proceedings initiated;
 - (ii) Has not had a mortgage or tax payment made for at least 90 days; and
 - (iii) Has been offered for sale by the owner to the public;
 - (2) The Department must approve each substitute unit before purchase by the developer, and shall ensure that the developer provides the same number of bedrooms;
 - (3) The rehabilitation of each substitute unit shall meet the Department's minimum standards, as determined by regulation of the Department;
 - (4) Upon completion of rehabilitation, the Department must approve each completed unit;
 - (5) A developer shall purchase and rehabilitate the unit and request a priority period, as set forth in section 13.404 of this subtitle, within one year of the developer's initial notification of sale under section 13.404;
 - (6) The sales price for a substitute unit shall be the lowest of the following:
 - (i) The moderate income housing unit price determined by the Department at the time of the developer's request for a priority period for the substitute unit;
 - (ii) Ninety percent of the appraised value of the substitute unit, as rehabilitated; or
 - (iii) The developer's actual cost of purchasing, rehabilitating, and selling the substitute unit, including carrying costs; and
 - (7) A developer shall purchase substitute units of the following types and at the following ratio:

TYPE OF REQUIRED MIHU:	TYPE OF SUBSTITUTE UNIT:	RATIO:
Apartment	Apartment	1:1
Apartment	Single-family, attached	3:2

Apartment	Single-family, detached	2:1
Single-family, attached	Apartment	2:3
Single-family, attached	Single-family, attached	1:1
Single-family, attached	Single-family, detached	3:2
Single-family, detached	Apartment	1:2
Single-family, detached	Single-family, attached	2:3
Single-family, detached	Single-family, detached	1:1

- (c) *Offer to Low-Income Purchasers.* The developer shall substitute units by offering one-third of the moderate income housing units required under this subtitle to eligible low-income purchasers who shall have an annual household income of up to 60 percent of the median income. The purchase price for these units shall be established in the same manner as set forth in section 13.403 of this subtitle, except that the base price shall be affordable to a purchaser with a household income equal to the following percentages of median income, adjusted by family size appropriate to the size and number of bedrooms in the unit:
- (1) Fifty-five percent for proffered units and single-family homes;
 - (2) Fifty percent for semi-detached (duplexes) and single-family attached (townhomes); and
 - (3) Forty-five percent for apartments (condominiums).
- (d) *Fee-In-Lieu.* The developer shall pay a fee-in-lieu to the Department for each moderate income housing unit required by this subtitle as follows:
- (1) The fee-in-lieu shall be calculated as the difference between the prevailing market price for the same unit type and the sale price for the moderate income housing unit provided, however, the fee-in-lieu shall not be less than seven and one-half percent of the sale price for the moderate income housing unit;
 - (2) The prevailing market price shall be determined by a survey of sales prices of units of the same type sold in the County within the previous 12 months;
 - (3) Sales of the following units shall be excluded from the survey:
 - (i) Townhouses less than 1,200 square feet and more than 2,000 square feet;
 - (ii) Single-family detached homes less than 1,500 square feet and more than 2,800 square feet;
 - (iii) Apartments less than 650 square feet and more than 1,300 square feet;
 - (iv) Units in poor condition or in need of significant repair or renovation; and
 - (v) The three highest and three lowest sales prices;

- (4) A developer shall pay the fee-in-lieu before use and occupancy permits may be issued for the units designated as moderate income housing units by the development's moderate income housing unit agreement; and
- (5) The fee-in-lieu collected by the Department shall be used for housing programs operated by the Department.

(C.B. 10, 2011, § 1)

Sec. 13.402B. - Mixed income option.

- (a) *Option.* Instead of providing moderate income housing units as required by the Zoning Regulations and section 13.402 of this subtitle, the developer may provide a mix of moderate income housing units and low income housing units at one of the percentages of total units set forth in subsection (c) of this section.
- (b) *Low Income Defined.* "Low income" is an annual household income of up to 60 percent of the median income in Howard County if the unit is for sale and up to 40 percent of the median income in Howard County if the unit is for rent. A low income housing unit for sale shall be offered to an eligible low income purchaser in accordance with section 13.404 of this subtitle. A low income housing rental unit shall be offered for rent to an eligible low income renter in accordance with section 13.405 of this subtitle.
- (c) *Percentage of Restricted Units.*
 - (1) *Fifteen percent requirement:* If the Zoning Regulations require that 15 percent of the units for sale or rent must be moderate income housing units, the developer may meet its obligation by providing moderate and low income housing units in one of the following percentages:

IF MIHU REQUIREMENT 15%		
OPTION	LOW INCOME UNITS	MODERATE INCOME UNITS
A	5%	5%
B	4%	7%
C	3%	9%
D	2%	11%
E	1%	13%

- (2) *Ten percent requirement:* If the zoning regulations require that ten percent of the units for sale or rent must be moderate income housing units, the developer may meet its obligation by providing moderate and low income housing units in one of the following percentages:

IF MIHU REQUIREMENT 10%		
OPTION	LOW INCOME UNITS	MODERATE INCOME UNITS
A	4%	2%
B	3%	4%
C	2%	6%
D	1%	8%

- (d) *Purchase Price.* The purchase price for the low income housing units shall be established in the same manner as set forth in section 13.403(a) of this subtitle, except that the base price shall be affordable to a purchaser with a household income equal to the following percentages of median income, adjusted by family size appropriate to the size and number of bedrooms in the unit:
- (1) Fifty-five percent for proffered units and single-family homes;
 - (2) Fifty percent for semi-detached (duplexes) and single-family attached (townhomes); and
 - (3) Forty-five percent for apartments (condominiums).
- (e) *Rental Rates.* The rental rates for the low income housing units shall be established in the same manner as set forth in section 13.403(b) of this subtitle, except that the Department shall establish maximum rates for rental units, by bedroom size, that are equal to 30 percent of the monthly income of a household whose annual income does not exceed 40 percent of the median income.

(C.B. 34, 2013, § 1)

Sec. 13.402C. - Alternatives to moderate income housing unit obligation in certain zones.

- (a) *Application.* This section shall apply only to:
- (1) Residential developments of single-family detached homes offered for sale in the RC, RR, R-ED, R-20, R-12, and R-SC zoning districts;
 - (2) Age-restricted adult housing and planned senior communities;
 - (3) Single-family attached homes in R-H-ED; and
 - (4) Mixed use developments in MXD.
- (b) *Alternative Compliance.* In these developments, instead of providing moderate income housing units as required by section 13.402 of this subtitle, the developer may pursue one or a combination of the alternatives set forth in subsection (c), (d) or (e) of this section.
- (c) *Substitute Units.* The developer may substitute units by purchasing, rehabilitating, and offering for sale existing housing units that are located throughout the County as follows:

- (1) The Department must approve each substitute unit before purchase by the developer, and shall ensure that the substitute unit provides the same number of bedrooms as planned for the on-site unit;
- (2) The rehabilitation of each substitute unit shall meet the Department's minimum standards, as determined by regulation of the Department;
- (3) Upon completion of rehabilitation, the Department must approve each completed unit before resale;
- (4) A developer shall purchase and rehabilitate the unit and request a priority period, as set forth in section 13.404 of this subtitle, within one year of the developer's initial notification of sale under section 13.404;
- (5) The sales price for a substitute unit shall be the lowest of the following:
 - (i) The moderate income housing unit price determined by the Department at the time of the developer's request for a priority period for the substitute unit; or
 - (ii) The developer's actual cost of purchasing, rehabilitating, and selling the substitute unit, including actual and reasonable carrying costs; and
- (6) A developer shall purchase substitute units of the following types and at the following ratio:

TYPE OF REQUIRED MIHU	TYPE OF SUBSTITUTE UNIT	RATIO
Apartment	Apartment	1:1
Apartment	Single-family, attached	3:2
Apartment	Single-family, detached	2:1
Single-family, attached	Apartment	2:3
Single-family, attached	Single-family, attached	1:1
Single-family, attached	Single-family, detached	3:2
Single-family, detached	Apartment	1:2
Single-family, detached	Single-family, attached	2:3
Single-family, detached	Single-family, detached	1:1

- (d) *Offer to Low-Income Purchasers.* The developer may substitute units by offering one-third of the moderate income housing units required under this subtitle to eligible low-income purchasers who shall have an annual household income of up to 60 percent of the median income. The purchase price for these units shall be established in the same manner as set forth in section 13.403 of this subtitle, except that the base price shall be affordable to a purchaser with a household income equal

to the following percentages of median income, adjusted by family size appropriate to the size and number of bedrooms in the unit:

- (1) Fifty-five percent for proffered units and single-family detached homes;
 - (2) Fifty percent for semi-detached (duplexes) and single-family attached (townhomes); and
 - (3) Forty-five percent for apartments (condominiums).
- (e) *Fee-In-Lieu*. The developer may pay a fee-in-lieu to the Department for each unit in the development or portion of the development that is not providing MIHUs onsite:
- (1) The fee-in-lieu for Fiscal Year 2014 shall be \$2.00 per square foot of residential space for each unit in the development as calculated for the building excise tax, section 20, subtitle 5 of the Howard County Code of Maryland;
 - (2) The fee-in-lieu shall be set yearly by Council resolution based upon the percentage of increase in the ENR Construction Cost Index for the Baltimore Region as reported in ENR, Engineering News Record;
 - (3) The fee-in-lieu shall be published on the County's website together with the base sales prices and rents for moderate income housing units;
 - (4) If the developer chooses to provide a portion of the required MIHUs on site, the fee shall be prorated accordingly.
 - (5) Except as provided in paragraph (a) of this section, a developer may not pay a fee in lieu of a single-family attached or apartment moderate income housing unit except in an age-restricted adult housing or planned senior community;
 - (6) A developer shall pay the fee-in-lieu before a use and occupancy permit may be issued for any unit in the development;
 - (7) The fee-in-lieu collected by the Department shall be used for the following:
 - (i) The Settlement Downpayment Loan Program;
 - (ii) The Rehabilitation Loan Program;
 - (iii) Grants to other County entities for rental housing subsidies, the purchase and rehabilitation of existing properties for sale or rent to low or moderate income households, emergency eviction support, or other housing opportunities for low and moderate income households; and
 - (8) Subject to section 22.1000 of the County Code, by February 1 of each year, the Department shall provide a detailed annual report to the Council of each collection and expenditure of all fee-in-lieu funds for the prior calendar year.
 - (9) In census tract block group where the poverty level is ten percent or greater according to the most recent census, the fee-in-lieu collected by the Department shall be used only for the Settlement Downpayment Loan Program and the Rehabilitation Loan Program.
- (f) *Multi-Plex Dwellings*. Notwithstanding section 13.402(d) of this subtitle, any development of single-family detached dwelling units may provide moderate income housing units on site in the form of multi-plex dwelling units in accordance with the applicable provisions of the Zoning Regulations.

(C.B. 35, 2013, § 1; C.B. 18, 2014, § 1; C.B. 43, 2018, § 1)

Sec. 13.403. - Prices for moderate income housing units offered for sale; rates for rental units.

- (a) *Base Prices for Moderate Income Housing Units Offered for Sale*. The base sale price for a moderate income housing unit shall be determined by the Housing and Community Development Board in accordance with this subsection.

- (1) Twice a year, the Board shall establish the base sale price for each type of moderate income housing unit offered for sale.
- (2) Before establishing the base sale price under this subsection, the Board shall provide information concerning the real property tax, insurance, and interest rate factors it proposes to use in establishing the base sale price on the County's website.
- (3) Before establishing the base sale price for moderate income housing units located in planned senior communities and age-restricted adult housing developments, the Board shall consult with the Office on Aging and Independence.
- (4) The Department shall provide to the Board information concerning current real property tax and insurance rates.
- (5) The base sale prices for moderate income housing units shall be based upon:
 - (i) A base size unit of the following types:

Type	Number of Bedrooms	Moderate Income Units—Base Size (sq. ft.)
Single-family detached	2	1,540
	3	1,680
	4	1,820
Semi-detached (duplex) and single-family attached (townhouse)	2	1,500
	3	1,640
	4	1,780
Back-to-back single-family attached (townhouse)	2	1,400
	3	1,540
Apartments	1	750
	2	950
	3	1,100

- (ii) Factors established annually by the Board, for:

- a. Real property taxes; and
 - b. Insurance rates;
 - (iii) Factors established twice a year by the Board for:
 - a. Interest rates on FHA 30-year mortgages; and
 - b. FHA mortgage insurance premiums, as determined by the United States Department of Housing and Urban Development; and
 - (iv) An average of the homeowners' association fees or condo fees charged for similar units in the market, based on an annual survey of fees.
- (6) The Department shall provide to the Board the price at which an eligible purchaser with a household income equal to the following percentages of median income, adjusted by family size appropriate to the size and number of bedrooms in the dwelling unit, can afford to purchase a dwelling unit:
- (i) Seventy percent for proffered units and single-family homes;
 - (ii) Sixty-five percent for semi-detached (duplexes) and single-family attached (townhomes); and
 - (iii) Fifty percent for apartments (condominiums).
- (7) For the purposes of this subsection:
- (i) A purchaser can afford to purchase a dwelling unit if the purchaser's monthly income would qualify the purchaser to obtain a 30-year fixed rate mortgage at the prevailing interest rate in an amount sufficient to pay 97 percent of the purchase price of the unit;
 - (ii) A purchaser's monthly income qualifies for a mortgage if the monthly payment required to pay (1) the monthly principal and interest of the mortgage loan, plus (2) the monthly payment of taxes and insurance on the property, calculated in accordance with the factors established by the Department under subsection (a) of this section, plus (3) the monthly payment of homeowners or condominium association fees, plus (4) the monthly payment of the FHA mortgage insurance premium, does not exceed 28 percent of the purchaser's monthly income; and
 - (iii) The prevailing interest rate is the prevailing mortgage interest rate for FHA-insured 30-year fixed-rate mortgages in the Baltimore Metropolitan Area with zero points. The Department shall calculate the prevailing interest rate by surveying, twice a year, at least three mortgage lenders and two banks for at least three consecutive business days.
- (8) The Board shall determine the prevailing interest rate as of December 1 and June 1 of each year.
- (9) As determined by the regulations of the Department and subject to paragraph (11) of this subsection, an increase in the base sales price of a moderate income housing unit may be made for the following upgrades in size, design, or amenities provided that the Board determines that they are necessary to ensure the compatibility of the moderate income housing unit with the development's market rate units:
- (i) Single-family attached (townhouse) units that are larger than the base size established by this section;
 - (ii) Additional bathrooms or powder rooms;
 - (iii) Finished basements;
 - (iv) Garages in single-family attached (townhouse) units; and
 - (v) Other upgrades in design or amenities that are necessary to ensure architectural compatibility with the development's market rate units.

- (10) As determined by regulations of the Department and subject to paragraph (11) of this subsection, an increase in the base sales price of a moderate income housing unit may be made if the homeowners' association or condominium association fees applicable to the unit are less than the average of the homeowners' association fees or condominium fees charged for similar units in the market, as determined by the Department.
 - (11) Any increase in the base sales price of a moderate income housing unit may not exceed:
 - (i) Fifty percent of the base sales price for apartment (condominium) units;
 - (ii) Twenty percent of the base sales price for semi-detached (duplex) and single-family attached (townhouse) units; and
 - (iii) Ten percent of the base sales price for single-family detached and proffered units.
 - (12) As determined by regulations of the Department, a reduction in the base sales price of a moderate income housing unit shall be made:
 - (i) For units that are smaller than the base size established by this section;
 - (ii) For single-family detached units, semi-detached (duplex) units, and single-family attached (townhouse) units without basements; or
 - (iii) If the homeowners' association or condominium association fees applicable to the unit are more than the average of the homeowners' association fees or condominium fees charged for similar units in the market, as determined by the Department.
- (b) *Rates for Rental Units:*
- (1) The Department shall establish maximum rates for rental units, by bedroom size, that are equal to 30 percent of the monthly income of a household whose annual income does not exceed 60 percent of the median income.
 - (2) The maximum rental rates shall include an allowance for utilities paid by the tenant. The allowance shall be calculated by the Department based upon the average utility costs prevailing for similar sized units in Howard County. If required by the lease, all utility costs, including those in excess of the allowance, shall be paid by the tenant.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 21, 2003, § 1; C.B. 22, 2006, § 2; C.B. 74, 2007, § 1; C.B. 10, 2011, § 1; C.B. 12, 2016, § 1)

Sec. 13.404. - Sale of moderate income housing unit.

- (a) *Initial Sale of Moderate Income Housing Unit—Priority Period.*
- (1) (i) Except as provided in section 13.407 of this subtitle, the seller of a moderate income housing unit offered for sale shall offer the unit for initial sale for a 120-day priority period through the Department to an eligible purchaser.
 - (ii) During the priority period, the price for the moderate income housing unit shall not exceed the initial price established for the unit under section 13.403 of this subtitle.
 - (2) (i) A seller shall notify the Department of the proposed offering and the proposed date on which the priority period will begin.
 - (ii) The notice shall set forth the number of units offered, the location of each unit, a description of the amenities offered in each unit, the sales price and information regarding any mortgage financing available to buyers.
 - (iii) The seller shall also provide a vicinity map of the offering, a copy of the approved subdivision or site development plan, and such other information as required by the Department.

- (iv) If the Department determines that the notice is incomplete, the Department shall notify the seller within five business days of receipt of the notice. The seller shall submit a complete notice before the priority period begins.
 - (3) Within the priority period, the Department shall provide the seller with the name of an eligible purchaser for each unit.
 - (4) The seller shall make a good faith effort to enter into a contract with the eligible purchaser within the priority period. The contract shall allow the purchaser at least 60 days from the date of the notice provided in paragraph (3) of this subsection to obtain a financing commitment. The contract shall require the seller to make a good faith effort to complete construction of the moderate income housing unit within the time set forth in the purchaser's financing commitment.
 - (5) If the seller fails to make a good faith effort under paragraph (4) of this subsection, the settlement date shall be extended until ten days after the date construction is actually completed.
 - (6) If the eligible purchaser fails to comply with the conditions of the commitment for mortgage financing or fails to enter into a purchase contract, the Department may substitute another eligible purchaser.
 - (7) Any earnest money collected from an eligible purchaser may not exceed \$500.00.
- (b) *Same—Settlement.*
- (1) (i) An eligible purchaser who enters into a contract to purchase a moderate income housing unit shall settle on the property after completion of the construction of the unit.
 - (ii) For purposes of this subsection, a moderate income housing unit shall be deemed complete on the date that a use and occupancy permit for the unit is issued by the Department of Inspections, Licenses and Permits.
 - (iii) The seller shall notify the purchaser at least ten days prior to the settlement date.
 - (iv) The purchaser shall settle on the property within two business days of the settlement date, unless extended by the parties.
 - (v) The seller shall make a good faith effort to settle with the purchaser within the time set forth in the notice.
 - (2) (i) If a purchaser fails to settle on the property by the agreed upon settlement date, the seller shall notify the Department and offer to extend the priority period for 60 days from the agreed upon settlement date.
 - (ii) The Department shall accept or reject the offer within five business days of receipt of the notice.
 - (iii) If the Department accepts the offer to extend the priority period, the Department shall pay to the seller the seller's reasonable and actual carrying costs, such as interest, insurance, taxes, utilities, homeowners' association fees, and maintenance costs for the moderate income housing unit for the period of the extension.
 - (iv) The Department shall notify eligible households and priority purchasers of the availability of the moderate income housing unit in accordance with sections 13.406 and 13.407 of this subtitle.
- (c) *Same—Sale after Priority Period:*
- (1) After the priority period or extension the seller may offer a moderate income housing unit for sale to the general public without restriction as to price if:
 - (i) After the priority period expires an eligible purchaser has not signed a purchase contract;

- (ii) An eligible purchaser has not settled on the property by the settlement date and the Department has not accepted the seller's extension offer under subsection (b)(2)(i) of this section; or
 - (iii) The extension of the priority period expires and an eligible purchaser has not signed a purchase contract.
- (2) If the moderate income housing unit is offered for sale to the general public without restriction as to price, the seller shall pay to the County an amount equal to 50 percent of the difference between:
- (i) The sale price of the moderate income housing unit, less a seven percent reduction for the seller's cost of sale, and less the seller's reasonable and actual carrying costs from the end of the initial priority period, if applicable; and
 - (ii) The initial price established for the moderate income housing unit under section 13.403 of this subtitle.
- (d) *Subsequent Sale of Moderate Income Housing Unit.* A subsequent sale of a moderate income housing unit shall be:
- (1) Offered through the Department to an eligible purchaser at the sale price established under section 13.403 of this subtitle;
 - (2) Subject to the covenants required under subsection 13.402(c) of this subtitle; and
 - (3) Subject to regulations adopted by the Department under this subtitle.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 22, 2006, § 2; C.B. 74, 2007, § 1; C.B. 10, 2011, § 1)

Sec. 13.405. - Rental of moderate income housing units.

- (a) *Duration of Rental Restrictions.* Except as provided in subsection (f) of this section, the restrictions on the rental of moderate income housing units set forth in this subtitle shall apply to each rental moderate income housing unit development in perpetuity beginning on the date of initial offering as set forth in subsection (c) of this section.
- (b) *Application of Rental Restrictions:*
- (1) The owner of any rental development subject to this subtitle shall ensure that the number of moderate income housing units required under the approved final plan or site development plan are rented or available for rent as moderately priced dwelling units to persons determined to be eligible under section 13.406 of this subtitle.
 - (2) The owner is not required to permanently designate particular units as moderate income housing units in order to meet this requirement.
- (c) *Rental During Priority Period:*
- (1) A moderate income housing unit offered for rent must first be offered for a 60-day priority period to an eligible applicant or to a designee. During the priority period, the moderate income housing unit shall be offered at a rent not to exceed the rent established for the unit under section 13.403 of this subtitle.
 - (2) (i) Before offering a moderate income housing unit for rent, the owner must notify the Department of the proposed offering and the proposed date on which the priority period will begin.
 - (ii) The notice must set forth the number of units offered, the location of each unit, the unit type, bedroom size and floor area of each unit, a description of the amenities offered in each unit and the rental rate.

- (iii) The owner shall also provide a vicinity map of the offering, a copy of the approved subdivision or site development plan, and such other information as the Department finds necessary.
 - (iv) If the Department determines that the notice is incomplete, the Department shall notify the owner within five business days of receipt of the notice. The owner shall submit a complete notice before the priority period may begin.
- (3) The owner shall make a good faith effort to enter into a lease with an eligible applicant within the priority period.
- (d) *Rental after Priority Period:*
 - (1) After the priority period expires, a unit in the development may be offered for rent to the general public without restriction as to rent if:
 - (i) An eligible applicant has not signed a lease agreement for the unit; and
 - (ii) As provided in the moderate income housing unit agreement, the required number of units in the development are rented or, at the time the priority period expired, were available for rent as moderate income housing units.
 - (2) If, because an owner rents one or more units under paragraph (1) of this subsection, the number of units in the development that are rented as moderate income housing units is below the number required in the moderate income housing unit agreement. The owner shall offer to rent the next available unit to an eligible applicant and shall continue to do so until:
 - (i) The number of rental units equals the number required under the agreement; or
 - (ii) The Department cannot provide the owner with the name of an eligible applicant to rent the unit.
- (e) *Reports:*
 - (1) The owner of rental units shall submit a report to the Department, in a form prescribed by the Department, listing the occupants of moderate income housing units in the development and the rental rates charged, and certifying that the occupants are eligible under section 13.406.
 - (2) A report under this subsection shall be submitted monthly until the required number of moderate income housing units are occupied and annually thereafter.
- (f) *Condominium Conversions:*
 - (1) Before a rental development is converted to a condominium regime, the owner of the development shall give notice to the Department.
 - (2) The notice shall be given concurrently with the registration of the public offering statement with the Secretary of State under section 11-127 of the Real Property Article of the Annotated Code of Maryland.
 - (3) The owner shall execute and record a revised moderate income housing unit agreement governing the sale of the condominium units, which shall provide that the number of units for sale as moderate income housing units will be at least the number required under the approved final plan or site development plan.
- (g) *Authority to Assign.* When issuing a certificate of eligibility for a moderate income housing unit offered for rent, the Department may assign its responsibility for accepting applications and certifying eligibility under subsection 13.406(b) of this subtitle to an apartment complex that contains moderate income housing units offered for rent.
- (h) *Duties upon Assignment.* When the Department assigns responsibility under subsection (g) of this section:
 - (1) The Department shall annually notify the apartment complex of the applicable income limits and other eligibility criteria; and

- (2) The apartment complex shall, upon request of the Department, submit their application form, lease form, and leasing procedures to the Department for review and approval.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 74, 2007, § 1; C.B. 6, 2008, § 1; C.B. 10, 2011, § 1)

Sec. 13.406. - Eligibility to purchase or rent.

- (a) *Application Required.* Unless the Department assigns authority under subsection 13.405(g) of this subtitle, to be eligible to purchase or rent a moderate income housing unit, an individual shall apply to the Department.
- (b) *Qualifications.* An individual shall be eligible to purchase or rent a moderate income housing unit if the individual has a verifiable source of income, agrees to occupy the moderate income housing unit as the principal place of residence, and:
 - (1) Has applied to purchase a moderate income housing unit and has an annual household income equal to or less than 80 percent of the median income; or
 - (2) Has applied to rent a moderate income housing unit and has an annual household income equal to or less than 60 percent of the median income.
- (c) *Prospective Purchasers—Notification.* An individual seeking to purchase a moderate income housing unit shall apply to the Department for placement on the waiting list maintained by the Department. The Department shall maintain the waiting list by date of application and household size. When a moderate income housing unit becomes available, the Department shall notify each eligible purchaser identified in accordance with subsection (f) of this section of the availability.
- (d) *Same—Ability to Purchase.* An individual who is notified by the Department of the availability of a moderate income housing unit shall contact the Department within ten days to indicate that the individual is ready and willing to buy the moderate income housing unit.
- (e) *Same—Selection by Department:*
 - (1) The Department shall select an eligible purchaser to purchase each available moderate income housing unit.
 - (2) In selecting an eligible purchaser the Department shall give priority to those:
 - (i) With the lowest incomes who qualify for mortgage financing available at the time;
 - (ii) Who are first-time home buyers applying to purchase a moderate income unit;
 - (iii) Who reside and work in Howard County;
 - (iv) Who work in Howard County;
 - (v) Who reside in Howard County;
 - (vi) Who are employed by:
 - a. Howard County Government;
 - b. Board of Education of Howard County;
 - c. Howard Community College;
 - d. Howard County Library Board of Trustees;
 - e. Howard County Economic Development Authority;
 - f. Howard County Health Department;
 - g. Howard County Department of Social Services; or

- h. A nonprofit entity that is:
 - 1. Organized or operated for the purpose of providing health and human services to any group of persons residing in Howard County; and
 - 2. Designated as an entity eligible to receive this preference by Department regulations;
- (vii) Who are displaced, within one year prior to application for a certificate of eligibility, by the closure of a mobile home park adjacent to Route 1;
- (viii) Who are participants in the Federal Family Self-Sufficiency Program authorized by 42 U.S.C. 1437U and 24 C.F.R. Part 984 as administered by the Commission; and
- (ix) Who have been on the waiting list for the longest duration.
- (f) The Department shall adopt regulations establishing a process for pre-qualifying eligible purchasers from those identified by the Department under subsection (e) of this section and providing for a lottery to determine which of the prequalified eligible purchasers will have the option of purchasing a moderate income housing unit.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 9, 2004, § 1; C.B. 33, 2004; C.B. 22, 2006, § 2; C.B. 66, 2007, § 1, C.B. 74, 2007, § 1; C.B. 6, 2008, § 1; C.B. 10, 2011, § 1)

Editor's note— C.B. 10, 2011, § 1, adopted April 8, 2011, amended § 13.406 title to read as herein set out. Former § 13.406 title pertained to certificate of eligibility.

Sec. 13.406A. - Continuing Care Retirement Communities.

- (a) *Authority to Establish Subsidy Fund.* Instead of providing moderate income housing units as required by this subtitle or the zoning regulations, a Continuing Care Retirement Community that is certified by the Maryland Department of Aging may establish a subsidy fund:
 - (1) In accordance with regulations adopted by the Department; and
 - (2) To be used to defray the rental component of any fee charged for the occupancy of a moderate income housing unit such that the unit will be affordable to a household with an annual household income equal to or less than 60 percent of the median income.
- (b) *Authority to Assign.* The Department may assign its responsibility for determining if a person is eligible to occupy a moderate income housing unit within a Continuing Care Retirement Community.
- (c) *Duties upon Assignment.* When the Department assigns responsibility under subsection (b) of this section:
 - (1) The Department shall annually notify the Continuing Care Retirement Community of the applicable income limits and other eligibility criteria; and
 - (2) The Continuing Care Retirement Community shall, upon request of the Department, submit their application form, occupancy agreement form, and admissions and occupancy procedures to the Department for review and approval.

(C.B. 6, 2008, § 1)

Sec. 13.407. - Purchase or rent by designee.

- (a) *Option to Rent.* A designee shall have the option to rent a moderate income housing unit in a development.

- (b) *Commission Purchase Option.* The Commission has the option to buy, for its own programs or programs administered by it, the available moderate income housing units in a development before the end of the priority period for the initial or subsequent sale of the units.
- (c) *Designee Purchase Option.* A designee other than the Commission has the option to buy the available moderate income housing units in a development before the end of the priority period for the initial or subsequent sale of the units. The Department shall adopt regulations governing allocation of units if more than one designee applies to exercise an option under this subsection.
- (d) *Same Price Negotiation.* If a designee exercises its purchase option, the designee may make the purchase for the initial sale price per unit or negotiate a different price for a larger or enhanced unit.
- (e) *Assignment of Option.* An option under this section may be assigned to persons of moderate income who are eligible for housing assistance under any Federal, State or local program.
- (f) *Notice of Availability.* The Department shall notify all designees promptly after receiving notice from a seller of the availability of moderate income housing units. Within ten days of receiving notice from the Department, the designee shall notify the seller and the Department of its intent to exercise its option.
- (g) *Limit on Rental Units:*
 - (1) If moderate income housing units are sold or leased to a designee other than the Commission, the designee may not offer for rent more than 40 percent of the units. The 40 percent limit does not apply to moderate income housing units in planned senior communities or age-restricted adult housing developments.
 - (2) If the Commission is the designee or if the County retains ownership of moderate income housing units, the Commission or the County may not offer for rent more than 25 percent of the units. The 25 percent limit does not apply to moderate income housing units in planned senior communities or age-restricted adult housing developments.
- (h) *Units Offered through Department.* A moderate income housing unit offered for sale or rent by a designee must be offered through the Department to holders of a certificate of eligibility. Except as provided in subsection (j) of this section the moderate income housing unit must be offered at a price or rental rate not to exceed the initial price or rental rate established under section 13.403 of this subtitle.
- (i) *Units to Be Maintained.* A designee offering a moderate income housing unit for rent shall maintain the unit in good condition at all times. The designee shall comply with any applicable home owner association restrictions or covenants concerning improvements to or maintenance of the unit.
- (j) *Co-Ownership Purchases:*
 - (1) If a designee purchases a moderate income housing unit the designee may sell the unit without restriction as to price if the designee enters into a written agreement with the Department providing that:
 - (i) The designee will sell a co-ownership interest in the unit to a holder of a certificate of eligibility for a price not to exceed the initial sale price;
 - (ii) Upon resale of the unit, any net proceeds received by the designee shall be used to purchase a unit for resale or rent to an eligible purchaser or another designee;
 - (iii) The designee may resell its interest in the unit only if the development includes, at the time of resale by the designee, at least the minimum number of moderate income housing units required by the zoning regulations when the development was constructed.
 - (2) The resale of a unit subject to a co-ownership agreement is not subject to the restrictions of this subtitle.
 - (3) The Department shall prepare a standard agreement to be used by a designee that wishes to enter into an agreement under this subsection. The standard agreement shall not be used until

approved by resolution of the County Council. If the Council fails to act on the standard agreement within 60 days after receiving it, the failure to act constitutes approval.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 22, 2006, § 2; C.B. 74, 2007, § 1)

Sec. 13.408. - Foreclosures; waiver.

- (a) *Notice to Department.* Before a moderate income housing unit is sold in foreclosure proceedings, the person authorized to make the sale shall notify the Department by certified mail of the time, place, and terms of the sale. The notice shall be set not later than ten days before the date of the sale.
- (b) *Restrictions Terminate after Sale.* If a moderate income housing unit is sold in foreclosure proceedings, the restrictions of this subtitle shall terminate and, if notice was received under subsection (a) of this section, the County Executive shall execute a release of the covenants on the property. Proceeds of the sale of the moderate income housing unit are paid to the County as follows:
 - (1) For a unit originally offered for sale, all proceeds in excess of the initial sale price at the time of the foreclosure sale, plus the reasonable and actual costs and fees of foreclosure; and
 - (2) For a rental unit, all proceeds attributable to the unit that are in excess of the initial sale price that would have been permitted if the unit had been originally offered for sale, as determined by the Department, plus the reasonable and actual costs and fees of foreclosure attributable to the rental unit.
- (c) *Variance or Waiver of Restrictions.* The County Executive may vary or waive the restrictions on the resale price or subsequent rental rates for a moderate income housing unit sold at foreclosure sale if the restrictions conflict with the requirements of a Federal or State housing program that affords eligible households the opportunity to buy or rent a moderate income housing unit.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 22, 2006, § 2)

Sec. 13.409. - Regulations.

The Department shall adopt, in accordance with the Administrative Procedure Act, the regulations necessary to implement and administer this subtitle, including regulations to establish:

- (1) The form of a co-ownership agreement;
- (2) Criteria for determining the eligibility of prospective purchasers or renters of moderate income housing units;
- (3) A process for the selection and notification of eligible purchasers;
- (4) Standard terms of moderate income housing unit agreements;
- (5) Criteria for determining the resale price of a moderate income housing unit and procedures for the subsequent resale;
- (6) Criteria for determining designees;
- (7) Minimum specifications for moderate income housing units;
- (8) Criteria governing allocation of units if more than one designee applies to exercise an option under subsection 13.407(c) of this subtitle;
- (9) A co-ownership program for designees in accordance with subsection 13.407(j) of this subtitle;
- (10) Criteria for the sale or rental of a moderate income housing unit under section 13.407 of this subtitle;

- (11) Criteria for administering the moderate income housing unit community revitalization program; and
- (12) Criteria for subsidy funds created by Continuing Care Retirement Communities under subsection 13.402(l) of this subtitle.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001; C.B. 66, 2003, § 1; C.B. 22, 2006; C.B. 74, 2007, § 1)

Sec. 13.410. - Appeals.

A party aggrieved by a decision of the Department issued under this subtitle may, within 30 days of the decision, appeal the decision to the Howard County Board of Appeals according to its rules of procedure.

(C.B. 93, 1996; C.B. 38, 2001, § 1; C.B. 59, 2001)

SUBTITLE 5. - TENANT RETROFIT LOAN AND GRANT PROGRAM

Sec. 13.500. - Definitions.

In this subtitle, the following words have the meanings indicated:

- (a) *Annual income* means gross income received during the previous 12 months from all sources less:
 - (1) Unusual or temporary income items; and
 - (2) Unusual expenses of a long-term nature, such as extraordinary medical, physical or mental rehabilitation expenses or special education expenses.
- (b) *Applicant* means an individual or individuals applying for a loan or grant.
- (c) *Grant* means a grant of money made by the Department under this subtitle.
- (d) *Loan* means a loan of money made by the Department under this subtitle.
- (e) *Median income* means the median annual income as set from time to time by the United States Department of Housing and Urban Development for section 8 housing programs in the Baltimore Metropolitan Statistical Area, as adjusted for household size.
- (f) *Department* means the Department of Housing and Community Development.
- (g) *Program* means the tenant retrofit loan and grant program.
- (h) *Qualified tenant* means an Applicant who:
 - (1) Is or resides with a person with a disability as defined by the Fair Housing Amendments Act of 1988 (42. U.S.C. 361);
 - (2) Has a lease to rent and occupy a residence in Howard County for at least one year following approval of the loan or grant; and
 - (3) Meets the eligibility requirements of this subtitle.
- (i) *Retrofit improvements* means reasonable modifications of existing premises occupied or to be occupied by a person with a disability that are necessary to afford the person with a disability full enjoyment of the premises. Retrofit improvements may include, but are not limited to:
 - (1) The installation of grabbars, ramps, and electrical aids for hearing and visually impaired tenants; and

- (2) The relocation or modification of doorways, fixtures, and appliances for accessibility.
- (j) *Restoration* means modification of retrofit improvements to restore the interior of the premises to the condition that existed before the retrofit improvements, reasonable wear and tear excepted.

(C.B. 61, 1991; C.B. 59, 2001; C.B. 14, 2014, § 1)

Sec. 13.501. - Establishment.

There is a tenant retrofit loan and grant program administered by the Department of Housing and Community Development.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.502. - Purpose.

The purposes of the program are to:

- (a) Provide financial assistance to qualified tenants who cannot otherwise finance retrofit improvements to rental units; and
- (b) Increase the supply of affordable, accessible and usable housing in Howard County.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.503. - Loans and grants; source of funds.

- (a) The Department may make loans and grants to qualified tenants in accordance with the provisions of this subtitle.
- (b) The Department may make loans and grants from monies appropriated to the program in the budget.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.504. - Eligibility.

- (a) To be eligible to receive a loan or grant, an Applicant shall be a qualified tenant who meets the requirements of this section.
- (b) To be eligible to receive a loan, the Applicant's annual income may not exceed 110 percent of median income.
- (c) To be eligible to receive a grant, the Applicant's annual income may not exceed 40 percent of median income.
- (d) The Applicant shall provide evidence, satisfactory to the Department, that the Applicant is otherwise unable to afford financing for the retrofit improvements and restoration costs.
- (e) The Applicant shall meet reasonable minimum requirements for creditworthiness, as established by the Department.

Sec. 13.505. - Use of loan and grant funds.

A loan or grant may be used for:

- (a) The costs of retrofit improvements to a residence rented by a qualified tenant and occupied or to be occupied by a handicapped person; and
- (b) If lawfully required by the qualified tenant's landlord, the costs of restoration of the residence.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.506. - Loan and grant amount.

- (a) Except as provided in subsection (b), the amount of a loan or grant may not exceed the lesser of:
 - (1) The estimated cost of the retrofit improvements or restoration, as applicable; or
 - (2) Five thousand dollars.
- (b) A loan or grant may exceed \$5,000.00 only upon the review and approval of the Housing and Community Development Board.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.507. - Loan terms and conditions.

- (a) Except as provided in subsection (b), a loan shall be repaid on a monthly basis with interest at a rate of five percent per annum over a period not to exceed five years.
- (b) For qualified tenants whose annual income does not exceed 80 percent of the median income, a loan may include terms that the Department deems necessary to make the costs of the retrofit improvements affordable to the qualified tenant, including a reduced interest rate and deferred payment of principal and interest.
- (c) In order to assure repayment of a loan, the Department may require security for the loan in the form of collateral or a third-party guaranty.
- (d) The Department shall set such other terms and conditions of a loan as are reasonable and necessary.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.508. - Retrofit improvements.

- (a) The retrofit improvements shall be approved by the Department and the qualified tenant's landlord. The retrofit improvements shall comply with all applicable Federal, State, and local housing and building codes, including without limitation the Rental Housing Code of Howard County.
- (b) The retrofit improvement work shall be performed by a qualified contractor approved by the Department.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.509. - Application procedures.

- (a) An application for a loan or grant shall be made to the Department on a form prescribed by the Department.
- (b) Together with the application, an Applicant shall submit to the Department:
 - (1) The Applicant's lease for the residence;

- (2) The Applicant's most recent Federal income tax return; and
- (3) Any other information or documents the Department may require.
- (c) Prior to receiving a loan or grant, the Applicant shall submit to the Department for its review and approval a copy of the contract for the retrofit improvement work.
- (d) The Department may charge fees to cover the costs of processing applications, servicing loans, or other costs incurred by the County in connection with a loan or grant.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.510. - Documents.

- (a) A loan shall be evidenced by a promissory note from the qualified tenant to Howard County, Maryland, in a form prescribed by the Department. Loan disbursements shall be governed by a loan agreement by and between the qualified tenant and Howard County, Maryland, in a form prescribed by the Department.
- (b) A grant shall be evidenced by a grant agreement by and between the qualified tenant and Howard County, Maryland. The grant agreement shall provide:
 - (1) For disbursements of the grant; and
 - (2) That if the qualified tenant fails to comply with the terms and conditions of the grant, the qualified tenant shall repay the grant to the County with interest at the prevailing legal rate of interest.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.511. - Powers of department.

- (a) Subject to the approval of the County Executive, and notwithstanding any other provision of this Code, the Department may enforce the terms of a loan or grant by:
 - (1) Obtaining and enforcing judgments;
 - (2) Foreclosing on or repossessing secured property;
 - (3) Acquiring title to property foreclosed upon or repossessed, or accepting conveyances in lieu of foreclosure or repossession, and conveying, selling or leasing property so acquired;
 - (4) Assigning debts for value; and
 - (5) Releasing security interests when paid.
- (b) The Department, with the prior approval of the County Executive, may at any time modify the terms and conditions of a loan, including the rate of interest, the time of payment, or the amount of payment, in order to ensure repayment of the loan or to achieve the purposes of this subtitle.
- (c) Subject to the approval of the County Executive, the Department may enter into contracts with third parties to make or service loans on behalf of the Department.

(C.B. 61, 1991; C.B. 59, 2001)

Sec. 13.512. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 61, 1991; C.B. 59, 2001)

SUBTITLE 6. - HOUSING INITIATIVES LOAN PROGRAM

Sec. 13.600. - Definitions.

In this subtitle, the following words have the meanings indicated:

- (a) *Group home* means:
 - (1) A housing facility:
 - (i) Offering supportive services or supervisory personnel to individuals with special housing needs; and
 - (ii) Providing common, shared, or independent living, dining, kitchen, sanitary, and sleeping facilities.
 - (2) A group home need not include all the facilities described in (1) above if it provides emergency and temporary housing facilities for homeless individuals.
- (b) *Group home sponsor* means a borrower under the program who owns and operates a group home and who is:
 - (1) A nonprofit organization;
 - (2) An individual;
 - (3) A limited partnership in which each of the general partners qualifies as a nonprofit organization; or
 - (4) A limited partnership which is a wholly owned subsidiary of a nonprofit organization and:
 - (i) Was formed for the purpose of undertaking a group home project that is eligible in whole or in part for Federal programs or incentives, including low-income housing tax credits; and
 - (ii) Where a nonprofit organization is managing the project or will be the recipient of net cash flow or the residual sale proceeds upon sale of the group home.
- (c) *Individual of low income* means an individual whose annual income is less than 50 percent of the area median annual income, as determined by the Department.
- (d) *Individual of moderate income* means an individual whose annual income is less than 80 percent of the area median annual income, as determined by the Department.
- (e) *Loan* means a loan of money made by the Department pursuant to this subtitle.
- (f) *Modifications* means improvement, repair, renovation, or rehabilitation of an existing building to make it suitable for use as a group home or to eliminate any housing, building, fire, safety, health, or other code violations.
- (g) *Nonprofit organization* means a corporation, foundation, or other legal entity, no part of the net earnings of which inures to the benefit of any private shareholder or individual holding any interest in the entity.
- (h) *Department* means the Department of Housing and Community Development.
- (i) *Operating costs* means costs incurred for the maintenance or operation of a completed group home, including capital reserves or payments of principal and interest on any prior mortgage loan secured by the group home.
- (j) *Program* means the housing initiatives loan program.

(C.B. 21, 1992; C.B. 31, 1994; C.B. 59, 2001)

Sec. 13.601. - Establishment.

There is a housing initiatives loan program administered by the Department of Housing and Community Development.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.602. - Purpose.

The purpose of the program is to provide loans to group home sponsors to finance the costs of acquiring, constructing, and modifying buildings which will provide group homes for low-income elderly, and persons with disabilities, and other citizens of the County with special housing needs.

(C.B. 21, 1992; C.B. 59, 2001; C.B. 14, 2014, § 1)

Sec. 13.603. - Loans; source of funds.

The Department may make loans to group home sponsors in accordance with the provisions of this subtitle from monies appropriated to the program in the County budget.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.604. - Eligible group home sponsors.

- (a) A group home sponsor shall be in good standing and qualified to do business in Maryland and shall have the capacity and all necessary legal authorization to incur the obligations of the loan.
- (b) A group home sponsor shall demonstrate:
 - (1) Financial credibility and stability;
 - (2) The capability to successfully complete the acquisition, construction, or modifications of the group home in a timely and satisfactory manner; and
 - (3) The ability to manage the group home.
- (c) A group home sponsor shall provide evidence that:
 - (1) The sponsor is unable to obtain the financing necessary for the group home on reasonable terms through normal lending channels; and
 - (2) Any financing being obtained outside the program is assured and acceptable to the County.
- (d) A sponsor shall agree in writing to comply with the requirements of this subtitle.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.605. - Eligible group homes.

A group home shall:

- (a) Be located within Howard County, Maryland;
- (b) Be owned by the group home sponsor in fee simple or leasehold estate with title and term of the leasehold estate acceptable to the County;

- (c) Be in compliance with all applicable zoning and building codes and other legal requirements;
- (d) Be economically feasible so that it is reasonable to anticipate that the loan can be repaid under loan terms that are acceptable to the County.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.606. - Use of loan funds.

A loan may be used to finance, in whole or in part, any of the following:

- (a) The site acquisition and construction costs as well as a permanent mortgage for the group home;
- (b) The purchase of an existing building to provide a group home;
- (c) Modifications to a group home;
- (d) Closing costs associated with the construction or purchase of a group home;
- (e) Engineering, legal, title, survey or architectural fees associated with financing real property development;
- (f) Other development costs deemed reasonable by the County; and
- (g) Operating costs of a group home.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.607. - Loan provisions.

- (a) *Terms of Loan—In General.* Except as provided in subsection (b) below, a loan shall be repaid with interest at a rate equivalent to the County's cost of funds as determined from time to time by the Director of Finance, for a term of no more than 30 years when the County is the primary lender and not more than ten years when the County is not the primary lender. Payments shall be made monthly and applied to escrows, if applicable, interest and principal, in that order.
- (b) *Terms of Loan Exceptions to General Terms.* The Department may agree to a lower interest rate, longer term, or deferred payments of principal or interest if the County Executive determines that such terms are necessary in order to make the group home affordable for use by individuals of low or moderate income.
- (c) *Mortgage Lien Secures Loan.* Except as provided in subsection (d) below, a loan shall be secured by a mortgage lien, which may be subordinate to other mortgage liens.
- (d) *Loan for Operating Costs.* A loan for operating costs shall be secured by a loan and security agreement, and the loan proceeds shall be deposited in an interest-bearing account subject to the control of the County.
- (e) *Repayment of Loan.* A loan shall be repaid in full no later than the first to occur of:
 - (1) The maturity date of the loan;
 - (2) The date of any sale or transfer of the group home or a controlling interest in a group home; or
 - (3) The discontinuance of use as a group home.
- (f) *Insurance.* The group home sponsor shall maintain fire and extended coverage insurance, comprehensive general liability insurance, and such other insurance upon such terms and conditions as the department may require.

- (g) *Other Terms and Conditions.* The Department shall set such other terms and conditions of a loan as are reasonable or necessary and consistent with the intent of this subtitle.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.608. - Limitations on income.

- (a) A group home sponsor may be subject to a limitation on the amount of income that the group home sponsor may retain from the project.
- (b) The limitation, at the Department's discretion, may take the form of:
- (1) A requirement that a portion of the group home sponsor's return on equity shall be paid to the County;
 - (2) A requirement that the group home sponsor shall pay the County a portion of the sales receipts on the group home at the time of sale; or
 - (3) Other arrangements acceptable to the Department.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.609. - Loan applications and fees.

- (a) Loan applications shall be made upon forms prescribed by the Department and shall include sufficient information and documentation to enable the Department to evaluate the eligibility of the group home sponsor and the group home.
- (b) The Department may charge fees to cover the costs of processing applications, originating and servicing loans, or other costs incurred by the County in connections with an application or loan.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.610. - Loan approval.

- (a) An eligible loan application shall be submitted by the Department to the Housing and Community Development Board for review and recommendation to the County Executive for approval or disapproval of the loan and the terms of the loan. If the Board fails to act upon an application within 45 days of its submission to the Board, the application shall be forwarded to the County Executive for approval or disapproval, without any recommendation from the Board.
- (b) The County Executive shall approve or disapprove a loan and its terms, taking into consideration the following factors:
- (1) The number, income, and special needs of individuals who ultimately will benefit from the assistance provided under the program;
 - (2) The economic feasibility of the group home;
 - (3) The geographic distribution of group homes assisted under the program;
 - (4) The availability of funds appropriated for the program; and
 - (5) Other factors that may be relevant.
- (c) Approval of a loan shall be evidenced by a commitment letter from the County to the group home sponsor, which commitment letter shall become effective when the group home sponsor accepts the terms of the commitment letter by executing it and returning it to the Department.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.611. - Documents and closing.

- (a) The Department shall provide the group home sponsor with copies of relevant loan documents prepared by the Office of Law.
- (b) The loan shall be closed at a time and place acceptable to the Department and to the Office of Law.
- (c) The County Executive may designate the Chief Administrative Officer, the Deputy Chief Administrative Officer, or the Director of Housing and Community Development to execute the loan documents and take such other action on behalf of the County Executive as is required or permitted to be taken by the County Executive pursuant to this subtitle.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.612. - Powers and duties of department.

- (a) Subject to the approval of the County Executive, the Department shall:
 - (1) Manage, supervise and administer the program; and
 - (2) Propose rules, policies and procedures to implement the program in conformance with this subtitle, including:
 - (i) Application and loan processing procedures; and
 - (ii) Monitoring and enforcement procedures.
- (b) Any rules proposed pursuant to this subtitle shall be submitted to the County Council for approval by resolution.
- (c) Subject to the approval of the County Executive, and notwithstanding any other provisions of this Code, the Department may enforce the term of a loan by:
 - (1) Foreclosing on or repossessing secured property;
 - (2) Obtaining and enforcing judgments;
 - (3) Acquiring title to property foreclosed upon or repossessed, or accepting conveyances in lieu of foreclosure, and conveying, selling or leasing property after acquisition;
 - (4) Assigning loans or mortgages for value; and
 - (5) Releasing mortgages when paid.

(C.B. 21, 1992; C.B. 59, 2001)

Sec. 13.613. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 21, 1992; C.B. 59, 2001)

SUBTITLE 7. - RENTAL HOUSING EXPENSE ASSISTANCE PROGRAM

Sec. 13.700. - Purpose.

The purposes of the program are to:

- (a) Increase the supply of decent, safe and sanitary rental housing for occupancy by households of low or moderate income; and
- (b) Provide financial assistance for certain costs of constructing or rehabilitating rental housing so that it is affordable by households of low or moderate income.

(C.B. 82, 1989; C.B. 59, 2001)

Sec. 13.701. - Establishment.

There is a rental housing expense assistance program administered by the Department of Housing and Community Development.

(C.B. 82, 1989; C.B. 59, 2001)

Sec. 13.702. - Definitions.

In this subtitle the following words have the meaning indicated.

- (a) *Financial assistance* means a grant.
- (b) *Grant* means a grant of money made by the Department under this subtitle.
- (c) *Household* means an individual or a group of individuals who permanently reside in the same dwelling unit.
- (d) *Household of low income* means a household whose annual income is less than 50 percent of the median income as of the date of initial occupancy of the unit.
- (e) *Household of moderate income* means a household whose annual income:
 - (1) Is less than 80 percent of the median income as of the date of initial occupancy of a unit; and
 - (2) During occupancy of the same unit, is less than the amount the Department determines will allow the household to pay the lowest rent charged for a market rate unit of the same size and amenities in the project.
- (f) *Median income* means the area median income, as determined by the Department, with adjustments for household size.
- (g) *Department* means the Department of Housing and Community Development.
- (h) *Rental housing project or project* means any project or undertaking for the construction or rehabilitation of buildings and improvements, or any portion thereof, to be rented for residential purposes.
- (i) *Sponsor* means any person, partnership, corporation, association, or other legal entity that applies for financial assistance under this subtitle.

(C.B. 82, 1989; C.B. 59, 2001)

Sec. 13.703. - Financial assistance; source of funds.

- (a) The Department may provide financial assistance to sponsors of rental housing projects, a portion of which are to be occupied by households of low or moderate income in accordance with the provisions of this subtitle.
- (b) The Department may provide financial assistance from monies appropriated to the program in the budget.

- (c) The financial assistance shall be in the form of a grant in an amount up to \$4,000.00 for each unit in the project which the sponsor agrees to rent to households of low or moderate income. The amount of the grant shall not exceed the amount the County Executive determines is necessary to make the rental housing affordable to households of low or moderate income.
- (d) The County Executive is authorized and empowered to appropriate funds to enable the provision of financial assistance under this subtitle in the current and in subsequent fiscal years.

(C.B. 82, 1989; C.B. 9, 1992; C.B. 59, 2001)

Sec. 13.704. - Use of funds.

The financial assistance may be used by the sponsor to pay any of the following costs of a project:

- (a) Building permit fees imposed under subsection 3.100.II.22.114.2 of this Code;
- (b) Electrical inspection fees imposed under subsections 3.215(h) and (i) of this Code;
- (c) Plumbing, gasfitting and on-site utility permit fees imposed under subsection 3.305(k) of this Code;
- (d) Grading permit fees imposed under subsection 3.404(c) of this Code;
- (e) Water and sewer connection charges imposed under section 20.308 of this Code;
- (f) Water and sewer in-aid-of construction charges imposed under section 20.311 of this Code; and
- (g) The building excise tax imposed under subtitle 11 of title 20 of the Howard County Code.

(C.B. 82, 1989; C.B. 9, 1992; C.B. 59, 2001)

Sec. 13.705. - Rental of units.

- (a) As a condition of the financial assistance, the sponsor and subsequent owners of the project shall agree to rent not less than 20 percent of the units in the project at below market rents, as determined by the Department, to households of low and moderate income for the period specified in subsection (b) as follows:
 - (1) For apartment projects:
 - (i) Not less than ten percent of the units of the project shall be rented to households of low income; and
 - (ii) Not less than ten percent of the units of the project shall be rented to households of moderate income; or
 - (2) For single-family attached projects:
 - (i) Not less than five percent of the units of the project shall be rented to households of low income; and
 - (ii) Not less than 15 percent of the units of the project shall be rented to households of moderate income.
- (b) The owner shall rent units in accordance with subsection (a) until:
 - (1) Not less than 20 years has elapsed after the date of which 50 percent of the units in the project are initially occupied; or

- (2) The County Executive consents in writing to terminate the restrictions, in whole or in part, provided that the County Executive finds that the application of the rental requirement to the particular project would be contrary to the intent of this subtitle.
- (c) The owner of a project shall submit to the Department:
 - (1) Annually, or at any time requested by the Department, evidence of the eligibility of all tenants occupying units for low or moderate income; and
 - (2) Such other information relating to the financial assistance as the Department may specify.
- (d) If the Department reasonably suspects that the owner has violated any of the terms or conditions of the financial assistance or of this subtitle, the owner of a project shall permit the Department or any of its employees or agents to inspect the regulated units in the project and to audit the owner's records at any reasonable time.
- (e) If the owner of a project rents a unit to a household of low income and during the household's occupancy of the unit the household's annual income exceeds the income limits for a household of low income but does not exceed the income limits for a household of moderate income, the owner shall:
 - (1) Deem the household a household of moderate income; and
 - (2) Rent the next unit vacated by a household of moderate income to a household of low income as necessary to meet the rental requirement of subsection (a) of this section.
- (f) If the owner of a project rents a unit to a household of moderate income, and during the household's occupancy of the unit the household's annual income exceeds the income limits for a household of moderate income, the owner shall rent the next available unit in the project to a household of moderate income as necessary to meet the rental requirement of subsection (a) of this section.

(C.B. 82, 1989; C.B. 59, 2001)

Sec. 13.706. - Grant terms and conditions.

- (a) The Department, subject to the approval of the County Executive, shall set such other terms and conditions of a grant as are reasonable or necessary consistent with the intent of this subtitle.
- (b) If a sponsor fails to comply with any of the terms or conditions of a grant, it shall repay the grant to the County with interest. The interest shall be calculated at the legal rate of interest as set forth in subsection 11-107(a) of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland.

(C.B. 82, 1989; C.B. 59, 2001)

Sec. 13.707. - Approval of applications.

- (a) The Department shall submit each eligible application to the Housing and Community Development Board for review. The Board shall recommend to the County Executive approval or disapproval of the grant and the terms of the grant. If the Board fails to act upon an application within 45 days of its submission to the Board, the application shall be forwarded to the County Executive for approval or disapproval.
- (b) The County Executive shall consider the following factors in deciding whether to approve or disapprove an application for financial assistance:
 - (1) The number, size, and income of households of low or moderate income who ultimately will benefit from the assistance provided under the program;
 - (2) The economic feasibility of the project;

- (3) The geographic distribution of projects assisted under the program;
- (4) The availability of funds appropriated for the program; and
- (5) Other factors that are consistent with the intent of this subtitle.

(C.B. 82, 1989; C.B. 59, 2001)

Sec. 13.708. - Powers and duties of Department.

(a) The Department shall:

- (1) Manage, supervise and administer the program; and
- (2) Subject to the approval of the County Executive, adopt rules, policies and procedures to implement the program in conformance with this subtitle, including:
 - (i) Application and financial assistance processing procedures;
 - (ii) Formula for determining rents to be charged to families of low or moderate income; and
 - (iii) Monitoring and enforcement procedures to ensure that the rental units produced under the program are occupied by families of low or moderate income in accordance with this subtitle.

(b) Any rules or amendments to rules adopted pursuant to this subtitle shall be promulgated in accordance with the Administrative Procedure Act, title 2, subtitle 1 of this Code and, in addition, shall be subject to the following procedures:

- (1) Public notice of the availability of rules or amendments to rules shall be advertised once in two newspapers of general circulation in the County;
- (2) Any rules or amendments to rules must be available for review and comment by interested citizens for a period of not less than 30 days from the date of the publication of the public notice;
- (3) Any rules or amendments to rules must be delivered to the Executive Secretary of the County Council before the close of business on the date of publication of the public notice;
- (4) Not less than 15 days following the date of the publication of the public notice, the Department of Housing and Community Development shall hold a public hearing on any rules or amendments to rules.

(C.B. 82, 1989; C.B. 59, 2001)

SUBTITLE 8. - RENTAL HOUSING DEVELOPMENT PROGRAM

Sec. 13.800. - Definitions.

In this subtitle the following words have the meanings indicated:

- (a) *Annual income* means gross income received during the previous 12 months from all sources less:
 - (1) Unusual or temporary income items; and
 - (2) Unusual expenses of a long-term nature, such as extraordinary medical, physical or mental rehabilitation expenses or special education expenses.
- (b) *Closing costs* means:

- (1) Financing costs such as a credit report fee, title examination fee, loan origination fee, title insurance fee, application fee, survey fee, recording fees, State and local transfer taxes, and documentary stamps; and
 - (2) Prepaid expenses such as property taxes, ground rent, hazard insurance, and any mortgage insurance premiums to be paid at closing.
- (c) *Development costs* means costs incurred for the acquisition, construction or rehabilitation of a rental housing project, including costs of:
- (1) Necessary studies, surveys, plans, and specifications;
 - (2) Architectural, engineering, or other special services;
 - (3) Acquisition of land and improvements;
 - (4) Site preparation and development;
 - (5) Construction, reconstruction, and rehabilitation;
 - (6) Acquisition of necessary machinery, equipment, and furnishings;
 - (7) Initial occupancy expenses of the project;
 - (8) Indemnity and surety bonds and premiums on insurance; and
 - (9) Other fees and relocation expenses.
- (d) *Gross rent* means the annual rent payable by a tenant to the sponsor for the occupancy of a unit in a rental housing project. Gross rent does not include:
- (1) Reasonable charges for utilities or other services provided by the sponsor to the household; or
 - (2) Any payment under section 8 of the United States Housing Act of 1937 or any comparable rental assistance program.
- (e) *Household* means an individual or a group of individuals who permanently reside in the same dwelling unit.
- (f) *Household of low income* means a household whose annual income is less than 50 percent of the median income as of the date of initial occupancy of a unit. For any project qualifying for low income housing tax credits under section 42 of the Internal Revenue Code, a household of low income shall mean a household whose annual income meets the income limitations set forth in 26 U.S.C. 42(g), as amended.
- (g) *Household of moderate income* means a household whose annual income:
- (1) Is less than 80 percent of the median income as of the date of initial occupancy of a unit; and
 - (2) During occupancy of the same unit is less, when multiplied by 30 percent, than the lowest annual market rate rent in the project for a unit of the same size and amenities.
- (h) *Imputed income limitation* means the income limitation that would apply under subsection 13.807(a) to a household of low or moderate income if the number of individuals in the household were as follows:
- (1) In case of a unit that does not have a separate bedroom, one individual; or
 - (2) In the case of a unit that has one or more separate bedrooms, 1.5 individuals for each separate bedroom.
- (i) *Loan* means a loan of money made by the Department under this subtitle.
- (j) *Median income* means the area median annual income, as determined by the Department, with adjustments for household size.

- (k) *Monthly income* means one-twelfth of annual income.
- (l) *Department* means the Department of Housing and Community Development.
- (m) *Operating costs* means costs incurred for the maintenance or operation of a completed project, including payments of principal and interest on any prior mortgage loan selected by the project.
- (n) *Program* means the rental housing development plan.
- (o) *Rental housing project or project* means a project or undertaking for the construction or rehabilitation of buildings and improvements, or any portion thereof, to be rented for residential purposes.
- (p) *Sponsor* means a person, partnership, corporation, association, or other legal entity that applies for a loan under this subtitle. "Sponsor" includes any subsequent owner of the project.
- (q) *Unit* means any rental accommodation containing facilities for sleeping separate and distinct from other rental units. A unit may share living, dining, sanitation, and cooking facilities.

(C.B. 115, 1989; C.B. 14, 1995; C.B. 59, 2001)

Sec. 13.801. - Establishment.

There is a rental housing development program administered by the Department of Housing and Community Development.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.802. - Purpose.

The purposes of the program are to:

- (a) Increase the supply of decent, safe and sanitary rental housing for occupancy by households of low and moderate income; and
- (b) Provide financial assistance for certain costs of acquiring, constructing, rehabilitating or operating rental housing so that it is affordable by households of low and moderate income.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.803. - Loans; source of funds.

- (a) The Department may make loans to sponsors of rental housing projects, a portion of which are to be occupied by households of low or moderate income in accordance with the provisions of this subtitle.
- (b) The Department may make loans from monies appropriated to the program in the budget.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.804. - Eligible sponsors.

- (a) A sponsor shall be in good standing and qualified to do business in Maryland and shall have the legal capacity and all necessary legal authorization to incur the obligations of the loan.
- (b) A sponsor shall demonstrate:

- (1) Financial credibility and stability;
 - (2) The capability of achieving successful completion of the project in a timely and satisfactory manner;
 - (3) The ability to manage the project.
- (c) A sponsor shall provide evidence that any financing being obtained outside the program is assured and acceptable to the County.
- (d) A sponsor shall agree in writing to comply with the requirements of this subtitle.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.805. - Eligible projects.

A project shall:

- (a) Be located within Howard County, Maryland;
- (b) Be owned by the sponsor in fee simple or leasehold estate with title and term of the leasehold estate acceptable to the County;
- (c) Be in compliance with all applicable zoning and building codes and other legal requirements;
- (d) Be economically feasible so that it is reasonable to anticipate that the loan can be repaid under loan terms that are acceptable to the County.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.806. - Use of loan funds.

A loan may be used:

- (a) For capital assistance to finance all or a portion of the development costs of a rental housing project; or
- (b) For operating assistance to pay the portion of the operating costs of a rental housing project that the Department determines cannot be paid out of project revenues; or
- (c) For settlement expense assistance to pay closing costs for the acquisition, rehabilitation, or construction of a rental housing project if the sponsor demonstrates that there are no other funding sources available to the sponsor to pay the closing costs.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.807. - Rental of units.

- (a) As a condition of the loan, the sponsor shall agree to rent a portion of the units in the project to households of low or moderate income for the period specified in subsection (c), including:
- (1) For apartment projects:
 - (i) Not less than ten percent of the units of the project shall be rented to households of low income; and
 - (ii) Not less than ten percent of the units of the project shall be rented to households of moderate income; or
 - (2) For single-family attached projects:

- (i) Not less than five percent of the units of the project shall be rented to households of low income; and
 - (ii) Not less than 15 percent of the units of the project shall be rented to households of moderate income.
- (b) The gross rent charged to a household of low or moderate income may not exceed the lesser of:
 - (1) 30 percent of the imputed income limitation applicable to the unit; or
 - (2) The lowest gross rent charged for a market rate unit of the same size and amenities in the project.
- (c) The rental requirements of subsections (a) and (b) shall expire:
 - (1) Not less than 20 years after the date on which 50 percent of the units of the project are initially occupied; or
 - (2) Upon the written consent of the County Executive, provided that the County Executive finds that the application of the rental requirement to the particular project would be contrary to the public interest.
- (d) The sponsor shall submit to the Department:
 - (1) Annually, or at any time requested by the Department, evidence of the annual incomes of all households of low or moderate income; and
 - (2) Such other information relating to the project or the loan as the Department may specify.
- (e) The sponsor shall permit the Department or any of its employees or agents to inspect the project and to audit the owner's records at any reasonable time.
- (f) If a sponsor rents a unit to a household of low income, and during the household's occupancy of the unit the household's annual income exceeds the income limits for a household of low income but does not exceed the income limits for a household of moderate income, the sponsor shall:
 - (1) Deem the household a household of moderate income; and
 - (2) Rent the next available unit in the project to a household of low income as necessary to meet the rental requirements of subsection (a) of this section.
- (g) If the sponsor rents a unit to a household of moderate income, and during the household's occupancy of the unit the household's annual income exceeds the income limits for a household of moderate income, the sponsor shall rent the next available unit to a household of moderate income as necessary to meet the rental requirement of subsection (a) of this section.

(C.B. 115, 1989; C.B. 14, 1995; C.B. 59, 2001)

Sec. 13.808. - Loan terms and conditions.

- (a) Except as provided in subsection (b), a loan shall be repaid with interest at a rate and for a term determined by the Department based on the underwriting of the project, and payments shall be made monthly and applied to escrows, when applicable, interest and principal, in that order.
- (b) The Department may agree to deferred payments of principal and interest if the County Executive determines that such terms are necessary in order to make the rental housing affordable to households of low or moderate income.
- (c)
 - (1) A capital assistance loan and a settlement expense assistance loan shall be secured by a mortgage lien, which may be subordinate to other mortgage liens.
 - (2) An operating assistance loan shall be secured by a loan and security agreement, and the loan proceeds shall be deposited in an interest-bearing account subject to the control of the County.

- (d) Both during construction and upon occupancy of a project, the sponsor shall maintain fire and extended coverage insurance, comprehensive general liability insurance, and such other insurance upon such terms and conditions as the Department may require.
- (e) In order to assure completion of the construction or rehabilitation of a project, or repayment of a loan, the Department may require additional security or collateral, including but not limited to personal guarantees, performance and payment bonds, letters of credit, cash escrows, or payment of syndication proceeds.
- (f) A sponsor may not sell, transfer, assign, or otherwise dispose of any interest in the project during the loan term without the written consent of the County Executive.
- (g) The Department shall set such other terms and conditions of a loan as are reasonable or necessary.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.809. - Limitations on income.

- (a) A sponsor may be subject to a limitation on the amount of income that the sponsor may retain from the project.
- (b) The limitation, at the Department's discretion, may take the form of:
 - (1) A requirement that a portion of the sponsor's return on equity shall be paid to the County;
 - (2) A requirement that the sponsor shall pay the County a portion of the sales receipts on the project at the time of sale; or
 - (3) Other arrangements acceptable to the Department.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.810. - Loan applications and fees.

- (a) Loan applications shall be made upon forms prescribed by the Department, and shall include sufficient information and documentation to enable the Department to evaluate the eligibility of the sponsor and the project.
- (b) The Department may charge fees to cover the costs of processing applications, servicing loans, or other costs incurred by the County in connection with an application or loan.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.811. - Loan approval.

- (a) An eligible loan application shall be submitted by the Department to the Housing and Community Development Board for review and recommendation to the County Executive for approval or disapproval of the loan and the terms of the loan. If the Board fails to act upon an application within 45 days of its submission to the Board, the application shall be forwarded to the County Executive for approval or disapproval.
- (b) The County Executive shall approve or disapprove a loan and its terms, taking into consideration the following factors:
 - (1) The number, size, and income of households of low and moderate income who ultimately will benefit from the assistance provided under the program;
 - (2) The economic feasibility of the project;

- (3) The geographic distribution of projects assisted under the program;
 - (4) The availability of funds appropriated for the program; and
 - (5) Other factors that may be relevant.
- (c) Approval of a loan shall be evidenced by a commitment letter from the County to the sponsor, which commitment letter shall become effective when the sponsor accepts the terms of the commitment letter by executing it and returning it to the Department.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.812. - Loan documents and closing.

- (a) The Department shall provide the sponsor with copies of relevant loan documents prepared by the Office of Law.
- (b) The loan shall be closed at a time and place acceptable to the Department and the Office of Law.
- (c) The County Executive may designate the Chief Administrative Officer, the Deputy Chief Administrative Officer, or the Director of Housing and Community Development execute the loan documents and take such other action on behalf of the County Executive as is required or permitted to be taken by the County Executive pursuant to this subtitle.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.813. - Modification of terms.

The Department, with the approval of the County Executive, may at any time modify the terms and conditions of a loan, including the rate of interest, the time of payment, or the amount of payment, in order to ensure repayment of the loan or to achieve the purposes of this subtitle.

(C.B. 115, 1989; C.B. 59, 2001)

Sec. 13.814. - Powers and duties of department.

- (a) Subject to the approval of the County Executive, the Department shall:
 - (1) Manage, supervise and administer the program; and
 - (2) Propose rules, policies and procedures to implement the program in conformance with this subtitle, including:
 - (i) Application and loan processing procedures;
 - (ii) Formulae for determining rents to be charged to families of low or moderate income; and
 - (iii) Monitoring and enforcement procedures to ensure that the units produced under the program are occupied by families of low and moderate income in accordance with this subtitle.
- (b) Any rules, amendments to rules, policies and procedures proposed pursuant to this subtitle shall be submitted to the County Council for approval by resolution.
- (c) Subject to the approval of the County Executive, and notwithstanding any other provision of this Code, the Department may enforce the terms of a loan by:
 - (1) Foreclosing on or repossessing secured property;
 - (2) Obtaining and enforcing judgments;

- (3) Acquiring title to property foreclosed upon or repossessed, or accepting conveyances in lieu of foreclosure, and conveying, selling or leasing property after acquisition;
- (4) Assigning loans or mortgages for value; and
- (5) Releasing mortgages when paid.

(C.B. 115, 1989; C.B. 52, 1999; C.B. 59, 2001)

Sec. 13.815. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 115, 1989; C.B. 59, 2001)

SUBTITLE 9. - HOMEOWNERSHIP ASSISTANCE PROGRAM

Sec. 13.900. - Definitions.

In this subtitle the following words have the meanings indicated:

- (a) *Applicant* means an individual or individuals applying for a loan. If the property to be financed will be owned by more than one individual, each of those individuals shall apply. An Applicant includes an individual or individuals who purchase a home from a nonprofit organization that receives a loan pursuant to this subtitle.
- (b) *Down payment* means that portion of the purchase price of the property that is not financed by a mortgage loan other than the loan.
- (c) *Loan* means a loan of money made by the Department under this subtitle.
- (d) *Modifications* means improvement, repair, renovation or rehabilitation of an existing property to make it suitable for use as a personal residence or to eliminate any housing, building, fire, safety, health or other code violations.
- (e) *Nonprofit organization* means a corporation, foundation, or other legal entity, no part of the net earnings of which inures to the benefit of any private shareholder or individual holding any interest in the entity.
- (f) *Department* means the Department of Housing and Community Development.
- (g) *Program* means the Homeownership Assistance Program.
- (h) *Qualified homebuyer* means an Applicant who meets the eligibility requirements established under this subtitle.
- (i) *Settlement expenses* means money that must be paid by the Applicant or nonprofit organization at the time of the purchase of the property, including:
 - (1) Fees or premiums for title examination, title insurance, or similar expenses;
 - (2) Fees for preparation of a deed, settlement statement, or other documents;
 - (3) Payments owed at the time of settlement for property taxes or hazard insurance coverage;
 - (4) Escrows for future payments of taxes and hazard insurance;
 - (5) Fees for notarizing deeds and other documents;
 - (6) Appraisal fees;
 - (7) Fees for credit reports;

- (8) Transfer and recordation taxes and fees;
- (9) Fees or premiums for mortgage insurance; and
- (10) Loan discount points and origination fees.

(C.B. 116, 1989; C.B. 23, 1993; C.B. 30, 1994; C.B. 57, 1999; C.B. 59, 2001)

Sec. 13.901. - Establishment.

There is a Homeownership Assistance Program administered by the Department of Housing and Community Development. The County Council shall approve by resolution any rules, programs and policies adopted to implement the program in conformance with this subtitle.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

Sec. 13.902. - Purpose.

The purposes of the Homeownership Assistance Program are to:

- (a) Provide financial assistance to qualified homebuyers who cannot otherwise finance the purchase of a home; and
- (b) Provide financial assistance to nonprofit organizations which agree to purchase and make modifications to residential properties for resale to qualified homebuyers; and
- (c) Increase the supply of adequate affordable housing in Howard County.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

Sec. 13.903. - Loans; source of funds.

- (a) The Department may make loans to eligible Applicants and nonprofit organizations in accordance with the provisions of this subtitle.
- (b) The Department may make loans from monies appropriated to the program in the budget.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

Sec. 13.904. - Eligibility.

Subject to the approval of the County Executive, the Department shall adopt loan eligibility requirements that:

- (a) Ensure that loans are made only to or for the benefit of qualified homebuyers who cannot otherwise finance the purchase of a home;
- (b) Establish income eligibility criteria, provided that an Applicant's annual income may not exceed 110 percent of the area median income;
- (c) Establish the maximum purchase price for a home financed with a loan; and
- (d) Establish reasonable minimum requirements for credit worthiness.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

Sec. 13.905. - Use of loan funds.

- (a) *Applicant.* A loan may be used to pay any of the following costs to enable an Applicant to purchase a personal residence located in Howard County:
 - (1) Interest on a mortgage loan that is used by the Applicant to purchase the property;
 - (2) Settlement expenses; and
 - (3) Down payment.
- (b) *Nonprofit Organization.* A loan may be used to pay any of the following costs to enable a nonprofit organization to purchase and modify a property located in Howard County for resale to a qualified homebuyer for use as a personal residence:
 - (1) Settlement expenses;
 - (2) Down payment; and
 - (3) Modification costs.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

Sec. 13.906. - Loan terms and conditions.

- (a) Except as provided in subsection (b), a loan shall be repaid with interest at a rate and for a term determined by the Department based on the underwriting of the loan.
- (b) A loan may include terms that the Department deems necessary to make the housing purchase affordable to the eligible homebuyer, including deferred payment of principal and interest.
- (c)
 - (1) A loan relating to the purchase of real property shall be secured by a mortgage lien, which may be subordinate to other mortgage liens.
 - (2) A loan relating to the purchase of a mobile home shall be secured by a security interest in the mobile home.
- (d) The Department may require that a loan shall become due and payable upon the sale or transfer of the property securing the loan.
- (e) As a condition of a loan to a nonprofit organization, the nonprofit organization shall agree to resell the property to a qualified homebuyer within one year of the loan.
- (f) The Department shall set such other terms and conditions of a loan as are reasonable or necessary.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 9, 1998; C.B. 59, 2001)

Sec. 13.907. - Loan applications and fees.

- (a) Loan applications shall be made upon forms prescribed by the Department and shall include sufficient information and documentation to enable the Department to evaluate the eligibility of the Applicant or nonprofit organization.
- (b) The Department may charge fees to cover the costs of processing applications, servicing loans, or other costs incurred by the County in connection with an application or loan.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

Sec. 13.908. - Changes to loan terms.

The Department, with the prior approval of the County Executive, may at any time modify the terms and conditions of a loan, including the rate of interest, the time of payment, or the amount of payment, in order to ensure repayment of the loan or to achieve the purposes of this subtitle.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

Sec. 13.909. - Powers and duties of department.

- (a) Subject to the approval of the County Executive, the Department shall:
 - (1) Manage, supervise and administer the program; and
 - (2) Propose rules, policies and procedures to implement the program in conformance with this subtitle.
- (b) Any rules, amendments to rules, policies and procedures proposed pursuant to this subtitle shall be submitted to the County Council for approval by resolution.
- (c) Subject to the approval of the County Executive, and notwithstanding any other provision of this Code, the Department may enforce the terms of a loan by:
 - (1) Foreclosing on or repossessing secured property;
 - (2) Obtaining and enforcing judgments;
 - (3) Acquiring title to property foreclosed upon or repossessed, or accepting conveyances in lieu of foreclosure, and conveying, selling or leasing property after acquisition;
 - (4) Assigning loans or mortgages for value; and
 - (5) Releasing mortgages when paid.
- (d) Subject to the approval of the County Executive, the Department may enter into contracts with third parties to make or service loans on behalf of the County.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 52, 1999; C.B. 59, 2001)

Sec. 13.910. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 116, 1989; C.B. 30, 1994; C.B. 59, 2001)

SUBTITLE 10. - DISPLACEMENT ASSISTANCE PROGRAM

Sec. 13.1000. - Definitions.

In this subtitle the following words having the meanings indicated:

- (a) *Annual income* means gross income based on current rates of annual income received by all household members who intend to reside at the property from all sources less:
 - (1) Unusual or temporary income items; and
 - (2) Unusual expenses of a long-term nature, such as extraordinary medical, physical or mental rehabilitation expense or special education expenses.
- (b) *Applicant* means an individual or family applying for displacement assistance.
- (c) *Comparable replacement dwelling* means a dwelling that is:

- (1) A decent, safe and sanitary dwelling; and
- (2) Functionally equivalent to the original dwelling.
- (d) *Decent, safe and sanitary dwelling* means a dwelling that:
 - (1) Meets applicable housing and occupancy codes; and
 - (2) Meets the housing quality standards for section 8 housing assistance programs.
- (e) *Displaced household* means a low income household that moves from real property permanently, or permanently moves personal property from real property, as a direct result of:
 - (1) Damage or destruction of a dwelling unit due to storm, flood, or other natural disaster;
 - (2) The acquisition, conversion, rehabilitation, redevelopment, or demolition of a dwelling unit in connection with a project assisted with Federal, State, or County funds; or
 - (3) The change in status or use of a rental facility or mobile home park, including the establishment of a condominium regime, a cooperative housing project, or a commercial use of the facility, or a partial or complete demolition.
- (f) *Family* means two or more persons who intend to reside at the same residence.
- (g) *Low income household* means an individual or family whose annual income is less than 50 percent of the area median income, as determined by the United States "Department of Housing and Urban Development for section 8 housing programs.
- (h) *Department* means the Department of Housing and Community Development.
- (i) *Program* means the displacement assistance program.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1001. - Establishment.

There is a displacement assistance program administered by the Department.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1002. - Purpose.

The purposes of the program are to:

- (a) Provide financial assistance to individuals and families who are involuntarily displaced from housing and who cannot otherwise afford the expenses of relocation; and
- (b) Increase the supply of adequate affordable housing in Howard County.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1003. - Grants; source of funds.

- (a) The Department may make displacement assistance grants to eligible Applicants in accordance with the provisions of this subtitle.
- (b) The Department shall make the grants from funds appropriated to the program in the operating budget.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1004. - Eligibility.

- (a) To be eligible to receive a grant, an Applicant shall be a displaced household that meets the requirements of this subtitle.
- (b) The Applicant shall provide evidence, satisfactory to the Department, that the Applicant is otherwise unable to afford the costs of relocation.
- (c) An Applicant is not eligible for assistance if the Department determines that the Applicant:
 - (1) Unlawfully occupied the original dwelling; or
 - (2) Was lawfully evicted for cause.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1005. - Use of grant funds.

- (a) A grant may be used to pay any of the following costs to enable a displaced household to relocate to a personal residence located in Howard County:
 - (1) Moving related expenses, such as transportation, packing, and storage costs;
 - (2) The costs of relocating a mobile home, including transportation of the mobile home, disassembling and reassembling attached appurtenances, utility hookups, move related repairs, and mobile home park entrance fees;
 - (3) If the Department determines that a mobile home cannot be relocated without substantial damage or unreasonable cost, or because a comparable replacement site is not available, the acquisition cost of the mobile home, calculated as the greater of the trade-in or salvage value of the mobile home;
 - (4) Settlement expenses related to the purchase of a comparable replacement dwelling, such as title insurance premiums, loan origination fees, and transfer and recordation taxes;
 - (5) The deposit or down payment on the purchase of a comparable replacement dwelling; and
 - (6) Rent differential assistance calculated as the monthly difference in rent and utilities between the original dwelling and a comparable replacement dwelling multiplied by 24 months.
- (b) Before making a payment for replacement housing, the Department shall inspect the replacement dwelling and determine whether it is a decent, safe and sanitary dwelling.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1006. - Grant amount; disbursement.

- (a) A grant may not exceed the lesser of:
 - (1) The actual and reasonable relocation costs incurred by the displaced household; or
 - (2) Five thousand dollars.
- (b) A grant shall be disbursed as costs are incurred. Rent differential assistance shall be disbursed in monthly installments.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1007. - Application procedures.

- (a) A grant application shall be made to the Department on a form prescribed by the Department.
- (b) Together with the application, an Applicant shall submit to the Department:
 - (1) Bills, invoices, contracts, appraisals, or other documentation evidencing the Applicant's relocation expenses;
 - (2) The Applicant's most recent Federal income tax return; and
 - (3) Any other information or documents the Department may require to enable the Department to evaluate the eligibility of the Applicant for displacement assistance.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1008. - Grant agreement.

A grant shall be evidenced by a grant agreement between the Applicant and Howard County, Maryland. The grant agreement shall be on a form prescribed by the Department and shall provide that if the Applicant is not an eligible displaced household, fails to use the displacement assistance payments for eligible purposes, or otherwise fails to comply with terms and conditions of the grant agreement, the Applicant shall repay the grant to the County with interest at the prevailing legal rate.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

Sec. 13.1009. - Powers and duties of Department.

- (a) Subject to the approval of the County Executive, the Department shall:
 - (1) Manage, supervise and administer the program; and
 - (2) Adopt rules to implement the program in conformance with this subtitle.
- (b) Any rules or amendments to rules adopted pursuant to this subtitle shall be promulgated in accordance with the Administrative Procedure Act, title 2, subtitle 1 of this Code.

(C.B. 37, 2001, § 1; C.B. 59, 2001)

SUBTITLE 11. - URBAN RENEWAL

Sec. 13.1100. - Short title.

This subtitle shall be known and may be cited as the Urban Renewal Law.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1101. - Scope.

It is hereby found and declared that there exist in Howard County blighted areas, or slum conditions which require rehabilitation with the aid and assistance of Howard County; that the existence of such areas contributes to the spread of crime and disease, constitutes an economic and moral liability, decreases the tax base, reduces tax revenues, increases juvenile delinquency, aggravates traffic conditions and causes numerous traffic problems due to poor street design and layout; that the prevention and elimination of slum and blighted areas is a matter of public policy of the State of Maryland and Howard County. It is further found and declared that the existence of these conditions makes it necessary to acquire private property for urban renewal development and redevelopment and such acquisition is hereby declared to be for a public purpose.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1102. - Definitions.

The following terms, wherever used or referred to in this subtitle shall have the following meanings, unless a different meaning is clearly indicated by the context:

- (a) *Federal Government* shall include the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America.
- (b) *Slum area* shall mean any area where dwellings predominate, which, by reason of depreciation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to the public safety, health or morals.
- (c) *Blighted area* shall mean an area in which a majority of buildings have declined in productivity by reason of obsolescence, depreciation or other causes to an extent they no longer justify fundamental repairs and adequate maintenance.
- (d) *Urban renewal project* shall mean undertakings and activities of Howard County in an urban renewal area for the elimination and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation, conservation or code enforcement in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan. Such undertakings and activities may include:
 - (1) Acquisition of a slum or blighted area or portion thereof.
 - (2) Demolition and removal of buildings and improvements.
 - (3) Installation, construction or reconstruction of streets, utilities, parks, playground and other improvements necessary for carrying out, in the urban renewal area, the urban renewal objectives of this subtitle in accordance with the Urban Renewal Plan.
 - (4) Disposition of any property acquired in the urban renewal area (including sale, leasing or retention by the County itself) at its fair value for uses in accordance with the Urban Renewal Plan.
 - (5) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the Urban Renewal Plan.
 - (6) Acquisition of any other real property in the urban renewal area where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to removed or prevent the spread of blight or deterioration, or to provide land for needed public facilities.
- (e) *Urban renewal area* shall mean a slum area or blighted area or both, which the County Council for Howard County designates as appropriate for an urban renewal project.
- (f) *Urban Renewal Plan* shall mean a plan, as it exists from time to time, for an urban renewal project, which plan shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum density and building requirements.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1103. - Powers, Authority [of County Executive].

The County Executive for Howard County is hereby authorized and empowered to carry out and effectuate the purposes and provisions of this subtitle.

- (a) To carry out urban renewal projects, which shall be limited to slum clearance in slum or blighted areas and redevelopment thereof; or the rehabilitation of slum or blighted areas.
- (b) To acquire in connection with such projects, within Howard County, Maryland, land and property of every kind and any right, title, interest, franchise, easement or privilege therein, including land or property or any right therein already devoted to public use by purchase, lease, gift, option, condemnation or any other legal means, for development or redevelopment purposes, including, but not limited to, the demolition, comprehensive renovation or rehabilitation thereof, provided, however, that any land or property owned by the State of Maryland shall not be acquired without the prior consent of the State.
- (c) To mortgage, pledge or otherwise encumber or dispose of any real property, provided that statutory provision with respect to the acquisition, clearance, demolition or disposition of property by public bodies shall not apply to an urban renewal project and related activities unless the legislature shall specifically so state.
- (d) To develop or redevelop, including, but not limited to, the comprehensive renovation or rehabilitation of any and all land or property acquired by any of the methods hereinbefore mentioned.
- (e) To apply for and accept from the United States of America, the State of Maryland, or any department or agency thereof, or any other source, any loan, grant, gift, contribution or aid of any kind.
- (f) To make and execute all contracts, agreements, deeds, leases, franchises or other legal instruments, for such term and under such conditions as may be necessary or convenient to exercise and carry out the provisions of this subtitle, notwithstanding any limitations as to the term of years imposed by other laws on said contracts, agreements, deeds, leases or franchises.
- (g) To plan, replan, install, construct, reconstruct, repair, open, close, abandon or vacate streets, roads, side walks, public utilities, parks, playgrounds and other public improvements, in connection with an urban renewal project.
- (h) To enter into any building or property in any urban renewal area in order to make inspections, surveys, appraisals, soundings or test borings.
- (i) To hold, improve, clear or prepare for redevelopment any property acquired in connection with urban renewal projects; to insure or provide for the insurance of any real or personal property or operations of the County against any risks or hazards, including the authority to pay premiums on any such insurance.
- (j) To make or have made all surveys and plans necessary to the carrying out of the purposes of this subtitle and to adopt or approve, modify and amend such plans, which plans may include, but are not limited to:
 - (1) Plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements;
 - (2) Plans for the enforcement of codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition or removal of buildings and improvements; and
 - (3) Appraisals, title searches, surveys, studies and other plans and work necessary to prepare for the undertaking of urban renewal projects and related activities; and to apply for, accept and utilize grants of funds from the Federal Government for such purposes.
- (k) To prepare plans for the relocation of persons (including families, business concerns and others) displaced from an urban renewal area, and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the Federal Government.

- (l) Generally to organize, coordinate and direct the administration of the provisions of this subtitle in order that the objective of remedying slum or blighted areas and preventing the causes thereof within Howard County may be most effectively promoted and achieved.
- (m) To formulate a "workable program" for utilizing the powers and authority authorized by the Constitution of Maryland, and public general laws, in order to promote development and redevelopment in an urban renewal area.
- (n) To expend such funds as may be available for the payment of any and all costs and expenses incurred in connection with, or incidental to, the demolition, removal, relocation, renovation, construction, reconstruction or alteration of lands, buildings, streets, highways, sidewalks, alleys, public utilities or services, parks, playgrounds, and other structures or improvements; to invest any urban renewal funds held in reserve or sinking funds or any such funds not required for immediate disbursement, in property or securities.
- (o) To create, appoint, and vest jurisdiction or authority to exercise or perform all or any part of the powers contained in this subtitle in, a suitable Board, Agency or Commission; to designate the number, term, compensation and duties of said Commission; to require that no officer, official or employee of Howard County, or member of such Commission, shall become financially interested in any way in any land or property which may be acquired for an urban renewal project.
- (p) To authorize and empower the Office of Planning and Zoning, as the agent of said County, to do and perform anything or all things which may be necessary and desirable in connection with the proper and efficient administration of any project authorized under this subtitle, including, but not limited to, the making of surveys, studies and other plans, the preparation of and submission to the County Executive of reports and recommendations based upon such work and the initiating of any urban renewal project.
- (q) To condemn land or property, including improvements, and all other right, title and interest therein, in the name of Howard County for said urban renewal project, pursuant to article 33A, Maryland Code, 1957 Edition, as amended.
- (r) To operate, manage and maintain temporarily any property acquired by Howard County in an urban renewal area, or for an urban renewal project, pending disposition of said property as authorized by this subtitle, as may be deemed desirable even though not in conformity with the urban renewal plan.
- (s) To sell, lease, convey, transfer or otherwise dispose of or retain any of said land or property, regardless of whether or not it has been developed, redeveloped, altered or improved and irrespective of the manner or means in or by which it may have been acquired, to any private, public or quasi public corporation, partnership, association, person or other legal entity. Any lease or rental agreement entered into pursuant to this subtitle, for any of the purposes or objectives contemplated by this subtitle, is hereby declared to be exclusively for business or commercial purposes and the fee, interest, rent or charge reserved to be paid shall not be subject to redemption by the lessee, tenant or their successors in title, except to the extent and in the manner set forth in such lease agreement. Such property shall be subject to such covenants, conditions and restrictions, including covenants running with the land, as the County Executive may deem to be necessary or desirable to assist in preventing the development or spread of future slums or blighted areas or to otherwise carry out the purposes of this subtitle. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to comply with such other requirements as the County Executive may determine to be in the public interest, including the obligation to begin, within a reasonable time, any improvements on such real property required by the urban renewal plan. Such real property or interest therein shall be retained, sold, leased or otherwise transferred at not less than its fair value for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the Urban Renewal Plan, consideration shall be given to the uses provided in such plan; the restrictions upon, and the covenants, conditions and obligations assumed by the

purchaser or lessee or by the County Executive retaining property; and the objectives of such plan for the prevention of the recurrence of slum or blighted areas. The conveyance to a private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, or encumber, or lease, or otherwise transfer the real property without the prior written consent of the County Executive.

- (t) To exercise all or any part or combination of powers granted herein.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1104. - Powers of County Council.

The County Council is authorized and empowered to appropriate such funds as may be necessary to carry out the purposes of this subtitle; to levy taxes and assessments for such purposes; to borrow money and to give such security as may be required therefor.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1105. - Initiation of project.

The County Council, in initiating an urban renewal project, shall adopt a resolution which:

- (a) Finds that one or more slum or blighted areas exist in the County.
- (b) Finds that the rehabilitation, redevelopment or a combination thereof, of such area or areas, is necessary in the interest of the public health, safety, morals or welfare of the residents of the County.
- (c) Defines the area or areas within which the Urban Renewal Project is to proceed.
- (d) Authorizes preparation of all necessary plans, drawings, designs and the employment of necessary engineers, architects, consultants or other personnel in order to properly prepare the detail plans and data for said urban renewal project or projects.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1106. - Public hearing; approval of project.

Prior to final approval of an urban renewal project, the County Council shall:

- (a) Submit the plans to the Office of Planning and Zoning, for its review and recommendations only. The Office of Planning and Zoning's recommendations shall be submitted within 60 days after receipt of the plans.
- (b) Hold a public hearing on the proposed urban renewal project after 15 days' notice by publication in a newspaper having general circulation in the County, giving the time, place and date of the hearing, and an opportunity for the public to review the plans.
- (c) Make such change or modification as it deems desirable in the urban renewal project.
- (d) Approve the project by resolution. Upon approval by resolution of such urban renewal project, such plan shall be deemed to be in full force and effect.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1107. - Bonds; general obligation.

For the purpose of financing and carrying out an urban renewal project and related activities, the County Council is hereby granted the power and authority to do the following:

- (a) *Borrow money.* To borrow money and incur indebtedness and to evidence such borrowing or indebtedness by the issuance, at any time, and from time to time, its general obligation serial maturity bonds, upon the full faith and credit of Howard County, and the County is authorized to contribute and deliver, in whole or in part, the net cash proceeds of such bond issue, or issues, to a Commission, Board or Agency created and appointed to administer the provisions of this subtitle.
- (b) *Levy taxes.* The County Council is hereby authorized and directed in and for each and every fiscal year during which any of the said bonds are outstanding, to levy and collect an ad valorem tax, upon all the assessable property in Howard County, in an amount sufficient to provide for the payment when due of the principal and interest on all such bonds becoming due in such fiscal year, and in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for the purposes cited in this subtitle, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal and interest on such bonds as when the same respectively mature. The County may apply, to the payment of principal and interest of any bonds issued under this subtitle, any funds received from the State of Maryland or United States of America or any agency or instrumentality thereof.
- (c) *Negotiable instruments.* All such bonds shall have, and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments laws of the State to the extent provided in section 8 of article 31, Annotated Code of Maryland, 1957 Edition, as amended.
- (d) *Tax exempt.* Any and all such bonds and the interest thereon and the income derived therefrom, in the hands of the holders thereof from time to time, shall be and are hereby declared to be exempt from State, County, city and municipal taxation of every kind and nature whatsoever in the State.
- (e) *Bonds cumulative.* All bonds issued under this subtitle are additional and cumulative and the bonds authorized by this subtitle may be issued notwithstanding that other bond acts may provide for the issuance of other bonds or the borrowing of money for the same or similar purposes on the same or other terms and conditions.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1108. - Bonds; revenue bonds.

In the alternative, the County Council for Howard County may issue revenue bonds which shall be fully negotiable and payable, as to both principal and interest, solely from, and secured solely by, a pledge of and lien upon either or both, of the following subsections (a) or (b).

- (a) Any and all of the income, receipts, proceeds, revenues and funds derived from, or available or to be made available, for any undertakings for the accomplishment of the purposes and objects mentioned in or contemplated by this subtitle.
- (b) Any contract, or right thereunder, existing between the United States of America, or any department or agency thereof, and Howard County with respect to any undertaking for the accomplishment of the purposes and objects of this subtitle.

Any and all such bonds, notes or obligations, issued as revenue bonds, shall not be general obligations of Howard County and shall not be a pledge of or involve the full faith and credit or taxing power of Howard County, and shall not pledge, convey or mortgage any real property owned by Howard County, and shall not constitute a debt of Howard County, within the meaning of the Constitution of Maryland, or within the

meaning of any other constitutional, statutory or Charter provisions, limiting or restricting the sale or issuance of bonds, notes or other obligations of Howard County.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1109. - Revenue bonds; tax exempt; security.

Revenue bonds issued under the provisions of this subtitle are declared to be issued for an essential public and governmental purpose and the principal and interest thereon, and income therefrom, shall be exempt from all taxes as provided in this subtitle. Such revenue bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues and funds of Howard County derived from or held in connection with its undertaking and carrying out of urban renewal projects under this subtitle; provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the Federal Government or other source, in aid of any urban renewal projects of Howard County under this subtitle, and by a mortgage on any such urban renewal projects or any part thereof, title to which is in Howard County.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1110. - Bonds; how issued.

Both the revenue bonds and general obligation serial bonds issued under this subtitle shall be authorized by resolution of the County Council for Howard County and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either with or without coupon or registered, carry on such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto. Such bonds shall not be subject to the provisions of sections 9, 10 and 11 of article 31, Maryland Code, 1957 Edition, as amended.

(1961, Ch. 877, § 1; C.B. 120, 1980; C.B. 59, 2001)

Sec. 13.1111. - Bonds; how sold.

Both the revenue bonds and general obligation serial bonds may be sold at not less than par at public sales, held after notice published prior to such sales in a newspaper having a general circulation in the County and in such other medium of publication as the Executive may determine, or may be exchanged for other bonds on the basis of par; provided, that such bonds may be sold to the Federal Government at private sale at not less than par and, in the event less than all of the authorized principal amount of such bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the County not to exceed the interest of the portion of the bonds sold to the Federal Government.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1112. - Bonds; signature.

In case any of the public officials of Howard County whose signatures appear on any bonds or coupons issued under this subtitle shall cease to be such officials before the delivery of such bonds, such

signatures, shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1113. - Bonds; validity.

In any suit, action or proceeding involving the validity or enforceability of any bond issued under this subtitle or the security therefor, any such bond reciting in substance that it has been issued by Howard County in connection with an urban renewal project, as herein defined, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of this subtitle.

(1961, Ch. 877, § 1; C.B. 59, 2001)

Sec. 13.1114. - Bonds; investments.

All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business; all insurance companies, insurance associations and other persons carrying on an insurance business; and all executors, administrators, curators, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them, or within their control, in any bonds or other obligations issued by the County pursuant to this subtitle; provided that, as to revenue bonds or notes issued pursuant to section 13.208 of this subtitle, such bonds and other obligations shall be secured by an agreement between the issuer and the Federal Government, in which the issuer agrees to borrow from the Federal Government and the Federal Government agrees to lend to the issuer, prior to the maturity of such bonds or other obligations, moneys in an amount which (together with any other moneys irrevocably committed to the payment of principal and interest on such bonds and other obligations) will suffice to pay the principal of such bonds or other obligations, with interest to maturity thereon, which moneys under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such bonds or other obligations at their maturity. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

(1967, Ch. 625; C.B. 59, 2001)

SUBTITLE 12. - LEASE EXTENSIONS—CONVERSION OF RENTAL HOUSING TO A CONDOMINIUM REGIME

Sec. 13.1200. - Authority and purpose.

This subtitle is created pursuant to subsection 11-140(b) of title 11 of the Real Property Article of the Annotated Code of Maryland and resolution 128-1982 of the Howard County Council declaring a rental housing emergency. The purpose of this subtitle is to protect the tenancies of certain households in rental housing converted to a condominium regime. Nothing in the provisions of this act shall be deemed to apply to any condominium or to the conversion of residential rental property to a condominium if, under the provisions of subsection 11-142(f) of the Maryland Condominium Act such condominium or conversion is specifically exempted therefrom.

(C.B. 42, 1982; C.B. 59, 2001)

Sec. 13.1201. - Definitions.

- (a) *Annual income* means total income from all sources for the income tax year immediately preceding the year in which notice of intent to convert is given, whether or not the sources are included in the definition of gross income for Federal or State tax purposes. Total income does not include any income tax refund received from the State or Federal Government. A loss from business, rental or other endeavor may not be used in the determination of total income. Total income includes:
 - (1) Benefits under the Social Security Act or Railroad Retirement Act as these acts may be amended from time to time;
 - (2) The aggregate of gifts in excess of \$300.00;
 - (3) Alimony and support money;
 - (4) Nontaxable strike benefits;
 - (5) Public assistance received in cash grants;
 - (6) Pensions and annuities;
 - (7) Unemployment insurance benefits and workmen's compensation benefits; and
 - (8) Net income received from business, rental or other endeavors.
- (b) *Conversion/convert* means the subjecting of property to a condominium regime by recording among the Howard County land records a declaration, bylaws and condominium plat that comply with the requirements specified in title 11 of the Real Property Article of the Annotated Code of Maryland.
- (c) *Department* means the Department of Housing and Community Development.
- (d) *Person with a disability* means a person with:
 - (1) A physical or mental impairment which substantially limits one or more of the individual's major life activities;
 - (2) A record of having such an impairment; or
 - (3) Being regarded as having such an impairment.
- (e) *Household* means those persons domiciled in the unit at the time the notice of intent to convert is given.
- (f) *Median area income* means the median income for Howard County as determined by the U.S. Census Bureau.
- (g) *Notice of intent to convert* means notice given by the owner of a rental facility to each tenant giving 180 days' notice of intent to convert the facility to a condominium, pursuant to section 11-102.1, "Notice Prior to Conversion of Residential Property to Condominium," of title 11 of the Real Property Article of the Annotated Code of Maryland.
- (h) *Owner* means any individual or entity holding title to a rental facility who subjects his/her property to a condominium regime.
- (i) *Rental facility* means property containing ten or more dwelling units intended to be leased to persons who occupy the dwellings as their residences.
- (j) *Senior citizen* means a person who is at least 62 years old on the date the owner gives 180 days' notice of intention to convert.
- (k) *Tenant* means any person having a leasehold right to occupy a dwelling unit in a rental facility.

(C.B. 42, 1982; C.B. 59, 2001; C.B. 68, 2007, § 1; C.B. 14, 2014, § 1)

Sec. 13.1202. - Lease extensions.

- (a) *Set-Aside of 20 Percent of Units for Lease Extension.* In converting a rental facility to a condominium, the owner shall set aside up to 20 percent of the total units for lease extension to certain households residing in those units if the households are current in their rent payment and have not violated any other material term of the lease.
- (b) *Six-Year Lease Extensions.* The owner shall offer an extended lease of six years to a household which:
 - (1) Has a total income which does not exceed 80 percent of the median income for Howard County; and
 - (2) Has included a senior citizen or person with a disability, as defined in section 11-137 of the Real Property Article of the Annotated Code of Maryland, as a member for at least 12 months preceding the 180 days' notice of intention to convert.
- (c) *Three-Year Lease Extensions.* The owner shall offer an extended lease of three years to any household which:
 - (1) Has a total annual income which does not exceed 80 percent of the median annual income for Howard County; or
 - (2) Includes a senior citizen or person with a disability as a household member for at least 12 months preceding the notice of intent to convert.
- (d) *Nonapplicability.* This section does not apply to any household whose lease term expires during the 180-day period after notice of intent to convert and which has given notice of intent not to renew the lease prior to the giving of notice of intent to convert.
- (e) *Priority.* If more than 20 percent of the units are occupied by households eligible for lease extension, priority for lease extension shall be as follows:
 - (1) The owner shall first give priority to households eligible for six-year lease extensions. If more than 20 percent of the units are occupied by households eligible for six-year lease extensions, the owner shall assign priority on the basis of length of residence in the facility, with priority going to households with longest residence in the facility.
 - (2) The owner shall give next priority to households whose total annual income does not exceed 80 percent of the median annual income for Howard County and which have included a senior citizen or a person with a disability as a household member for less than 12 months preceding the notice of intent to convert.
 - (3) The owner shall give next priority to households whose total income does not exceed 80 percent of the median annual income for Howard County.
 - (4) The owner shall give next priority to households which include a senior citizen or person with a disability as a household member.
- (f) *Offering of Lease Extension:*
 - (1) Lease extension; owner's notice to tenants: Simultaneously with giving the notice of intent to convert and in addition to the requirements of State law, the owner shall send to all tenants, except those excluded by subsection (d) of this section:
 - a. An application on which shall be included all of the information required by subsection (f)(2) of this section;
 - b. A lease containing the terms required by this section and clearly indicating that the lease will be effective only if:
 - (i) The tenant executes and returns the lease not later than 60 days after the giving of notice of intent to convert; and
 - (ii) The household is allocated one of the units required to be made available to qualified households.

c. The following notice:

Right To Lease Extensions

For Certain Households

Under Howard County Law

A developer who converts this rental facility to a condominium must offer extended leases to qualified households for up to 20 percent of the units in the rental facility. Certain households which receive extended leases will have the right to continue renting their residences for at least six years from the date of this notice. Certain other households which receive extended leases will have the right to continue renting their residences for at least 3 years from the date of this notice. Rents under these extended leases may only be increased once a year and are limited by increases in the cost-of-living index.

To qualify for a six-year extended lease, you must be current in your rental payments and otherwise in good standing under your existing lease, and meet all of the following criteria:

- (1) A member of the household must be [a] person with a disability or a senior citizen who is at least 62 years of age and must be living in your unit as of the date of this notice and must have been a member of your household for at least 12 months preceding the date of this notice; and
- (2) Annual income for the present members of your household must not have exceeded 80 percent of the median annual income for Howard County.

To qualify for a three-year extended lease, you must be current in your rental payments and otherwise in good standing under your existing lease, and meet at least one of the following criteria:

- (1) The annual income for the present members of your household must not have exceeded 80 percent of the median annual income for Howard County; or
- (2) A member of the household must be a person with a disability or a senior citizen who is at least 62 years of age and must be living in your unit as of the date of this notice.

If your household meets the qualifications, is current in its rental payments and otherwise in good standing under its current lease and desires an extended lease, then you must complete the enclosed application, have it notarized, sign the lease and return them to (address of owner or developer) within 60 days of the date of this notice. If your completed, notarized form and signed lease are not received within that time, you will not be entitled to an extended lease.

If the number of qualified households requesting extended leases exceeds 20 percent of the units in this facility, priority shall be given as follows:

- (1) First priority shall go to households qualified for six-year lease extensions.
- (2) Next priority shall go to households whose annual income is less than 80 percent of the median annual income for Howard County.
- (3) Last priority shall go to households which include a senior citizen or a person with a disability.

Due to the 20 percent limitation, your application for an extended lease must be processed prior to your lease becoming final. Your lease will become final if it is determined that your household is qualified and falls within the limitations.

If you return the enclosed form and lease by _____ (60th day from the date of this notice) you will be notified within 75 days of the date of this notice, or in other words, by

_____ (75th day from the date of this notice) whether you are qualified and whether your household falls within the limitations.

If you receive an extended lease, you may cancel it by giving three months' written notice if more than a year remains on the lease, or by giving one month's written notice if less than a year remains on the lease. The developer may cancel the extended lease, giving you 60 days' written notice, if the senior citizen or person with a disability no longer resides in the household or the household no longer meets the income qualifications.

You may apply for an extended lease and, at the same time, choose to purchase your unit. If you apply for and receive an extended lease, your purchase contract will be void. If you do not receive an extended lease, your purchase contract will be effective and you will be obligated to buy your unit.

- (2) *Application for lease extension by tenants to owner.* Within 60 days of the owner's giving notice of intent to convert and of the sending of the notice of right to a lease extension, application for lease extension and a copy of the lease, any household desiring a lease extension pursuant to this subtitle shall complete the application supplied by the landlord providing the owner with the following:
 - a. The completed notarized application:
 - (i) Stating that the household is applying for an extended lease under this subtitle; and
 - (ii) Setting forth the household's annual income for the calendar year preceding the giving of notice of intent to convert, together with reasonable supporting documentation; and
 - (iii) Setting forth facts showing that a member of the household is a senior citizen or a person with a disability and setting forth facts indicating the length of time that the senior citizen or a person with a disability has been a member of the household (if the qualification for lease extension is based in whole or in part upon the inclusion of a senior citizen or a person with a disability in the household).
 - b. A signed extended lease.
- (3) *Notification to households who have applied for lease extension.* Within 75 days after giving of notice of intent to convert, the owner shall notify each household which submits the documents required by subsection (f)(2) above with the following:
 - a. Whether the household meets the criteria for lease extension and, if not, an explanation of which criteria have not been met.
 - b. Whether a lease extension has become effective.
- (4) *Notification to Howard County Office of Consumer Protection .* Within 75 days after giving of notice of intent to convert, the owner shall provide the Howard County Office of Consumer Protection with the following:
 - a. A notice indicating the number of units in the rental facility being made available to qualified households pursuant to subsections (b) and (c) of this section; and
 - b. A list of all households meeting the criteria of subsections (b) and (c) indicating the priority of each in relation to the total number of units being made available; and
 - c. A list of households submitting notarized applications who do not meet the criteria for lease extensions; and
 - d. A list of all households as to whom an extended lease has become effective, specifying the criteria under which each household qualified.

(g) *Terms of Lease and Rent:*

- (1) The six-year extended lease shall commence on acceptance of the lease and shall terminate not less than six years from the giving of notice of intent to convert.
 - (2) The three-year extended lease shall provide for a term commencing on acceptance of the lease and terminating not less than three years from the giving of notice of intent to convert.
 - (3) The rental fee for the unit may be increased annually on the date of commencement of the lease.
 - (4) The annual increase in the rental fee may not exceed an amount determined by multiplying the annual rent for the preceding year by the percentage increase for the rent component of the U.S. Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI—W) (1967—100) as published by the U.S. Department of Labor, for the most recent 12-month period.
 - (5) Except as otherwise permitted by this subtitle, the extended lease shall contain the same terms and conditions as the lease in effect on the day preceding the giving of notice of intent to convert.
- (h) *Periodic Reporting of Income and Household Status.* Each April 15, households granted extended leases pursuant to this subtitle shall report to the owner:
- (1) Indicating the age and physical mobility status of each household member if the lease extension was granted in whole or in part on the basis of age or disability; and
 - (2) Giving documented evidence of the household's annual income if the lease extension was granted in whole or in part on the basis of income.
- (i) *Termination of Extended Lease by Tenant.* Households granted lease extensions under this subtitle may terminate their leases at any time giving:
- (1) At least one month's written notice when less than a year remains on the lease; or
 - (2) At least three months' written notice when a year or more remains on the lease.
- (j) *Termination of Extended Lease by Owner:*
- (1) The owner may terminate the lease, giving 60 days' written notice, whenever the household fails to meet the qualifications under which the extended lease was granted.
 - (2) The owner may terminate the lease upon:
 - a. Eviction for failure to pay rent due in a timely fashion;
 - b. Eviction for violation of any material term of the lease.

(C.B. 42, 1982; C.B. 59, 2001; C.B. 68, 2007, § 2; C.B. 14, 2014, § 1; C.B. 12, 2016, § 1)

Sec. 13.1203. - County's right of refusal.

- (a) *Purchase or Lease by the Department or Commission.* If the owner is unable to find enough existing tenants who qualify for lease extensions to fill 20 percent of the units, the owner shall offer the remainder of the required 20 percent of the units to the Department and Commission for purchase or lease on substantially the same terms and conditions offered by the owner to the tenant.
- (b) *Use in MIHU program.* Any units that are purchased or leased by the Department or Commission shall be a part of the moderate income housing unit program and meet all laws and regulations applicable to units in that program.
- (c) *Regulations.* The Department may adopt rules and regulations to implement this subsection.

(C.B. 68, 2007, § 4)

Sec. 13.1204. - Administration, violations, enforcement, penalties.

- (a) *Administration.* The Office of Consumer Protection shall administer this subtitle. It shall develop and issue written regulations for the administration of this subtitle in accordance with Howard County Administrative Procedures Act.
- (b) *Violations.* Any violation of section 13.1202 shall be considered a deceptive or unfair trade practice under section 17.403 of the Howard County Code.
- (c) *Enforcement.* The Office of Consumer Protection shall enforce the provisions of this subtitle pursuant to its duties, powers, authority and the procedures set forth in subtitle 4, "Consumer Protection" of title 17 "Public Protection Services," of the Howard County Code.
- (d) *Right of Private Action:*
 - (1) Any tenant who has suffered injury or loss by any violation of this law may bring an action to recover actual damages under the rules of civil procedure in any court of appropriate jurisdiction. The court may, in its discretion, award punitive damages and provide such equitable relief as it deems necessary and proper.
 - (2) In any action brought by a tenant under this law, the court may award, in addition to the relief provided in this section, reasonable attorney's fees and costs.
 - (3) Nothing in this subtitle shall prevent persons from exercising any right or seeking any remedy to which they might otherwise be entitled or from filing any complaint with any other agencies or court of law or equity.

(C.B. 42, 1982; C.B. 59, 2001; C.B. 68, 2007, § 3; C.B. 12, 2016, § 1)

Note— Formerly numbered as § 13.1203.

SUBTITLE 13. - HOWARD COUNTY HOUSING COMMISSION ARTICLES OF ORGANIZATION^[2]

Footnotes:

--- (2) ---

Editor's note— Subtitle 10, §§ 13.1001—13.1022, was added by C.B. 51, 1990, contingent upon the taking effect of ch. 330 of the Acts of the General Assembly of 1990. The County has advised that ch. 330 has taken effect. The section numbering has been retained even though slightly at variance with established style. Subsequently, pursuant to C.B. 59, 2001, this subtitle has been renumbered as subtitle 13.

Sec. 13.1301. - Articles adopted.

These articles of organization are adopted pursuant to the Housing Authorities Law, article 44A of the Annotated Code of Maryland.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1302. - Declarations and findings.

- (a) It is the policy of Howard County to ensure the availability of safe, sanitary and decent housing for the citizens of the County.

- (b) There is a shortage in Howard County of safe and sanitary housing available at rents which persons of low and moderate income can afford. Consequently, many of these persons live in unsanitary, unsafe, or overcrowded housing.
- (c) Unsanitary, unsafe, or overcrowded housing conditions lower the value of surrounding property, constitute a menace to the health, safety, and welfare of the County's residents, and require spending of considerably more than average amounts for public services such as police, fire, health, courts, and prisons.
- (d) Since the private housing market does not assist economically depressed or physically deteriorated areas in the County nor relieve the shortage of safe and sanitary housing for persons of low and moderate income, the construction of housing developments for persons of low and moderate income would not be competitive with private enterprise.
- (e) The clearance, replanning and reconstruction of areas containing unsanitary or unsafe housing and the providing of safe and sanitary housing at rents affordable to persons of low and moderate income are public uses and purposes and essential government functions for which public money may be spent and private property acquired.
- (f) Therefore, there is a need for a housing authority to function in Howard County.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1303. - Definitions.

The terms used in this subtitle shall have the meanings indicated in this section.

- (a) *Bonds* means any bonds, notes, interim certificates, debentures, or other obligations issued by the Commission.
- (b) *Commission* means the Howard County Housing Commission established under this subtitle.
- (c) *County* means Howard County, Maryland.
- (d) *Economically depressed or physically deteriorated area* means any areas where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light, or sanitary facilities, or any combination of these factors are detrimental to safety, health, and morals.
- (e) *Federal Government* includes the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.
- (f) *Housing authorities law* means article 44A of the Annotated Code of Maryland, as amended.
- (g) *Housing development* means any work or undertaking:
 - (1) To demolish, clear, or remove buildings from any economically depressed or physically deteriorated area; such work or undertaking may embrace the adaptation of such area to public purposes, including parks or other recreational or community purposes;
 - (2) To provide decent, safe, and sanitary living accommodations for persons of eligible income and, to the extent authorized in accordance with subsection 13.1012(p) of this subtitle, for other persons; such work or undertaking, or portion thereof, may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare, or other purposes; or
 - (3) To accomplish a combination of the foregoing, the term "housing development" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements, and all other work in connection therewith.

It is the intent of this subtitle that "housing development" shall have the same meaning as the term "housing project" as defined in the housing authority's law.

- (h) *Obligee of the Commission or obligee* includes any bondholder, trustee, or trustee for any bondholder, noteholder, or a lessor demising to the Commission property used in connection with a housing development, or any assignee or assignees of such lessor's interest or any part thereof, and the State or Federal Government when it is a party to any contract with the Commission.
- (i) *Persons of eligible income* means:
 - (1) As to developments that are State or Federally funded, individuals or families who meet the income requirements of the State or Federal program involved; and
 - (2) As to other developments, individuals or families who lack sufficient income or assets (as determined by the County Executive or the County Executive's designee, which designee may include, without limitation, either the Executive Director or the Commissioners) to enable them, without financial assistance, to purchase or rent decent, safe, and sanitary dwellings without overcrowding.

The determination of income levels may vary with respect to the elderly, persons with disabilities, or particular developments or programs.

- (j) *Real property* includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

(C.B. 51, 1990; C.B. 59, 2001; C.B. 14, 2014, § 1)

Sec. 13.1304. - Establishment of Housing Commission.

There is a public body corporate and politic known as the Howard County Housing Commission, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out the provisions and purposes of this subtitle.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1305. - Composition; appointments; terms.

- (a) *Appointment:*
 - (1) *Voting Commissioners.* The Commission has seven voting Commissioners, at least five of whom shall be residents of Howard County. The Commissioners shall be appointed by the County Executive with the approval of the County Council.
 - (2) *Nonvoting Commissioner:*
 - (i) The Commission shall have an additional nonvoting Commissioner who shall be a member of the Housing and Community Development Board selected in accordance with subsection 13.501(d) of this Code.
 - (ii) The Commission may have an additional nonvoting Commissioner who shall be an employee of the County who is not an elected official of the County. This nonvoting Commissioner shall be appointed by the County Executive and approved by the County Council.
 - (3) *Evidence of due and proper appointment.* A certificate of the appointment or reappointment of a Commissioner shall be filed with the custodian of records, and the certificate shall be conclusive evidence of the due and proper appointment of a Commissioner.

(b) *Qualifications:*

- (1) Of the seven voting Commissioners, at the time of appointment at least one shall be a person of eligible income;
- (2) Of the remaining six voting Commissioners, each shall have experience in one or more of the following areas:
 - (i) Affordable housing development;
 - (ii) Affordable housing finance;
 - (iii) Multi-family residential property management;
 - (iv) Multi-family residential construction or design;
 - (v) Federal, State, or local housing finance programs;
 - (vi) Business management, including budget, finance, or human resources; or
 - (vii) Other relevant expertise.

As new appointments are considered, special attention shall be given to ensure that a diversity of expertise is maintained on the Commission.

(c) *Ineligibility to Serve as Commissioners.* The following individuals are not eligible to serve as voting Commissioners:

- (1) An employee of the housing Commission;
- (2) An elected official of the County;
- (3) An employee of the County.

(d) *Terms of Office:*

- (1) A Commissioner shall serve for a term of five years, except that a nonvoting Commissioner shall serve at the pleasure of the County Executive.
- (2) The terms of the Commissioners shall be staggered as required by law.
- (3) No Commissioner shall be reappointed after having served eight or more consecutive years immediately before reappointment.
- (4) All vacancies shall be filled for the balance of the unexpired term only. A Commissioner shall hold office until the Commissioner's successor has been appointed.
- (5) A Commissioner who is absent from three consecutive regular meetings of the Commission, unless excused by resolution of the Commission, may be removed from office.

(C.B. 51, 1990; C.B. 55, 1993; C.B. 59, 2001; C.B. 12, 2016, § 1)

Sec. 13.1306. - Custodian of records.

The Chief Administrative Officer of the County shall be the custodian of records for the purposes of the Housing Authorities Law.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1307. - Chairperson; liaison to the Housing and Community Development Board; staff; legal services.

- (a) *Chairperson; Vice-Chairperson.* The County Executive shall designate which of the Commissioners appointed at the time of initial activation of the Commission shall be the first Chairperson, who shall serve as Chairperson for a one-year term. By majority vote of all Commissioners, the Commission shall select from among its Commissioners the first Vice-Chairperson, who shall serve as Vice-Chairperson for a one-year term. The Commission shall thereafter annually select, by majority vote of all Commissioners, a Chairperson and Vice-Chairperson from among its Commissioners.
- (b) *Liaison to the Housing and Community Development Board.* By majority vote of all Commissioners, the Commission shall annually select from among its Commissioners a liaison to the Housing and Community Development Board who shall serve as a nonvoting ex officio member of the Housing and Community Development Board in accordance with subsection 13.501(c)(2) of this Code.
- (c) *Employment of Staff.* Subject to section 13.1017 of this subtitle, the Commission may employ an Executive Director, technical experts and other officers, agents and employees, permanent and temporary, and shall determine their qualifications, duties and compensation.
- (d) *Legal Services .* For the legal services it may require, the Commission may use the services of the County Solicitor or may employ its own legal counsel.
- (e) *Delegation of Duties to Employees.* The Commission may delegate to one or more of its employees the powers or duties it may deem proper.

(C.B. 51, 1990; C.B. 55, 1993; C.B. 59, 2001; C.B. 12, 2016, § 1)

Sec. 13.1308. - Voting; meetings.

- (a) *Quorum; Voting.* The powers of the Commission shall be vested in the Commissioners in office from time to time. For the purpose of conducting its business and exercising its powers and for all other purposes, four Commissioners shall constitute a quorum of the Commission. Action may be taken by the Commission upon vote of a majority of the Commissioners present at a meeting at which there is a quorum, unless the bylaws of the Commission require a larger number for a particular matter.
- (b) *Open Meetings.* The Commission shall meet in open session as required by the Open Meetings Law, section 10-501 et seq. of the State Government Article of the Annotated Code of Maryland, as amended. Agendas shall be made available at least five business days prior to the meeting in an electronic medium readily available to the public. Minutes of open meetings shall be made available as soon as practicable in at least one electronic medium readily available to the public.

(C.B. 51, 1990; C.B. 59, 2001; C.B. 13, 2014, § 1)

Sec. 13.1309. - Compensation; expenses.

Commissioners shall receive no compensation for their services except reasonable and necessary expenses, including traveling expenses incurred in the discharge of the Commissioner's duties, as may be provided in the Commission's budget.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1310. - Liabilities; conflicts of interest.

- (a) *Statute of Commissioners, Executive Director and Employees.* All Commissioners, the Executive Director of the Commission, and all employees of the Commission are:
 - (1) County officials for the purposes of section 22.200 et seq. of this Code, and therefore are subject to the Howard County Public Ethics Law; and

- (2) Local government employees for the purposes of title 5, subtitle 4 of the Courts and Judicial Proceedings Article, and therefore are entitled to the protections of the Local Government Tort Claims Act.
- (b) *Good-Faith Exercise of Powers.* No claim of any nature whatsoever shall arise against, and no liability shall be imposed upon, any Commissioner for any statement made or actions taken in good-faith exercise of the powers granted and duties imposed under this subtitle.
- (c) *No Interest in Any Project:*
 - (1) A Commissioner or employee of the Commission may not acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, except for bonds purchased prior to the Commissioner's or employee's appointment and interests in mutual funds.
 - (2) A Commissioner or employee of the Commission shall not have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project.
 - (3) If any Commissioner or employee of the Commission owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, the Commissioner or employee immediately shall disclose the interest in writing to the Commission and this disclosure shall be entered upon the minutes of the Commission. Failure to disclose such interest shall constitute misconduct in office.
 - (4) A Commissioner or employee of the Commission shall comply in all respects with the provisions of the Howard County Public Ethics Law, including the provisions prohibiting a Commissioner or employee from:
 - (i) Participating in any matter which would have a direct financial impact on the Commissioner or employee, a spouse, parent, child, sibling or any business interest with which they are affiliated; and
 - (ii) Holding or acquiring an interest in a business entity that has or is negotiating a contract with the Commission or is regulated by the Commissioner or employee.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1311. - Removal of Commissioner.

(a) *Removal Procedures:*

- (1) A Commissioner may be removed by the County Executive for neglect of duty or misconduct in office, including violations of County ethics laws, in the following manner:
 - (i) The County Executive shall file charges with the Office of the Custodian of Records and promptly deliver a copy of the charges to the Commissioner and the Secretary of the Commission;
 - (ii) Written notice of the date, time, and place of a hearing shall be given to the Commissioner at least 14 days prior to the hearing;
 - (iii) Unless the Commissioner has resigned from office, the County Executive shall conduct the hearing at which the Commissioner shall have an opportunity to be represented by counsel and to be heard in person; and
 - (iv) Upon completion of the hearing, the County Executive shall make written findings.
- (2) If a Commissioner is removed, a record of the proceedings, together with the charges and findings thereon, shall be filed in the Office of the Custodian of Records.

- (b) *Suspension from Office.* If charges are filed pursuant to this section, the County Executive may suspend temporarily a Commissioner, provided that:
- (1) The County Executive shall immediately reinstate the Commissioner in office if the County Executive finds the charges have not been substantiated; and
 - (2) The Commissioner shall be automatically reinstated unless a hearing has been held and a decision made by the County Executive on removal within 45 days of the filing of charges.

The County Executive may not temporarily appoint a person to perform the duties of a suspended member.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1312. - Powers.

- (a) *Powers May Displace or Limit Economic Competition.* The Commission may exercise its powers as granted by this subtitle, despite the fact that its activities, may displace or limit economic competition.
- (b) *Limit on Powers.* The powers granted to the Commission pursuant to subsection (a) of this section may not be construed:
- (1) To grant to the Commission powers in any substantive area not otherwise granted to it by other public general or public local law;
 - (2) To restrict the Commission from exercising any power granted to it by other public general or public local law or otherwise;
 - (3) To authorize the Commission or its officers to engage in any activity which is beyond their power under other public general law, public local law, or otherwise; or
 - (4) To preempt or supersede the regulatory authority of any State Department or agency under any public general law.
- (c) *General Powers.* The Housing Commission may:
- (1) Sue and be sued.
 - (2) Have a seal and alter the seal at its pleasure.
 - (3) Have perpetual succession.
 - (4) Make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the Commission.
 - (5) Make and from time to time amend and repeal bylaws, rules and regulations not inconsistent with this subtitle. When making rules, the Commission shall comply with the provisions of the Howard County Administrative Procedure Act.
 - (6) Carry into effect the powers and purposes of the Commission.
- (d) *Housing Developments.* Within Howard County the Housing Commission may:
- (1) Prepare, carry out, acquire, own, lease, and operate housing developments.
 - (2) Provide for the construction, reconstruction, improvement, alteration, or repair of any housing development or any part of a housing development.
- (e) *Services or Facility Related to a Housing Development or its Occupants.* The Housing Commission may provide directly or arrange or contract for the furnishing by any person or agency, public or private, of services or facilities for, or in connection with, a housing development or its occupants, including drug rehabilitation, elderly or child day care, or other social services.
- (f) *Wages and Hours Requirements.* Notwithstanding anything to the contrary contained in this subtitle or in any other provision of law, the Housing Commission may include in any contract let in

connection with a development, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the State or Federal Government may have.

- (g) *Rent Subsidy Payments.* The Housing Commission may make rent subsidy payments to or on behalf of persons of eligible income.
- (g-1) *Mortgage Subsidy Payments.* The Commission may make mortgage subsidy payments to or for the benefit of persons of eligible income.
- (g-2) *Mortgage and Construction Loans.* The Commission may:
 - (1) Make mortgage loans to or for the benefit of persons of eligible income; and
 - (2) Make construction loans and long-term mortgage loans from proceeds of its bonds to any person, firm, partnership, association, joint venture, or corporation, public or private, in order to produce housing for persons of eligible income.
- (h) *Leasing and Renting.* The Housing Commission may lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing development and, subject to the limitations contained in this subtitle may establish and revise the rents or charges therefor.
- (i) *Property Interests.* The Housing Commission may:
 - (1) Own, hold, and improve real or personal property.
 - (2) Purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or interest in real or personal property.
 - (3) Sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest in real or personal property.
 - (4) Insure or provide for the insurance of any real or personal property or operations of the Commission against any risks or hazards.
 - (5) Procure insurance or guarantees from the State or Federal Government of the payment of any debts or parts thereof (whether or not incurred by the Commission) secured by mortgages on any property included in any of its housing projects.
- (j) *Investments:*
 - (1) When exercising the power to invest funds granted in this subsection the Commission shall comply with the provisions of subtitle 2 of title 11 of this Code concerning investments in South Africa. [Now repealed.]
 - (2) The Commission may invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control.
 - (3) The Commission may purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled.
- (k) *Bond Issuance.* The Commission may issue bonds in accordance with the provisions of subtitle 5 of the Housing Authorities Law.
- (l) *Investigation.* Within Howard County, the Commission may:
 - (1) Investigate into living, dwelling, and housing conditions, and into the means and methods of improving such conditions.
 - (2) Determine where economically depressed or physically deteriorated areas exist or where there is a shortage of decent, safe, and sanitary dwelling accommodations for persons of eligible income.

- (3) Make studies and recommendations, relating to the problem of clearing, replanning, and reconstructing of economically depressed or physically deteriorated areas, and the problem of providing dwelling accommodations for persons of eligible income, and cooperate with the County, the State, or any political subdivision thereof in action taken in connection with such problems.
 - (4) Engage in research, studies, and experimentation on the subject of housing.
- (m) *Conduct of Examinations; Availability of its Findings:* Acting through one or more Commissioners or other person or persons designated by the Commission, the Commission may:
- (1) Conduct examinations and investigations and hear testimony and take proof at public or private hearings on any matter material for its information.
 - (2) Make available to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or unsanitary structures within the County) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, safety, or welfare.
- (n) *Eminent Domain.* Subject to the approval of the County Council and the County Executive:
- (1) The Commission may acquire by the exercise of the power of eminent domain any real property which it deems necessary for its purposes under this subtitle after the Commission adopts a resolution declaring that the acquisition of the real property described therein is necessary for those purposes.
 - (2) The Commission may exercise the power of eminent domain in the manner provided in title 12 of the Real Property Article of the Annotated Code of Maryland or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain.
 - (3) Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to the County, the State, or any political subdivision thereof may be acquired without its consent.
- (o) *Relationship with County, State, or Federal Government.* It is the purpose and intent of this subtitle to authorize the Commission to do any and all things necessary or desirable to secure the financial aid or cooperation of the County, State, or Federal Government in the undertaking, construction, maintenance, or operation of any housing development by the Commission. The Housing Commission may:
- (1) Borrow money or accept grants or other financial assistance from the County, State, or Federal Government and accept grants from nongovernmental sources for or in aid of any housing project within Howard County.
 - (2) Take over or lease or manage any housing development or undertaking constructed, financed, or owned by the County, State, or Federal Government, and to these ends, comply with such conditions and enter into such mortgages, trust indentures, leases, or agreements as may be necessary, convenient, or desirable.
- (p) *Income Mix in Housing Developments.* Subject to any restrictions contained in any applicable agreement with the State or Federal Government or any other party, the Housing Commission may permit up to 80 percent of the residents of any housing development or any portion thereof financed by the Commission to have incomes above the levels established for persons of eligible income.
- (q) *Partnership.* The Housing Commission may act and invest as a general partner and as a limited partner in housing developments.
- (r) *Commercial Facility Intended for Use of Tenants.* The Commission may acquire, develop, construct, rehabilitate, own, operate, and lease, either as lessor or lessee, a commercial facility on the site of a housing project that makes an economic or social contribution to the housing project if:

- (1) The commercial facility is intended substantially for the use and benefit of the tenants of the housing project; and
 - (2) The intended use by other persons is incidental.
- (s) *Commercial Facility not Intended for Use of Tenants.* Subject to approval of the County Executive and the County Council, the Commission may acquire, develop, construct, rehabilitate, own, operate, and lease, either as lessor or lessee, a commercial facility that is adjacent to the site of a housing project.

(C.B. 51, 1990; C.B. 36, 2001, § 1; C.B. 59, 2001; C.B. 53, 2003, § 1; C.B. 70, 2005, § 1)

Sec. 13.1313. - Commission to operate as a nonprofit organization.

- (a) *Not for Profit or Revenue.* The Commission shall not operate for profit, or as a source of revenue to the County Government.
- (b) *Lowest Possible Rents.* The Commission shall manage and operate its housing developments in an efficient manner so as to enable it to fix the rent for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe, and sanitary dwelling accommodations and meeting the financial needs described in subsection (c) of this section.
- (c) *Sufficient Revenue.* The Commission shall fix the rents for dwellings in its housing developments at no higher rates than it shall find to be necessary in order to produce revenues which together with all other available moneys, revenues, income, and receipts of the Commission from whatever sources derived will be sufficient to do the following:
 - (1) To pay, as the same become due, the principal and interest on the bonds and other obligations of the Commission;
 - (2) To meet the cost of and to provide for, maintaining and operating the housing developments (including the cost of any insurance) and the administrative expenses of the Commission;
 - (3) To create (during not less than the six years immediately succeeding its issuance of any bonds) a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve;
 - (4) To create reserves for operations, emergencies, renovations, replacements, or the repayment of indebtedness; and
 - (5) To otherwise create funds necessary or desirable for subsidizing rents, developing or operating housing developments, or operating or providing services located in or which benefit the residents of housing projects.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1314. - Rental and tenant selection.

- (a) *Income of Tenants.* In the operation or management of housing developments:
 - (1) Dwelling accommodations in a housing development may be rented only to persons of eligible income, except for a reasonable number of units which may be occupied by management and security personnel.
 - (2) Dwelling accommodations may be rented only at rental rates within the financial reach of persons of eligible income.
 - (3) A person may not be accepted as a tenant in any housing development if the person or persons who would occupy the dwelling accommodations have an aggregate annual income in excess of the maximum income levels established for persons of eligible income.

- (4) Subletting by tenants shall be prohibited.
- (b) *Exception Regarding Income of Tenants.* The requirements of subsection (a) of this section may not apply to those rental units not required to be occupied by persons of eligible income under subsection 13.1012(p) of this subtitle.
- (c) *Possession Free from Restrictions.* Nothing contained in this section shall be construed as limiting the power of the Commission to vest in an obligee the right, in the event of a default by the Commission, to take possession of a housing development or cause the appointment of a receiver thereof or acquire title thereto, through foreclosure proceedings or otherwise, free from all the restrictions imposed by this section.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1315. - Planning, zoning, sanitary, and building laws.

All housing developments of the Commission shall be subject to the planning, zoning, sanitary, health, fire, housing, subdivision, and building laws, or, ordinances, codes, rules, and regulations applicable in Howard County, unless otherwise provided by law.

(C.B. 51, 1990; C.B. 59, 2001; C.B. 73, 2007, § 1)

Sec. 13.1316. - Books, records and reports.

- (a) *Annual Financial Report.* At least once a year, the Commission shall file with the custodian of records an annual financial report of its activities for the preceding year, and shall make recommendations for any additional action by the County Government which it deems necessary or useful in order to carry out the purposes of this subtitle.
- (b) *Submission of Budget.* By January 1 of each year, the Commission shall submit to the custodian of records an operating budget for the next County fiscal year in a form approved by the custodian of records.
- (c) *Quarterly Activity Reports.* The Commission shall submit to the custodian of records quarterly activity reports and such other program reports as the custodian of records may designate.
- (d) *Right to Examine Records.* The County or its designee shall have the right to examine any books or records of and to conduct a financial or management audit of the Commission at any time.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1317. - Purchasing and personnel procedures.

Subject to approval by the County Council and the County Executive, the Commission shall adopt procedures for:

- (a) The purchasing of services and goods that, except where otherwise required by Federal or State law, promote the purchasing policies established under article VIII of the Howard County Charter; and
- (b) The appointment, compensation, and separation of employees of the Commission.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1318. - Appropriations by the County.

- (a) *Appropriation of Funds by County.* When the Commission is authorized to transact business and exercise its powers, the County shall immediately make an estimate of the amount of money necessary for the administrative expenses and overhead of the Commission during the first year of its operation, and shall appropriate that amount to the Commission out of any moneys in the County's treasury not appropriated to some other purposes. The moneys so appropriated shall be paid to the Commission as a donation.
- (b) *Funding Necessary to Comply with Requirements Imposed by This Subtitle.* If funding is necessary in order for the Commission to comply with any requirement imposed on it by this subtitle; and if funding adequate for the Commission to comply therewith is not available from State, Federal, or other sources, the County shall appropriate to the Commission the funding necessary for it to comply, provided that the County shall have no duty to provide any funding to the Commission in order for the Commission to satisfy any judgment, liability, debt, or other financial obligation to any third party.
- (c) *Loans and Donations.* The County shall have the power from time to time to lend or donate money to the Commission or to agree to take such action. The Commission, when it has money available therefor, shall make reimbursements for all such loans made to it.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1319. - Purchase of County property.

The County Executive is hereby authorized to waive the advertising and bidding requirements of section 4.201 of this Code for any individual conveyance of real property from the County to the Commission.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1320. - Property of Commission tax-exempt; exemption of property from levy and execution.

(a) *Exempt from Taxes and Special Assessments; Payment in Lieu of Taxes:*

- (1) The property of the Commission is declared to be used for essential public and governmental purposes and the Commission and its property are exempt from all taxes and special assessments of the County or the State.
- (2) In lieu of County taxes and special assessments, the Commission shall make payments to the County in an amount set by mutual agreement between the Commission and the County; provided, however, that the sum to be paid to the County shall not exceed an amount equal to the regular taxes levied upon similar property.

(b) *Exempt from Levy and Sale, or Lien upon Real Property:*

- (1) Except as set forth in paragraph (2) or (3) of this subsection, all real property of the Commission shall be exempt from levy and sale by virtue of an execution; and no execution or other judicial process shall issue against the same, nor shall any judgment against the Commission be a charge or lien upon its real property.
- (2) The provisions of paragraph (1) of this subsection shall not limit a right to foreclose or otherwise enforce:
 - (i) Any mortgage or deed of trust recorded against any property of the Commission; or
 - (ii) Any pledge or lien given by the Commission on its rents, fees, or revenues.
- (3) The provisions of paragraphs (1) and (2) of this subsection may not deprive the County of its right to collect any service charge agreed upon in lieu of taxes in the same manner as all such taxes are now, or may hereafter be, collectible under the laws of this State and of the County.

(C.B. 51, 1990; C.B. 59, 2001)

Sec. 13.1321. - Nondiscrimination.

The Commission shall not discriminate on the basis of race, color, creed, religion, national origin, sex, marital status, disability, occupation, political opinion, sexual orientation, personal appearance or age (except with respect to a project intended in whole or in part for elderly persons) in leasing or otherwise providing dwelling accommodations or in any other aspect of the development, administration, or operation of any housing development or undertaking of the Commission, or in any aspect of employment by the Commission or any sponsor, developer, or contractor involved in the construction, repair or maintenance of any property or program of the Commission.

(C.B. 51, 1990; C.B. 59, 2001; C.B. 14, 2014, § 1)

Sec. 13.1322. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 51, 1990; C.B. 59, 2001)

SUBTITLE 14. - NOTICE-SALE OF MULTIFAMILY DWELLING UNITS

Sec. 13.1400. - Definitions.

- (a) *Commission* means the Howard County Housing Commission.
- (b) *Department* means the Department of Housing and Community Development.
- (c) *Owner* means an individual or entity holding title to rental housing.
- (d) *Rental Housing* means a multiple-family dwelling, or a group of multiple-family dwellings operated as one entity, with a total of five or more rental units.
- (e) *Sale, sell or selling* means:
 - (1) Transfer of title to rental housing;
 - (2) Transfer in a 12-month period of a majority interest in ownership of the rental housing; or
 - (3) Lease of rental housing for more than seven years.
- (f) *Tenant* means an individual who lives in a rental housing unit with the owner's consent and is responsible for paying rent to the owner.
- (g) *Tenant organization* means an association of tenants of rental housing that represents tenants of at least 30 percent of the occupied units in the rental housing.
- (h) *Title* means:
 - (1) A legal or equitable ownership interest in rental housing; or
 - (2) A legal, equitable, or beneficial interest in a partnership, limited partnership, corporation, trust, or other person who is not an individual, that has a legal or equitable interest in rental housing.

(C.B. 67, 2007, § 1)

Sec. 13.1401. - Purpose.

The purpose of this subtitle is to increase opportunities for the Department and the Commission to expand the number of affordable dwelling units available in the County by requiring an owner of rental housing to provide notice to the Department, the Commission, and a tenant organization when the owner offers the rental housing for sale either in whole or in part.

(C.B. 67, 2007, § 1)

Sec. 13.1402. - Notice required.

- (a) *Notice of Intent to Sell.* Unless otherwise provided by law, no later than three days after offering the rental housing for sale, the owner must provide written notice of the owner's intent to sell to the Department and the Commission by first-class mail.
- (b) *Notice upon Sale.* Unless otherwise provided by law, no later than ten days after the sale of rental housing, the owner must provide written notice of the sale:
 - (1) To each tenant and tenant organization, if any, in the rental housing by first-class mail;
 - (2) By conspicuously posting the notice in public areas of the rental housing; and
 - (3) To the Department of Inspections, Licenses and Permits by first-class mail; and
 - (4) To the Department and the Commission by first class mail with a list identifying each tenant and the tenant's address.

(C.B. 67, 2007, § 1; C.B. 10, 2008, § 1)

Sec. 13.1403. - Purchase.

- (a) *Purchase.* The Department, Commission, or the tenant organization, if any, may negotiate with the owner to purchase the rental housing.
- (b) *Information and Inspection.* Upon entering into negotiations and on request the owner shall give the Department, the Commission, and any tenant organization:
 - (1) Any information about the rental housing relevant to purchasing the rental housing, such as architectural and engineering plans and specifications, and operating data; or
 - (2) Access to the rental housing to inspect the property and conduct reasonable tests at reasonable times after reasonable notice.
- (c) *The Department or Commission.* The Department or Commission may make an offer to purchase the rental housing in accordance with section 13.407. At least 20 percent of the units of any rental housing purchased by the Department or Commission shall be maintained as affordable to persons of moderate income as defined in subtitle 4 of this title.

(C.B. 67, 2007, § 1)

Sec. 13.1404. - Regulations.

The Department may adopt regulations to implement this section.

(C.B. 67, 2007, § 1)

Sec. 13.1405. - Annual reports to the Council.

Subject to section 22.1000 of the County Code, by February 1 of each year, the Department shall report to the Council on activities under this subtitle for the prior calendar year, including:

- (a) Any notice of offer to sell received by the Department or Commission; and
- (b) The number of rental units the Department or Commission acquired.

(C.B. 67, 2007, § 1; C.B. 43, 2018, § 1)

SUBTITLE 15. - HOWARD COUNTY PARTICIPATION IN HOUSING PROJECTS

Sec. 13.1500. - Prohibited participation.

Neither the County nor the Housing Commission may construct or provide financing or financial assistance for a housing project that would:

- (a) Increase the poverty level in a census tract block group if the poverty level in the census tract block group is ten percent or greater; or
- (b) Increase the poverty level in a census tract block group to ten percent or greater.

(C.B. 18, 2014, § 1; C.B. 12, 2016, § 1)

TITLE 14 - LICENSES, PERMITS AND INSPECTIONS

SUBTITLE 1. - TAXICAB CODE⁽¹⁾

Footnotes:

--- (1) ---

Editor's note— C.B. 36, 1986, repealed former sub. 1, §§ 14.100—14.110, and enacted in lieu thereof a new sub. 1, §§ 14.100—14.110. The subtitle was formerly entitled "Taxicabs" and was derived from the following Council bills: 39, 1969; 15, 1970; 13, 1972; 49, 1974; 116, 1981; 32, 1985.

Sec. 14.100. - Short title, purpose, applicability.

- I. *Short Title.* This subtitle shall be known as the "Taxicab Code" of Howard County.
- II. *Purpose.* The purpose of the taxicab code is to protect the health, safety and welfare of persons using taxicabs in Howard County.
- III. *Applicability.* The provisions of this subtitle govern the operation of taxicabs in Howard County excluding vehicles licensed by the Maryland Public Service Commission and vehicles licensed by other jurisdictions.

(C.B. 36, 1986)

Sec. 14.101. - Definitions.

Words and phrases used in this subtitle shall have their usual meanings except as indicated below:

- I. *Criminal conviction* means:

- a. (1) A final criminal conviction, even if the penalty is refunded, suspended, or probated;
- (2) An unvacated forfeiture of collateral deposited to secure a defendant's appearance in court;
- (3) A plea of *nolo contendere* accepted by the court; or
- (4) The payment of a fine.
- b. *Conviction* does not include a finding of probation on a stay of entering judgment.
- II. *Certificate; certificate holder* means a certificate issued by the Department of Inspections, Licenses and Permits permitting a person to operate a taxicab service in Howard County; a person to whom a certificate has been issued.
- III. *Department* means the Howard County Department of Inspections, Licenses and Permits.
- IV. *License; licensee* means a license issued to an individual by the Department of Inspections, Licenses and Permits permitting the individual to drive a taxicab in Howard County; the person to whom a license is issued.
- V. *Permit* means a card issued by the Department of Inspections, Licenses and Permits and displayed in a taxicab indicating that the vehicle has met all requirements of local law for operation as a taxicab and is operating under a current valid certificate.
- VI. *Person* means an individual, corporation, firm, association, group, or public corporation.
- VII. *Taxicab* means a motor vehicle for hire used to transport passengers between points along public streets at the direction of the passengers.
- VIII. *Taximeter* means an illuminated instrument by which the charge for hire of a taxicab is calculated, which conforms to the specifications, tolerance and regulations for taximeters as set by the National Bureau of Standards and which proves correct over a measured mile as tested by the Department of Inspections, Licenses and Permits using an engineers' wheel.
- IX. *Waiting time* means delays, at the request or direction of the passenger(s) after the passenger has hired the taxicab.

(C.B. 36, 1986; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 14.102. - Administration.

- I. *Rules and Regulations.* The Director of Inspections, Licenses and Permits shall administer and enforce the taxicab code. The Director shall prepare and promulgate rules and regulations concerning the administration and enforcement of the taxicab code and the registration of persons and vehicles engaged in the business.
- II. *Right of Entry; Inspections.* At any time, after first displaying identification, members of the Department of Inspections, Licenses and Permits may enter a taxicab to ascertain whether or not the provisions of this subtitle have been violated. All inspections are performed for the protection and promotion of public safety, health and welfare. The inspections, which are purely governmental in nature, are not to be construed as providing any warranty to individual members of the public.

(C.B. 36, 1986; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 14.103. - Fees.

- I. *Recommended Schedules.* The County Executive, upon the recommendation of the Director of Inspections, Licenses and Permits, shall prepare a schedule of fees to be charged for the issuance and renewal of certificates, licenses and taxicab permits. The County Executive, upon the recommendation of the Director of Inspections, Licenses and Permits, shall prepare a schedule of rates to be charged by taxicabs for transporting passengers and luggage.
- II. *Approval of Fee Schedules by County Council.* The County Council shall approve by resolution the schedule of fees to be charged for the issuance and renewal of certificates, licenses and taxicab permits and the schedule of rates to be charged by taxicabs for transporting passengers and luggage.

(C.B. 36, 1986; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 14.104. - Taxicab certificate.

- I. *Certificate Required.* No person shall operate a taxicab service in Howard County unless the person has a valid certificate for the operation of a taxicab service issued pursuant to the provisions of this subtitle.
- II. *Form of Application; Submission; Fee.* The application for a certificate shall be submitted to the Department of Inspections, Licenses and Permits upon a form provided by the Department and accompanied by the required certificate fee.
- III. *Contents of Application.* The application shall contain the following information:
 - a. The full name and address of the Applicant. If the Applicant is a partnership, the full name and address of each partner. If the Applicant is a corporation or association, the full name and address of the officers.
 - b. The trade name of the Applicant, business address and business telephone numbers.
 - c. Evidence of the Applicant's financial status and responsibility.
 - d. The number of vehicles to be operated as taxicabs.
 - e. The full names and addresses of the owners of the vehicles (if they are owned by other than the Applicant).
 - f. The design, color scheme, cruising light design and seating capacity of the vehicle(s).
 - g. The character and location of garages and/or taxicab stands.
 - h. A description of the communications systems to be used.
 - i. A description of the services to be rendered including a description of the geographic area to be covered and the hours of operation.
 - j. A list of each conviction of the Applicant. If the Applicant is a partnership, a list is required for each partner. If the Applicant is a corporation or an association, a list is required for each officer.
 - k. The specific experience of the Applicant in the transportation of passengers for hire.
 - l. Additional information that will support the granting of a certificate.
- IV. *Consideration and Granting of Certificate.* The Director of Inspections, Licenses and Permits shall grant a certificate provided that:
 - a. The Applicant does not meet any of the criteria for refusing to grant or renew a certificate as listed in this section; and

- b. The Department approves the design, color scheme and cruising light design for the taxicabs; and
 - c. The required certificate fee has been paid.
- V. *Duration of Certificate; Renewals.* A certificate required by this subtitle is valid for two calendar years from the date of issuance which shall be July 1 and may be renewed upon payment of a license fee and compliance with the requirements of this subtitle and regulations issued pursuant to this subtitle.
- VI. *Refusing to Grant a Certificate; Refusing to Renew a Certificate; Revoking a Certificate.* The Director of Inspections, Licenses and Permits may refuse to grant a certificate, renew a certificate or may revoke a certificate, basing the decision on the following criteria. The Director shall give a certificate holder five days' written notice of an intended revocation.
- a. The Applicant or certificate holder has a criminal record which may include convictions for violations of the gaming, narcotic or alcoholic beverage laws or convictions for crimes involving violence or sex offenses.
 - b. The Applicant or certificate holder has a poor record in the taxicab business. The pool record may include revocations or suspensions of certificates, license or permits.
 - c. The Applicant or certificate holder is indebted to the State or the County other than for taxes for the current taxable year.
 - d. The Applicant or certificate holder has used fraud, misrepresentation, false or misleading statements, evasions or suppressions of material facts in procuring or attempting to procure the certificate.
 - e. The Applicant or certificate holder has used fraud, misrepresentation or false statement in the course of carrying on business.
 - f. The Applicant or certificate holder's record of violations of this subtitle or other ordinances or licensing laws or regulations of the County, State or other jurisdictions indicates that the granting or renewal of a certificate should be refused or that a certificate should be revoked in order to protect the public safety, morals or welfare.
- VII. *Information to Be Kept Up-to-Date.* The certificate holder shall supply the following information to the Department and shall supply updated information within 48 hours of any change:
- a. The name, home address and telephone number of the certificate holder. If the certificate holder is a partnership or corporation, the name, home address and telephone number of each partner or officer.
 - b. The trade name of the certificate holder, the address of the garage and all business telephone numbers.
 - c. The name, address and home telephone number of each licensee driving for the certificate holder.
 - d. The number of taxicabs operated, the make and model and serial number of each taxicab, the make and meter number of each taximeter.
- VIII. *Transference of Certificate.* Certificates are not transferable.
- IX. *Appeal.* An individual aggrieved by a decision of the Director of Inspections, Licenses and Permits to refuse to grant or renew a taxicab certificate or an individual aggrieved by a decision of the Director of Inspections, Licenses and Permits to revoke a certificate may, within ten days of the decision, appeal the decision to the Board of Appeals, which shall hear the appeal according to its rules of procedure.

(C.B. 36, 1986; C.B. 62, 1988; C.B. 16, 2012, § 1)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 14.105. - The taxicab.

- I. *Permit Required.* No vehicle may be operated as a taxicab unless it has a current valid permit for such use.
- II. *Application for Permit; Evidence of Insurance.* A certificate holder shall apply for a permit for each vehicle he/she owns that is to be used as a taxicab. The certificate holder and the licensee shall apply jointly for a permit for each vehicle owned by the licensee that is to be used as a taxicab under the certificate. The application shall be submitted to the Department of Inspections, Licenses and Permits on a form provided by the Department, accompanied by the required permit fee. The owner of the vehicle shall provide evidence of the insurance on the vehicle as required by this subtitle.
- III. *Issuance of Permit; Duration; Renewal; Transferability; Age of Vehicle:*
 - a. The Department of Inspections, Licenses and Permits shall issue a permit for a vehicle owned by a certificate holder or for a vehicle owned by a licensee and operated under a certificate, provided that the vehicle meets the requirements of this subtitle and the requirements of the transportation article of the Annotated Code of Maryland.
 - b. The permit shall expire on July 1 following the date of issuance and shall be renewed each July 1 provided that the requirements continue to be met.
 - c. The permit may not be transferred to another vehicle.
 - d. The Department may not issue or renew a permit for a vehicle if the vehicle is more than ten years old, measured as of the date of manufacture.
- IV. *Revocation of Permit.* The Department of Inspections, Licenses and Permits may revoke a permit whenever the vehicle fails to meet the requirements of this subtitle and the requirements of the transportation article of the Annotated Code of Maryland. Upon revocation of the permit, the certificate holder shall remove the permit from the vehicle and deliver it to the Department. The Department shall return the permit to the certificate holder as soon as the vehicle meets the requirements.
- V. *Display of Permit.* The permit shall be displayed in the taxicab at all times. It shall not be removed, defaced or tampered with.
- VI. *Required Equipment.* The following equipment and conditions shall be required for a vehicle to operate as a taxicab:
 - a. The owner of the vehicle and the operator shall be insured against liability to passengers or members of public for property damage or personal injury (including death) resulting from an accident in which the taxicab is involved. The minimum amount of insurance for each vehicle shall be as specified in title 17 of the transportation article of the Annotated Code of Maryland, and the policy shall provide that Howard County be given (with no qualifications) at least five days' written notice prior to cancellation or intention not to renew.
 - b. The vehicle shall be inspected at a licensed State inspection station pursuant to the requirements of the transportation article of the Annotated Code of Maryland and has been certified as safe.
 - c. The vehicle shall be a four-door sedan, a four-door vehicle built as a taxicab, or a vehicle approved for use as a taxicab by the Department and shall meet the requirements of the transportation article of the Annotated Code of Maryland as to equipment.
 - d. The vehicle shall have doors which will remain securely fastened during normal operation, but which may be readily opened by a passenger in case of emergency.
 - e. The vehicle shall be equipped with a heater sufficient to heat the interior of the taxicab adequately in cold weather.
 - f. Individual seatbelts shall be available for the use of each passenger.

- g. A child safety seat shall be available.
 - h. The vehicle shall be equipped with approved safety, nonshatterable transparent glass or plastic in the center partition, if any, between the driver's compartment and the passengers.
 - i. The vehicle shall have a cruising light, i.e. an electrically operated sign mounted on the top to identify the vehicle as a taxicab, and a working interior light, commonly known as a dome light.
 - j. The vehicle shall be equipped with a speedometer, fully visible to the passenger(s).
 - k. The vehicle shall be equipped with signal device, sign, or flag and light to indicate whether or not the vehicle is in service and available for hire.
 - l. The vehicle shall be equipped with a properly installed, accurate taximeter, plainly visible to the passenger(s). The taximeter shall register and visibly display:
 - 1. Total miles;
 - 2. Paid miles;
 - 3. Number of units;
 - 4. Number of trips; and
 - 5. Number of extras.
 - m. Current maps of Howard County and the surrounding area shall be kept in the vehicle at all times for the use of driver and passengers.
 - n. The vehicle shall be equipped with a first aid kit.
 - o. The word "taxicab" shall appear conspicuously on the vehicle.
 - p. The name of the certificate holder shall be permanently painted on one door on each side of the taxicab in letters at least 2½ inches high.
 - q. The permit number shall be prominently displayed inside and outside the taxicab in numerals at least four inches high.
 - r. The taxicab may carry commercial advertising up to a maximum of ten square feet, provided that the advertising displays are mounted to preclude safety hazards.
 - s. A schedule of fares shall be conspicuously posted in the vehicle.
- VII. *Vehicle's Taken Out of Service.* If a vehicle for which a permit has been issued is taken out of service, the owner shall remove the permit from the vehicle and return it immediately to the Department. The owner of the vehicle shall obliterate all markings identifying the vehicle as a taxicab.
- VIII. *Appeal.* A certificate holder or licensee aggrieved by a decision of the Department to refuse to grant or renew a taxicab permit or a certificate holder or licensee aggrieved by a decision of the Director of Inspections, Licenses and Permits to revoke a taxicab permit may, within ten days of the decision, appeal the decision to the Board of Appeals, which shall hear the appeal according to its rules of procedure.

(C.B. 36, 1986; C.B. 62, 1988; C.B. 12, 1999)

Editor's note— Section 2 of C.B. 12, 1999, declared the bill effective June 5, 1999.

Sec. 14.106. - Taxicab drivers; licensing.

- l. *License Required; Display Required.* An individual may not drive a taxicab with a Howard County permit unless the person has a valid taxicab driver's license issued by the County and which is visibly displayed by the licensee when operating the taxicab.

- II. *Qualifications for Taxicab Driver's License.* Each Applicant for a Howard County taxicab driver's license shall:
 - a. Be at least 18 years old;
 - b. Possess a valid Maryland Class D driver's license;
 - c. Have at least one year's driving experience;
 - d. Have a good driving record;
 - e. Be in good general health;
 - f. Be of good moral character;
 - g. Have reasonable fluency in written and spoken English;
 - h. Be familiar with the provisions of this subtitle regarding the duties and responsibilities of taxicab drivers;
 - i. Be familiar with the network of principal roadways in the County and its environs.
- III. *Submitting an Application for Taxicab Driver's License.* In order to obtain a Howard County taxicab driver's license, an individual shall submit to the Department of Inspections, Licenses and Permits:
 - a. A completed application form, signed under oath, indicating:
 - (1) The full name of the Applicant, including maiden name, aliases, and names under which the Applicant has previously been known; and
 - (2) The Applicant's date of birth, residence address, Social Security Number, and residence phone number at the time of application and for the three-year period preceding the date of application; and
 - b. A photocopy of his/her driver's license;
 - c. Certification by a physician as to the Applicant's physical condition;
 - d. The names and addresses of at least two persons to whom the County may refer for information regarding the good character of the Applicant; the names of certificate holders or of family members will not be accepted;
 - e. Five recent photographs, two-inch by two-inch, with a one-inch head;
 - f. The application fee as set forth in this section;
 - g. His/her fingerprints, which shall be taken by the Howard County Police Department at the expense of the Applicant;
 - h. A copy of the Applicant's driving record from the Maryland Department of Motor Vehicles;
 - i. Documentation supporting the Applicant's legal authority to work in the United States; and
 - j. The Applicant's criminal record, other than misdemeanor traffic violations.
- IV. *Processing of Applications for Taxicab Driver's License:*
 - a. *Testing.* Upon receipt of all items for application, as set forth in this section, the Department of Inspections, Licenses and Permits shall test the Applicant for his/her:
 - 1. Fluency in written and spoken English;
 - 2. Familiarity with the duties and responsibilities of taxicab drivers;
 - 3. Familiarity with the roads of Howard County and its environs.
 - b. *Police Check.* The Department of Inspections, Licenses and Permits shall submit a form to the Maryland State Police Criminal Records Central Repository, which shall screen the Applicant and report on his/her driving record and any criminal record.

- c. *Granting.* Upon finding that the Applicant meets all the qualifications for a taxicab driver's license, the Department of Inspections, Licenses and Permits shall issue the license.
- V. *Grounds for Refusal to Issue or Renew a Taxicab Driver's License.* The Department of Inspections, Licenses and Permits may refuse to issue or renew a taxicab driver's license, considering the following factors:
 - a. Accumulation of more than five current points on the Applicant's driving record, pursuant to title 16, subtitle 4 of the transportation article of the Annotated Code of Maryland;
 - b. Conviction, plea of guilty or plea of nolo contendere for any crime against a person or any crime involving alcohol or controlled dangerous substances;
 - c. Addiction of the Applicant to alcohol and/or a controlled dangerous substance;
 - d. Failure of the Applicant to meet the qualifications for a taxicab driver's license listed this section;
 - e. The Applicant's making a false statement under oath on his/her application.
- VI. *Revocation or Suspension of a Taxicab Driver's License.* The Director of Inspections, Licenses and Permits may suspend a license or may revoke a license upon the listed below grounds after a hearing for which the licensee has been given five days' written notice. If the Director revokes a license, the order of revocation shall State the earliest date that the driver may reapply for a license, if at all.
 - a. Any violation of this subtitle;
 - b. Arrest, conviction, plea of guilty or plea of nolo contendere for any crime involving alcohol or controlled dangerous substance;
 - c. Accumulation of more than eight current points on the licensee's driving record, pursuant to title 16, subtitle 4 of the transportation article of the Annotated Code of Maryland;
 - d. Having knowingly made a false statement of material and relevant facts on the application for a taxicab driver's license;
 - e. A physical or mental disability which might render him/her unfit for the safe operation of a taxicab;
 - f. Unreasonably refusing to submit to a chemical test upon the request of a law enforcement officer.
- VII. *Duration of Taxicab Driver's License:*
 - a. A license shall be valid for two years from the date of issuance which shall be July 1.
 - b. A license may be renewed upon certification by a physician of the continued good health of the driver and upon payment of the renewal fee.
 - c. Any taxicab driver who has allowed their license to lapse for more than one year beyond its expiration shall not be permitted to renew the license and shall go through the application process to obtain a license.
 - d. The individual may not drive a taxicab while their taxicab driver's license or Maryland driver's license is suspended, revoked or lapsed.
- VIII. *Appeal.* An individual aggrieved by a decision of the Director of Inspections, Licenses and Permits to refuse to grant or renew a taxicab driver's license, or an individual aggrieved by a decision of the Director of Inspections, Licenses and Permits to revoke or suspend a taxicab driver's license may, within ten days of the decision, appeal the decision to the Board of Appeals, which shall hear the appeal according to its rules of procedure.

(C.B. 36, 1986; C.B. 62, 1988; C.B. 12, 1999; C.B. 16, 2012, § 1)

Editor's note— Section 2 of C.B. 12, 1999, declared the bill effective June 5, 1999.

Sec. 14.107. - Responsibilities and duties of licensee.

- I. *Hours of Work.* A licensee shall not operate more than 12 hours in a consecutive 24-hour period. A licensee who is gainfully employed in another occupation shall not operate more than eight hours in a consecutive 24-hour period.
- II. *Stay with Vehicle.* When soliciting or transporting passengers the licensee shall remain with the vehicle except to load or unload the vehicle or answer the telephone in connection with the taxicab business.
- III. *License Required; Others Not Permitted to Drive on License:*
 - a. The licensee shall not permit a nonlicensee to drive the taxicab.
 - b. The licensee shall not permit another person to use his/her taxicab driver's license.
 - c. The licensee shall not leave his/her taxicab driver's license in an unattended taxicab at any time.
 - d. The licensee may work only in a vehicle with a Howard County permit.
 - e. The licensee may not solicit fares in another jurisdiction unless licensed in that jurisdiction.
- IV. *Trip Record.* The licensee shall keep a neat and legible current written record in ink of each trip, to be completed upon reaching the passenger's destination. The trip record, to be kept according to a format provided by the Department of Inspections, Licenses and Permits, shall contain:
 - a. The exact address or nearest intersection for the origin and destination of each trip;
 - b. The time each trip began and ended;
 - c. The number of passengers on each trip;
 - d. The amount of the fare for each trip, corresponding to the meter reading.
- V. *Report Accidents, Arrests, Changes of Addresses, Lost Property:*
 - a. Within three days of an accident involving the taxicab, the licensee shall report the event to the Department of Inspections, Licenses and Permits on a form provided by the Department.
 - b. Within 48 hours of being arrested, a licensee shall report the arrest to the Department.
 - c. Within 48 hours of changing his/her address, the licensee shall report the new address to the Department.
 - d. Within 24 hours of finding property left in the taxicab, the licensee shall notify the Police Department and the Department of Inspections, Licenses and Permits, describing the property, the time it was left in the vehicle, and the circumstances.
- VI. *Respond to Requests from Department of Inspections, Licenses and Permits and Police Department.* The licensee shall answer promptly all communications received from the Police Department and the Department of Inspections, Licenses and Permits concerning the operation of the vehicle.
- VII. *Accept Passengers; Take Directly to Destination; Speed; Route:*
 - a. The licensee shall accept any orderly person as a passenger.
 - b. The licensee shall take the passenger to his/her destination by the shortest practical route unless requested otherwise by the passenger. The licensee shall not convey the passenger to any other place except the passenger's destination.
 - c. The licensee shall comply with the passenger's request regarding the route to the destination.

- d. The licensee shall comply with the passenger's request regarding the speed of travel, provided that the requested speed does not violate legal speed limits and does not create a safety problem.
- VIII. *Fare.* The licensee shall not deceive or attempt to deceive a passenger or prospective passenger as to the rate of fare or the total cost. The licensee shall, upon request, give a receipt for the fare.
- IX. *Safe Pickup and Discharge of Passengers.* A licensee shall not permit a passenger to enter or leave a taxicab from the left side except at the left curb of a one-way street or when legally parked at an angle to the curb or in a marked space in a parking lot. The licensee shall not pick up or discharge passengers or load/unload the vehicle in any way that will impede or interfere with the orderly flow of traffic.
- X. *Nonpaying Passengers.* The licensee shall transport nonpaying passengers only when in training or when the vehicle is not on duty and the "off-duty" sign is displayed.
- XI. *Assistance to Police.* If a Police Officer requests the use of a taxicab in the performance of his/her official duty, the licensee shall transport the officer and assist him/her in any way possible.
- XII. *Additional Passengers.* The licensee shall not permit another passenger to ride in the taxicab if the original passenger objects.
- XIII. *Capacity of Vehicle Not to Be Exceeded.* The licensee shall not permit more persons to be carried in the taxicab than the seating capacity specified on the taxicab permit. No more than one person in addition to the licensee shall ride on the front seat.
- XIV. *Use of Alcohol, Narcotics and Other Drugs.* A licensee shall not drive a taxicab when the licensee is under the influence of any drug or alcohol or any combination of drugs and alcohol.
- XV. *Driver Conduct:*
 - a. The sounding of the horn or other mechanical devices for purposes other than lawful traffic signals is prohibited.
 - b. While on duty, the licensee shall be clean and neat in dress and in person.
 - c. In accordance with the Howard County Indoor Clean Air Act (title 12, subtitle 6 of the County Code) smoking is prohibited in taxicabs in Howard County.
 - d. No licensee shall engage in chewing tobacco while a passenger is being carried in the cab.

(C.B. 36, 1986; C.B. 17, 1995; C.B. 12, 1999)

Note— Section 2 of C.B. 12, 1999, declared this bill effective June 5, 1999.

Sec. 14.108. - Taxicab stands.

- I. *Designation of Taxicab Stands.* Stands at public places, including hotels, theaters, shopping centers, restaurants and medical offices, shall be public stands to be used at no charge by the taxicabs of all certificate holders. A stand adjacent to the certificate holder's business office may be designated as a private stand to be used by the taxicabs of that certificate holder.
- II. *Taxicabs to Remain at Stand When Not Carrying Passengers.* Except when carrying passengers, taxicabs shall remain at designated taxi stands. Vehicles shall approach taxi stands from the rear and shall move forward as space becomes available.

(C.B. 36, 1985)

Sec. 14.109. - Penalties.

- I. *Criminal Penalties.* A certificate holder, licensee, holder of a taxicab permit, or any other person who violates the provisions of this subtitle shall be guilty of a misdemeanor and, upon conviction, be subject to a fine of not less than \$250.00 nor more than \$500.00 for a first offense, nor more than \$1,000.00 for each additional offense.
- II. *Civil Penalties.* The Department of Inspections, Licenses and Permits may enforce the provisions of this subtitle with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A first violation shall be a Class D offense. Subsequent violations shall be Class B offenses.
- III. *No Substitution for Other Redress.* The imposition of civil and criminal penalties shall not substitute for other remedial procedures or methods of legal redress.

(C.B. 36, 1985; C.B. 62, 1988; C.B. 48, 1989)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 14.110. - Severability.

The provisions of this subtitle are separable. If a provision, sentence, clause, section, subsection of any part is held invalid, illegal or unconstitutional or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality or inapplicability shall not affect nor impair the remainder of the subtitle or its application to other persons or circumstances.

(C.B. 36, 1985)

SUBTITLE 2. - STOCK CAR RACING

Sec. 14.200. - Licenses required; fees.

Each person, firm or corporation, resident or nonresident, operating in Howard County an establishment for the racing of motor vehicles known as stock cars and charging an admission fee to spectators at such races shall pay for the privilege of conducting such establishment an annual license fee of \$250.00. Such licenses shall be issued by the Department of Inspections, Licenses and Permits of Howard County upon the payment of the annual license fee, the entire proceeds of which shall be paid into the general funds of Howard County.

(1953, Ch. 520; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

SUBTITLE 4. - HOWARD COUNTY CABLE TELEVISION SYSTEMS FRANCHISE ACT⁽³⁾

Footnotes:

--- (3) ---

Editor's note— Section 1 of C.B. 29, 1988, repealed subtitle 4, §§ 14.400—14.432; and § 2 added a new subtitle, §§ 14.400—14.433. The subtitle was formerly derived from C.B.'s 42, 1973; 47, 1979; 63, 1979; 32, 1980; 52, 1980; 119, 1980; 2, 1981; 38, 1984; 80, 1984; 7, 1986.

Sec. 14.400. - Short title.

This subtitle shall be known and may be cited as the "Howard County Cable Television Systems Franchise Act."

(C.B. 29, 1988)

Sec. 14.401. - Intent and purposes.

It is the intent of the County to promote the public health, safety and general welfare by providing for the grant of one or more franchises for the construction and operation of a cable system; to provide for the regulation of each cable system by the County; to provide for the payment of fees and other valuable consideration by a franchisee to the County for the privilege of using the public rights-of-way for constructing and operating a cable system; to promote the widespread availability of cable service to County residents wherever economically feasible, including to those who reside in multifamily buildings and in rural communities; to encourage the development of cable as a means of communication between and among the members of the public and public institutions; and to encourage the provision of diverse information to the community over cable.

(C.B. 29, 1988)

Sec. 14.402. - Definitions.

For the purpose of this subtitle, the following words and their derivations have the meanings defined below. Words not defined are given their meaning in section 602 of the Cable Act, 47 U.S.C. section 522, and, if none, their common and ordinary meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory, and the word "may" is permissive.

- (a) *Access channel* means any channel set aside for public use, educational use or governmental use without a charge by the franchisee for channel usage.
- (b) *Affiliate* means with respect to any person, any (a) Director, Officer or shareholder holding five percent or more of the capital stock (on a fully-diluted basis) of such person, (b) spouse, parent, sibling or descendant of such person (or a spouse, parent, sibling or descendant of a Director, Officer, or partner of such person) and (c) other person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. The term control includes, without limitation, the possession, directly or indirectly, of the power to direct the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise. Any person who beneficially owns, directly or indirectly, ten percent or more of the voting securities of another person or any person that designates one or more members of the Board of Directors of another person shall be deemed to control such other person.
- (c) *Application* means a proposal to construct and operate a cable system within the County, transfer a franchise, renew a franchise or modify a franchise. An application includes the initial proposal plus all subsequent amendments or supplements to the proposal and relevant correspondence.
- (d) *Cable Act* means the Cable Communications Policy Act of 1984, 47 U.S.C. sections 521 et seq.
- (e) *Cable Administrator* means the person appointed by the County Executive and confirmed by the Council to have day-to-day responsibility for administration of cable communication operations within the County as governed by this subtitle and by applicable franchise agreements. The Cable Administrator has the responsibility for the administration of the access channels which are set aside for government use. The Cable Administrator is appointed by the Executive and confirmed by the Council. The Cable Administrator may be removed from office by the Executive with the consent of a majority of Council.

- (f) *Cable system* means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the County. Such term does not include:
- (1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;
 - (2) A facility that services only subscribers in one or more multiple-unit dwellings under common ownership, control, or management, unless such facility uses any public right-of-way;
 - (3) A facility of a common carrier that is subject, in whole or in part, to the provisions of title II of the Communications Act of 1934, 47 U.S.C. section 201 et seq., except that such facility will be considered a cable system to the extent it is used in the transmission of video programming directly to subscribers; or
 - (4) Any facilities of any electric utility used solely for operating its electric utility systems.
- (g) *Cable service* means the one-way transmission of video or other programming service to subscribers together with any subscriber interaction provided in connection with such service.
- (h) *Control of a franchisee or Applicant* means the legal or practical ability to direct the affairs of the franchisee or Applicant either directly or indirectly, whether by contractual agreement or majority ownership of an economic interest.
- (i) *County* means Howard County, Maryland, in its present Chartered form, or in any form which may subsequently be adopted.
- (j) *Council* means the County Council that is the legislative body of the County.
- (k) *County Executive or Executive* means the Chief Executive Officer of the County or designee.
- (l) *District* means the geographic area within the County designated by the franchise agreement in which the franchisee is authorized to construct and operate a cable system.
- (m) *Fair market value* means the price that a willing buyer would pay to a willing seller for a going concern based on the system valuation prevailing in the industry at the time but with no value allocated to the franchise itself.
- (n) *FCC* means the Federal Communications Commission.
- (o) *Franchise* means the right granted by the County to a franchisee to construct, maintain and operate a cable system over, on or under streets, roads and all other public ways, easements and rights-of-way within all or specified areas of the County. The term does not include any license or permit that may be required by this subtitle or other laws, ordinances or regulations of the County for the privilege of transacting and carrying on a business within the County or for disturbing the surface of any street or public thoroughfare.
- (p) *Franchise agreement* means a contract entered into in accordance with the provisions of this subtitle between the County and a franchisee that sets forth the terms and conditions under which the franchise will be exercised.
- (q) *Franchisee* means any person granted a franchise pursuant to this subtitle.
- (r) *Gross revenues* means all revenues derived by a franchisee from the operation of its cable system within the County, including, but not limited to, revenues derived from cable service, home shopping channels, institutional services, rental or lease of equipment, or installation fees.
- Gross revenues* does not include revenues derived from the provision of telephone services or telephone-related services (including personal computing and other on-line services) unless the inclusion is expressly allowed or required by Federal law.
- (s) *Leased access channel* means a channel designated in accordance with section 612 of the Cable Act, 47 U.S.C. section 532, for commercial use by persons unaffiliated with the franchisee.

- (t) *Overbuild* means a cable system constructed to serve subscribers in a district or part of a district served by an existing cable system, including those parts of an existing system that will be constructed within six months pursuant to plans filed with the County.
- (u) *Person* means any individual, corporation, partnership, association, joint venture or organization of any kind and the lawful trustee, successor, assignee, transferee or personal representative thereof.
- (v) *Public rights-of-way crossing* means any utility crossing under a road which is both dedicated to and accepted by the County or a prescriptive road.
- (w) *Rate* means a single monetary figure which reflects the cost to the subscriber and includes within the figure all costs, franchise fees, and other overhead costs, excluding sales taxes.
- (x) *Secondary franchise* means a franchise granted to any person who, directly or indirectly through an affiliate, is primarily engaged in the business of real estate development and seeks the franchise for the primary purpose of providing cable television service to a single real estate development developed, financed by or through or constructed by such person.
- (y) *Subscriber* means any person who legally receives any one of the services provided by the cable system.
- (z) *System malfunction* means an equipment or facility failure that results in the loss of satisfactory service on one or more channels. A malfunction is major if it affects 30 or more subscribers.
- (aa) *Transfer of a franchise* means any transaction in which:
 - (1) An ownership or other interest in a franchisee is transferred from one person or group of persons to another person or group of persons so that control of the franchisee is transferred; or
 - (2) The rights held by the franchisee under a franchise agreement are transferred or assigned to another person or group of persons.

(C.B. 29, 1988; C.B. 38, 1989; C.B. 42, 1992; C.B. 80, 1995; C.B. 69, 2006, § 1)

Sec. 14.403. - Grant of authority; franchise required.

The County may grant one or more franchises in accordance with this subtitle. No person may construct or operate a cable system in the County without a franchise granted by the County.

(C.B. 29, 1988)

Sec. 14.404. - Franchise characteristics.

- (a) A franchise authorizes use of the public rights-of-way for installing cables, wires, lines and other facilities to operate a cable system within a specified district, but does not expressly or implicitly authorize the franchisee to provide service to, or install cables, wires, lines or any other equipment or facilities upon private property without owner consent (except for use of compatible easements pursuant to 47 U.S.C. section 541(a)(2)), or to use publicly or privately owned utility poles or conduits without a separate agreement with the owners.
- (b) A secondary franchise shall authorize the franchisee to serve no more than 1,600 subscribers, shall be limited to a single real estate development (which may include multiple parcels of adjacent land which may be developed in stages and which may include public roads and/or private roads), within the County, and shall include no more than five public rights-of-way crossings in the area at the time the franchise application is filed.
- (c) A separate secondary franchise is required for each real estate development area in which a franchisee wishes to offer franchised cable service. Under no circumstances shall a franchisee,

collectively with any affiliates, provide franchised cable service to more than 2,800 paid subscribers in the County.

- (d) A secondary franchisee may not execute a contract with a developer, homeowner's association or council of unit owners of a condominium regime or otherwise cause a covenant to be put into effect that requires or has the effect of requiring a purchaser of a lot or a unit in the development within the secondary franchise area to pay a cable fee as part of a covenanted homeowner's or unit owner's mandatory assessment. Any such covenanted assessment existing prior to a County Council hearing on a secondary franchise application shall be revoked prior to County Council consideration of the secondary franchise application.

All secondary franchise areas shall be open to competing cable operators without charge except for compensation for damages. Individual subscribers within a secondary franchise area may directly contract with any cable operator.

- (e) A secondary franchisee shall, on a quarterly basis, provide to the County, in writing, the total number of paid subscribers served by all its franchise(s) in the County. Once the franchisee's cable system passes all of the dwellings within all of its franchised district(s), the franchisee shall provide this report to the County annually on December 31.
- (f) A secondary franchisee shall not restrict access to roads that are dedicated to but not yet accepted by the County or private roads at any time to any franchised cable operator seeking to offer service within the franchised district.
- (g) A secondary franchise shall comply with all requirements and provisions of subtitle 4 that apply to a cable franchise except to the extent that these requirements are modified for a secondary franchise by subsection 14.402(x), subsections 14.404(b)—(e), subsections 14.407(e)(5) and 14.408(i), in which case the secondary franchise shall comply with these provisions governing a secondary franchise.
- (h) A franchise is nonexclusive, and will not expressly or implicitly preclude the issuance of other franchises to operate cable systems within the County or affect the County's right to authorize use of public rights-of-way to other persons as it determines appropriate.
- (i) A franchise conveys no property right to the franchisee or right to renewal other than as may be required by State or Federal law.
- (j) A franchise agreement constitutes a contract between the franchisee and the County once it is accepted by the franchisee. A franchisee contractually commits itself to comply with the terms, conditions and provisions of the franchise agreement and with all applicable laws, ordinances, codes, rules, regulations and orders.

(C.B. 29, 1988; C.B. 69, 2006, § III)

Sec. 14.405. - Franchisee subject to other laws, police power.

- (a) A franchisee is subject to and shall comply with all applicable local, County, State and Federal laws, ordinances, codes, rules, regulations and orders. A franchisee is also subject to the County's police power in accordance with article 25A subsection 5(s) of the Annotated Code of Maryland.
- (b) Any other provision in the Howard County Code concerning the grant of franchises does not apply to the grant of franchises for the construction and operation of cable systems.
- (c) A franchisee or other person may not be excused from complying with any of the terms and conditions of this subtitle or a franchise agreement by any failure of the County, upon one or more occasions, to require compliance or performance.

(C.B. 29, 1988)

Sec. 14.406. - Interpretation of franchise terms.

- (a) Except as provided in subsections (d) and (e) of this section, the provisions of this subtitle shall apply to a franchise agreement. The express terms of this subtitle shall prevail over conflicting or inconsistent provisions in a franchise agreement unless:
 - (1) The franchise agreement specifically states otherwise; and
 - (2) When approving the agreement, the County Council finds that the conflicting or inconsistent provisions accomplish the intent and purpose of this subtitle.
- (b) The provisions of a franchise agreement shall be liberally construed in order to effectuate its purposes and objectives consistent with this subtitle and the public interest.
- (c) A franchise agreement shall be governed by and construed in accordance with the laws of the State of Maryland.
- (d) The following provisions of this subtitle shall not apply to the telecommunications facilities of a common carrier, as defined in subsection 14.402(e)(3) of this subtitle, when the common carrier also provides cable services through the telecommunications facility:
 - (1) Subsection 14.414(h);
 - (2) Subsections 14.416(a)—(e), (g), and (h);
 - (3) Subsections 14.420(j) and (k);
 - (4) Subsections 14.422(f) and (g);
 - (5) The portion of subsection 14.423(a) that states "If the County exercises its right to purchase a cable system pursuant to this subtitle or a franchise agreement and the County and franchisee are unable to agree on a price for the purchase of the system, the price may be determined by arbitration"; and
 - (6) Subsections 14.424(b) and (c).
- (e) Subsections 14.416(d) and (f) of this subtitle shall not apply to the telecommunications facilities of a common carrier, as defined in subsection 14.402(e)(3) of this subtitle, when the common carrier also provides cable services through the telecommunications facility if the requirements of these sections are otherwise satisfied by applicable utility agreement or another provision of Howard County law.

(C.B. 29, 1988; C.B. 74, 2005)

Sec. 14.407. - Applications for grant, renewal, modification or transfer of franchises.

- (a) An application shall be filed with the Cable Administrator for grant of a new franchise, renewal of a franchise under either the formal or informal procedures in accordance with section 626 of the Cable Act, 47 U.S.C. section 546, modification of a franchise agreement or a transfer of a franchise. An Applicant has the burden to demonstrate compliance with all requirements of this subtitle and of Federal law.
- (b) To be acceptable for filing, an application shall be submitted:
 - (1) In the number of copies required by the Cable Administrator;
 - (2) Be accompanied by the application filing fee where required;
 - (3) Conform to any applicable request for proposals; and
 - (4) Contain all required information.

All applications shall include the names and addresses of persons authorized to act on behalf of the Applicant with respect to the application.

- (c) All applications accepted for filing shall be made available by the Cable Administrator for public inspection. The Cable Administrator shall advertise the receipt of all accepted applications for two successive weeks in a newspaper of general circulation in the County, which advertisement shall identify the location at which such applications may be viewed.
- (d) An application for the grant of a new franchise may be filed pursuant to a request for proposals issued by the County or on an unsolicited basis. The County, upon receipt of an unsolicited application, may issue a request for proposals. If the County elects to issue a request for proposals upon receipt of an unsolicited application, the Applicant may submit an amended application in response to the request for proposals, may inform the Cable Administrator that its unsolicited application should be considered in response to the request for proposals, or may withdraw its unsolicited application. An application which does not conform to the requirements of a request for proposals may be considered nonresponsive.
- (e) An application for the grant of a new franchise shall contain, at minimum, the following information:
 - (1) Name and address of the Applicant and identification of the ownership and control of the Applicant, including: The names and addresses of the ten largest holders of an ownership interest in the Applicant and all persons with five percent or more ownership interest; the persons who control the Applicant; all Officers and Directors of the Applicant; and any other business affiliation and cable system ownership interest of each named person;
 - (2) An indication of whether the Applicant, any person controlling the Applicant, or any officer or major stockholder of the Applicant has been adjudged bankrupt, had a cable franchise revoked, or been found guilty by any court or administrative agency of a violation of a security or antitrust law, a felony, or any crime involving moral turpitude; and, if so, identification of any such person or entity and a full explanation of the circumstances;
 - (3) A demonstration of the Applicant's technical, legal and financial ability to construct and operate the proposed cable facility, including identification of key personnel;
 - (4) A description of the Applicant's prior experience in cable operations and identification of communities in which the Applicant or its principals have, or had, a cable franchise or an interest therein, including the identification of any disciplinary actions or litigation involving any such franchisees and their franchising authorities;
 - (5) State whether the application is for a secondary franchise. If applying for a secondary franchise, then the Applicant must state whether it, or any of its affiliates, hold or have applied for any other secondary franchises in the County. An Applicant for a secondary franchise must certify in the application that such franchise will not exceed 1,600 paid subscribers in the district and will not have more than five public rights-of-way crossings in the district at the time the initial franchise application is filed. The Applicant must certify in the application that it, collectively with any affiliates holding a franchise, will not have more than 2,800 paid subscribers in the County. All Applicants must identify the district(s) to be served by the cable system, including a description or a map of each district's boundaries;
 - (6) A detailed description of the physical facility proposed, including channel capacity, technical design, performance characteristics, headend and access facilities to be provided to satisfy the requirements of section 14.427;
 - (7) A description of the construction of the proposed system, including an estimate of above-ground and below-ground mileage and its location, the proposed construction schedule, a description, where appropriate, of how services will be converted from existing facilities to new facilities, and information on the availability of space on poles and conduits, including, where appropriate, an estimate of the cost of rearrangement of facilities to accommodate such use;
 - (8) A description of the services to be provided initially, including all broadcast and non-broadcast signals to be carried and all non-television services; and, if services will be offered by tiers, identification of the signals and/or services to be included on each tier;

- (9) The proposed rate structure, including charges for each service tier, installation, converters and other equipment or services;
 - (10) A demonstration of how the proposal will reasonably meet the future cable related needs and interests of the community, including a description of how the proposal will meet the needs described in any recent community needs assessment conducted for the County;
 - (11) *Pro forma* financial projections for the first five years of the franchise term, including statement of income, balance sheet, sources and uses of funds, and schedule of capital additions, with all significant assumptions explained in notes or supporting schedules;
 - (12) An affidavit of the Applicant or authorized Officer certifying the truth and accuracy of the information in the application, acknowledging the enforceability of application commitments, and certifying that the proposal meets all Federal and State requirements;
 - (13) If an Applicant proposes to provide cable service to an area already served by an existing cable franchisee, the identification of the area where the overbuild would occur, the potential subscriber density in the area which would encompass the overbuild, and other information as necessary for the County to make its determination pursuant to subsection 14.408(c); and
 - (14) Any other information necessary to demonstrate compliance with the requirements of this subtitle and information that the County may request of the Applicant.
- (f) An application for modification of a franchise shall include, at minimum, the following information:
- (1) The specific modification requested;
 - (2) The justification for the requested modification, including the impact of the requested modification on subscribers and others, and the impact on the Applicant if the modification is not approved;
 - (3) A statement whether the modification is sought pursuant to section 625 of the Cable Act, 47 U.S.C. section 545, and, if so, a demonstration that the requested modification meets the legal standards of 47 U.S.C. section 545; and
 - (4) Any other information necessary for the County to make a determination.
- (g) An application for renewal of a franchise shall comply with the requirements of section 14.420.
- (h) An application for approval of a transfer of a franchise shall comply with the requirements of section 14.421.
- (i) To be acceptable for filing, an application shall be accompanied by a filing fee in the following amount, as appropriate:
- For a new franchise \$10,000.00
 - For renewal of a franchise 5,000.00
 - For a transfer of a franchise 3,000.00
 - For a modification of a franchise (except expansion of a district) 5,000.00

(C.B. 29, 1988; C.B. 88, 1993; C.B. 69, 2006, § IV)

Sec. 14.408. - Grant of franchises.

- (a) A franchise may be granted for a period not to exceed 15 years to serve a specified district of the County.
- (b) The grant of a franchise may be conditioned upon the completion of construction within a prescribed time or upon the performance of other specific obligations, specifying that failure to timely comply with the condition will cause the franchise to become null and void without further action by the

County, unless the County, at its discretion and for good cause shown, grants an extension of time. In such an event the revocation procedures specified in section 14.422 shall not be applicable.

- (c) In evaluating an application for a new franchise, the County shall consider the Applicant's character; the Applicant's technical, financial and legal qualifications to construct and operate the proposed system; the nature of the proposed facilities, equipment and services; the Applicant's record in other communities, if any; and whether the proposal will meet anticipated community needs and serve the public interest. Where an Applicant proposes an overbuild of an existing cable system, the County may also consider the economic feasibility of multiple cable operators, the impact on the existing franchisee, including whether the operations of the existing cable franchisee will be interfered with or disrupted, and whether any adverse consequences to the public interest will result if the application is granted.
- (d) Based upon the application, the written and oral testimony and other material presented at a public hearing before the Council, and any other information relevant to the application, the Council shall decide whether to grant or deny a franchise application.
- (e) If the Council grants a franchise application, the County Executive and the Applicant shall agree on the terms of a franchise agreement within 90 calendar days from the date of the resolution making the grant. This period may be extended for good cause by the Council. If agreement is not reached with the County Executive within 90 calendar days or if the period is not extended by the Council, the franchise grant will be null and void without further action by the County.
- (f) The Cable Administrator shall make the text of a proposed franchise agreement available to the public and shall advertise it once a week for three successive weeks in a newspaper of general circulation in the County. Such advertisement shall state the general terms of the agreement, giving the date and time of a public hearing or other opportunity for comments and objections to the proposed agreement.
- (g) After complying with the requirements of subsections (c)—(f) above, the Council shall, following a public hearing, approve or disapprove the proposed franchise agreement by resolution.
- (h) The grant of an initial franchise or a renewed franchise may be subject to a franchise acceptance fee in an amount not to exceed the County's out-of-pocket costs in considering the application, less the amount of the filing fee. Within 30 calendar days of the date of the Council resolution approving the franchise agreement, the County shall notify the approved Applicant of the amount of any franchise acceptance fee and its method of calculation. If the franchise acceptance fee is not paid within 60 calendar days of the date of the Council resolution approving the franchise agreement, the grant will be null and void. Prior to the franchise becoming effective, the approved Applicant shall demonstrate compliance with the surety, insurance and similar provisions of the franchise agreement.
- (i) If at any point a secondary franchise fails to comply with the restrictions set forth in section 14.404, Then the franchisee of a secondary franchise shall either take such action as is necessary to come into compliance within 90 days of written notice or the secondary franchise shall be amended to contain the same or similar cable and communications build out requirements as are required of other franchise holders within the County.

(C.B. 29, 1988; C.B. 69, 2006, § V)

Sec. 14.409. - Insurance; surety; indemnification.

- (a) A franchise agreement shall require the following insurance coverage to be in force at all times during the franchise period: Workmen's compensation insurance to meet all State requirements; and general comprehensive liability insurance with respect to the construction, operation and maintenance of a cable system, including the operation of motor vehicles, in the following minimum amounts:

- (1) For bodily injury, including death, \$500,000.00 for any one person, and \$2,000,000.00 for any one accident;
 - (2) For property damage \$3,000,000.00; and
 - (3) For damages resulting from any liability of any nature that may arise from or be occasioned by operation of the cable system, including any communication over the cable system, excepting programming on government channels, \$2,500,000.00.
- (b) All insurance policies shall be with sureties qualified to do business in Maryland and in a form approved by the County Solicitor. The County Executive may require in a franchise agreement coverage and amounts in excess of the above minimums.
- (c) A franchisee shall, at its sole cost and expense, indemnify, hold harmless and defend the County, its officials, Boards, Commissions, agents and employees, against any and all claims, suits, causes of action, proceedings and judgments for damages or equitable relief arising out of the construction, maintenance or operation of its cable system regardless of whether the act or omission complained of is authorized, allowed or prohibited by the franchise. This provision includes, but is not limited to, claims arising out of copyright infringements or a failure by the franchisee to secure consent from the owners, authorized distributors or licensees of programs to be delivered by the cable system.
- (d) The franchise agreement shall require the franchisee to have in force at all times a performance bond or an irrevocable letter of credit in an amount specified in the franchise agreement as necessary to ensure the faithful performance by the franchisee of its obligation under the franchise agreement. Such surety instruments shall be provided by an entity qualified to do business in the State of Maryland and in a form approved by the County Solicitor.

(C.B. 29, 1988)

Sec. 14.410. - Security fund.

- (a) Prior to the franchise becoming effective, the franchisee shall post with the County Director of Finance a cash security deposit in the minimum amount of \$10,000.00 or such other amount as specified in the franchise agreement to be used as a security fund to ensure the faithful performance of all provisions of law and the franchise agreement and compliance with all orders, permits and directions of the County, and the payment by the franchisee of any claims, liens or taxes due the County which arise by reason of the construction, operation or maintenance of the system.
- (b) The Director of Finance shall place the security deposit in an interest-bearing account. The interest will accrue to the benefit of the franchisee but may not be withdrawn; all interest will be added to and become part of the original security fund during the term of the franchise.
- (c) If a franchisee fails to pay the County any fees or taxes due, liquidated damages, damages, or costs or expenses incurred by the County by reason of any act or default of the franchisee, or if the franchisee fails to comply with any provision of the franchise agreement that the County reasonably determines can be remedied by an expenditure of the security fund, the Director of Finance may, after ten calendar days' notice to the franchisee, withdraw that amount with any interest or penalties from the security fund. Upon such withdrawal, the Cable Administrator shall notify the franchisee of the amount and date of the withdrawal.
- (d) Within 30 calendar days after notice to it that an amount has been withdrawn by the Director of Finance from the security fund, the franchisee shall deposit a sum of money sufficient to restore the security fund to the original amount. If the franchisee fails to restore the security fund to the original amount within 30 calendar days, the entire security fund remaining may be forfeited; and/or such failure may be considered a material breach of this subtitle and may be used as grounds for revocation of the franchise.
- (e) The security fund will become the property of the County in the event the franchise is revoked. The franchisee is entitled to the return of the security fund that remains following termination of the

franchise, provided that there is no outstanding default or unpaid amounts owed to the County by the franchisee.

- (f) The rights reserved to the County with respect to the security fund are in addition to all other rights of the County whether reserved by this subtitle or authorized by other law; and no action, proceeding or exercise of a right with respect to such security fund will affect any other right the County may have.

(C.B. 29, 1988)

Sec. 14.411. - Minimum facilities and services.

- (a) The following minimum requirements for facilities and services apply to all franchises. The County may require that a franchise exceed these minimum requirements.
 - (1) A cable system shall have a minimum capacity of 54 video channels available for immediate or potential use and have the capability for two-way communications.
 - (2) A cable system shall provide at least three access channels, which will be individually designated by the County for public, educational or governmental access, The County may require the franchisee to contribute to capital costs for access studios and related equipment and facilities.
 - (3) A cable system shall provide leased access channels as required by Federal law.
 - (4) Service to public buildings may be required without charge as set forth in the franchise agreement.
 - (5) A franchisee shall interconnect the cable system access channels with those of other cable systems in the County upon the direction of the County Executive or as otherwise provided in the franchise agreement.
 - (6) A franchisee shall design its system to allow the County to interrupt cable service in an emergency to deliver necessary information to subscribers.
 - (7) To the extent consistent with Federal law and unless provided otherwise in a franchise agreement, a franchisee shall carry at least 13 off-the-air television signals from the Baltimore-Washington area, and each of those signals shall be carried on the cable system on the same channel number as its off-the-air channel number unless otherwise approved by the County.
 - (8) A franchisee shall make available to its subscribers, on a lease or sale basis, equipment capable of decoding closed captioning information for the hearing impaired.
 - (9) At the request of a subscriber, a franchisee shall provide a "lock-out device" which shall allow the subscriber to eliminate comprehensible reception of channels other than those in the basic tier of service. The franchisee may charge the subscriber for the cost of installation and maintenance of this device.
- (b)
 - (1) Unless a franchise agreement provides otherwise, a franchisee shall make cable service available to every unserved dwelling within the franchisee's district where the dwelling is in an area with a minimum density of 30 dwellings per cable mile.
 - (2)
 - (i) If the Cable Administrator finds that an unbuilt area of the franchisee's district meets the minimum density requirement of this section or of the franchisee's franchise agreement, the Cable Administrator shall notify the franchisee of that fact.
 - (ii) A franchisee that receives a notice under subparagraph (2)(i) of this subsection shall provide cable television service to the area within one year of receipt of the notice.
 - (3) Where potential subscribers reside in an area of the district with dwelling density below the prescribed minimum, the franchisee shall extend service to such potential subscribers under the following conditions:

- (i) If they are willing to pay a one-time charge equivalent to the franchisee's construction cost per dwelling passed above the franchisee's cost at the minimum dwelling density; or
 - (ii) If 15 potential subscribers per cable mile commit themselves to taking service.
- (c) The County may waive minimum requirements of this section where such waiver is justified in the public interest.

(C.B. 29, 1988; C.B. 92, 1996)

Sec. 14.412. - Franchise fee.

- (a) A franchisee, in consideration of the privilege granted under a franchise for the use of public rights-of-way to construct and operate a cable system, shall pay to the County five percent of the franchisee's gross revenues derived from the operation of its cable system within its franchise district during the period of its franchise. A franchisee shall pay the franchise fee due to the County for the preceding quarter within 30 calendar days of the end of that quarter.
- (b) Any payment of franchise fees to adjust for a shortfall in the quarterly payments for the preceding year shall be made no later than the filing date for the annual financial statements. Adjustments for any overpayment will be credited to subsequent quarterly payments.
- (c) Unless a franchise agreement provides otherwise, a franchisee shall file with the Cable Administrator within 30 calendar days of the end of each calendar quarter a financial statement showing the gross revenues received by the franchisee during the preceding quarter and the number of subscribers served.
- (d) A franchisee shall file within three months of the end of its fiscal year the franchisee's annual financial statements for the preceding year audited by a certified public accountant. The franchisee will bear the cost of the preparation of such financial statements.
- (e) The Director of Finance may inspect and audit any and all books and records of the franchisee, and recompute any amounts determined to be payable under the franchise. The cost of the audit will be borne by the franchisee if the annual payment to the County is increased by more than five percent as a result of the audit.
- (f) In the event that a franchise payment is not received by the County on or before the due date, interest will be charged from the due date at the annual interest rate then chargeable for unpaid Federal income taxes (26 U.S.C. section 6621). In addition, the franchisee will pay a late charge of five percent of the amount of such payment. Interest and late charges will not be imposed for any payment necessary as a result of the yearly adjustment provided for in subsection (b) above, if the payment to correct for a short fall does not exceed ten percent of the total payments made during the year. In the event such payment exceeds ten percent of the total payments made during the year, the franchisee will be liable for interest and late charges for the entire amount due.
- (g) When a franchise terminates for whatever reason, the franchisee shall file with the Cable Administrator within 90 calendar days of the date its operations cease an audited financial statement showing the gross revenues received by the franchisee since the end of the previous fiscal year. Adjustments will be made at that time for franchise fees due to the date that the franchisee's operations ceased.

(C.B. 29, 1988; C.B. 40, 1991; C.B. 30, 1999)

Sec. 14.413. - Reports and records.

- (a) Subject to section 22.1000 of the County Code, within three months of the close of its fiscal year, a franchisee shall file with the Cable Administrator and with the County Council an annual report that includes the following information:

- (1) A summary of the previous calendar year's activities in development of the system, including but not limited to services begun or dropped, number of subscribers (including gains and losses), homes passed and miles of cable distribution plants in service. The summary shall also include a comparison of any construction, including system upgrades, during the year with any projections previously provided to the County.
 - (2) A financial statement, including a statement of income, a balance sheet and, where the franchisee is in a significant construction phase, a statement of sources and applications of funds. The statement shall include notes that specify all significant accounting policies and practices upon which it is based. A summary shall be provided comparing the current year with previous years since the beginning of the franchise.
 - (3) A copy of updated maps depicting the location of all trunks where there was construction in the year of the report.
 - (4) A summary of complaints identifying the number and nature of complaints and their disposition. Where complaints involve one or more recurrent system problems, the nature of each problem and what steps have been taken to correct it shall be identified. More detailed information on complaints shall be submitted upon request of the Cable Administrator.
 - (5) If the franchisee is a corporation, a list of Officers and Members of the Board and the Officers and Board Members of any parent corporation; and, where a parent corporation's stock is publicly traded, a copy of its most recent annual report.
 - (6) A list of all partners or stockholders holding five percent or more ownership interest (i) in the franchisee and (ii) any parent corporation; provided, however, when any such entity has fewer than ten persons holding five percent ownership interest, the ten largest such holders. Alternatively, the annual ownership information required by the FCC for broadcast licensees may be supplied.
 - (7) A copy of all the franchisee's rules and regulations applicable to subscribers and users of the cable system.
 - (8) A report on the number of elderly and subscribers with disabilities receiving any rate discounts and the amount of the discounts.
- (b) A franchisee shall maintain a complete set of books and records from which the information contained in the report under this section is derived, which shall be available for inspection by the County during normal business hours.
- (c) Upon written request of the franchisee and approval by the County Solicitor, information of a proprietary nature submitted to the County pursuant to this subtitle or a franchise agreement will not be made available for public inspection.

(C.B. 29, 1988; C.B. 81, 1995; C.B. 14, 2014, § 1; C.B. 43, 2018, § 1)

Sec. 14.414. - Customer service requirements.

(a) *Definitions:*

- (1) *Normal business hours* means:
 - (i) Those hours during which most similar businesses in the community are open to serve customers; plus
 - (ii) Weekday evening hours at least once a week and/or daytime weekend hours, whether or not similar businesses in the community are open to serve customers at those times.
- (2) *Normal operating conditions* means service conditions which are within the control of the franchisee operator, including, but not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the

system. *Normal operating conditions* does not mean service conditions which are not within the control of the franchisee, including, but not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe weather.

- (3) *Service interruption* means the loss of picture or sound on one or more channels.
 - (4) *Standard installation* means an installation located up to 125 feet from the existing distribution system.
- (b) *Business Office; Customer Service and Bill Payment Center.* A franchisee shall maintain in its franchise district a conveniently located business office which shall be open during normal business hours. At the same location, or elsewhere in the franchise district, the franchisee shall maintain a customer service and bill payment center which shall be open during normal business hours.
- (c) *Telephone Service:*
- (1) *Free telephone access line.* The franchisee shall maintain a local, toll-free or collect call telephone access line which will be available 24 hours a day, seven days a week.
 - (2) *During business hours.* Trained representatives of the franchisee shall be available to respond to telephone inquiries during normal business hours.
 - (3) *After normal business hours.* After normal business hours, the telephone access line may be answered by a service or an automated response system, including an answering machine. However, on the next business day, a trained representative of the franchisee shall respond to all inquiries received after normal business hours.
 - (4) *Telephone service standards.* These service standards shall apply at least 90 percent of the time during normal operating conditions:
 - (i) A trained customer representative shall answer the customer's call within 30 seconds from when the telephone connection is made.
 - (ii) Waiting time for a transfer shall not exceed 30 seconds.
 - (iii) The caller will receive a busy signal less than three percent of the time.
 - (5) *Measuring telephone service standards.* The franchisee will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards unless an historical record of complaints indicates a clear failure to comply. When measurement of telephone answering standards is required, it shall be done on a quarterly basis.
- (d) *Installations and Service Calls.* These standards apply only during normal operating conditions and shall be met at least 95 percent of the time.
- (1) The franchisee shall make a standard installation within seven business days after the customer places an installation order.
 - (2) The franchisee shall begin work on a service interruption promptly after it becomes known and, in no event, more than 24 hours after it becomes known.
 - (3) The franchisee shall begin actions to correct other service problems by the next business day after notification of the service problem.
 - (4) The franchisee shall make an appointment with the customer for installations or to perform service. The appointment may be either a specific time or during a four-hour time block during normal business hours.
 - (5) The franchisee may schedule installations and service calls outside of normal business hours for the convenience of the customer.
 - (6) A franchisee may not cancel an appointment with a customer after the close of business on the business day before the scheduled appointment.

- (7) The franchisee shall contact the customer if the franchisee's representative is running late and will not be able to keep the appointment as scheduled. The appointment will be rescheduled, as necessary, at a time convenient for the customer.
 - (8) A franchisee shall maintain a complete record of service complaints received and action taken. These records shall be open to the County for inspection during normal business hours. Such records shall be retained for not less than three years.
- (e) *Outages.* A franchisee may interrupt service on the cable system only for good cause and for the shortest time possible. And, except in emergency situations, the franchisee must give prior notice to subscribers and the office of the Cable Administrator before any anticipated service interruption of 15 minutes or more.
- (f) *Charges and billing; Information to Be Provided; Refunds and Credits:*
- (1) *General information.* At the time of installation of service, at least once annually, and at any time upon request, a franchisee shall provide each subscriber with written information on each of the following areas:
 - (i) Products and services offered;
 - (ii) Prices and options for the programming services and conditions of subscription to programming and other services;
 - (iii) Installation and service maintenance policies;
 - (iv) Instructions on how to use the cable service;
 - (v) Channel positions of programming carried on the system;
 - (vi) billing and complaint procedures, including the address and telephone number of the Howard County Cable Administrator.
 - (vii) A synopsis, prepared by the office of the Cable Administrator, of this section of the Howard County Code regarding consumer protection and customer service standards;
 - (viii) The amount of and the method used to apply late charges.
 - (2) *Information regarding changes in rates:*
 - (i) The franchisee shall notify customers of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and in writing.
 - (ii) If the change is within the control of the franchisee, the franchisee shall give notice of the change to subscribers at least 30 days before the change takes place.
 - (iii) In addition, the franchisee shall notify subscribers 30 days in advance of any significant changes in the other information required by the preceding section.
 - (iv) Whenever a customer requests a change in service level, the franchisee shall give the customer, either verbally or in writing, a detail of the new monthly charge.
 - (3) *Bills.* Bills shall be clear, concise and understandable. Each bill shall itemize at least the following:
 - (i) Basic service charges;
 - (ii) Premium service charges;
 - (iii) Equipment charges; and
 - (iv) All activity during the billing period, including optional charges, rebates and credits.
 - (4) *Billing disputes.* In case of a billing dispute, the franchisee shall respond to a written complaint from a subscriber within 30 days.

- (5) *Refunds.* The franchisee shall issue refund checks promptly, but no later than:
 - (i) The customer's next billing cycle following resolution of the request or 30 days whichever is earlier; of
 - (ii) The return of the equipment supplied by the franchisee if service is terminated.
- (6) *Credits.* If the franchisee determines that a credit is warranted, the credit will be issued no later than the customer's next billing cycle.
- (g) *Identification:*
 - (1) *Representatives.* Each representative of the franchisee, whether a cable company employee or a contractor, shall have a form of identification, preferably photographic, indicating that he or she is a representative of the franchisee. This identification shall be visible to members of the public or shall be made available upon request.
 - (2) *Vehicles.* All vehicles involved in cable business shall have signs showing the cable company's name and telephone number.
- (h) *Construction.* The franchisee shall notify the residents of an affected area before undertaking any underground construction other than emergency maintenance. This notification may be made either by mail, by the use of a "door-hanger" or by publication. The franchisee shall also send a copy of the notification to the Cable Administrator. The notification shall include:
 - (1) The reason for the construction;
 - (2) The areas where construction is to take place;
 - (3) The approximate dates for beginning and end of construction;
 - (4) The franchisee's telephone number and a contact person;
 - (5) The telephone number of the Cable Administrator.
- (i) *Enforcement.* The Cable Administrator may enforce the provisions of this section with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A notice of violation shall be sent to the franchisee detailing the nature of the violation. If the violation is not remedied within five working days or a subsequent violation of the same provision occurs within 60 days, the Cable Administrator may issue a civil citation. A citation for violation of section 14.414 of this subtitle shall be a Class D offense. The second violation of this section shall be a Class C offense. The third violation of this section shall be a Class B offense. Subsequent violations shall be Class A offenses.

(C.B. 29, 1988; C.B. 42, 1992; C.B. 79, 1993)

Sec. 14.415. - Discrimination prohibited.

- (a) Unless approved by the County and to the extent consistent with Federal law, no franchisee may in its rates or charges, or in the availability of the services or facilities of its system, or in any other respect except for system promotional activities and discount sales programs, make or grant undue preferences or advantages to any subscriber or potential subscriber to the system, or to any user or potential user of the system, nor subject any such persons to any undue prejudice or any disadvantage. A franchisee shall not deny, delay or otherwise burden service or discriminate against subscribers or users on the basis of any category listed in section 12.210 of the Howard County Code, except for discounts for elderly and disabled individuals who have an annual income of less than \$20,250.00. The term *elderly* means aged 65 or older; the term *disabled* refers to a physical or mental impairment that substantially limits one or more of an individual's major life activities.
- (b) A franchisee shall not deny cable service to any potential subscribers because of the income of the residents of the area in which the subscribers reside.

- (c) A franchisee shall not refuse to employ, nor discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of any category listed in section 12.208 of the Howard County Code.

(C.B. 29, 1988; C.B. 29, 1991)

Sec. 14.416. - Use of rights-of-way and construction and maintenance of system.

- (a) A franchisee shall utilize, with the owner's permission, existing poles, conduits or such other facilities whenever possible. Copies of agreements for use of poles, conduits or other facilities shall be filed with the Cable Administrator as required by the franchise agreement or upon request of the Cable Administrator.
- (b) All transmission lines, equipment and structures shall be installed, located, and maintained to cause minimum interference with the rights and reasonable convenience of property owners. Maintenance shall include ensuring that cabinets are properly secured and bolts are properly tightened. The County may from time to time issue such reasonable rules and regulations concerning the installation and maintenance of the cable system installed in the public rights-of-way as may be consistent with this subtitle and the franchise agreement.
- (c) Suitable safety devices and practices as required by local, County, State and Federal laws, ordinances, regulations and permits shall be used during construction, maintenance and repair of a cable system.
- (d) A franchisee shall remove, replace or modify at its own expense the installation of any of its facilities within any public right-of-way when required to do so by the County to allow it to change, maintain, repair or improve a public thoroughfare.
- (e) Subject to subsection (f) of this section, a franchise shall locate cables as follows:
 - (1) On streets and roads where electrical or telephone utility wiring is located underground, either at the time of initial construction or subsequently, the cable shall also be located underground at the franchisee's expense.
 - (2) Between a street or road and a subscriber's residence, the cable shall be located underground at the franchisee's expense if electrical and telephone utility wiring are located underground.
 - (3) Between a street or road and a subscriber's residence, if electric or telephone utility wiring is aerial, a franchisee may install aerial cable except where a property owner or resident requests underground installation and agrees to bear the difference in cost by which underground installation exceeds the cost of aerial installation.
- (f) A franchisee may not use temporary lines unless it is necessary to initially deliver service or to continue to provide service, and unless the following criteria are met:
 - (1) Unless an extension is granted pursuant to subsection (g) of this section, temporary lines shall be buried or permanently placed aerially on existing poles in a right-of-way within 15 working days of installation of the temporary line;
 - (2) When a temporary line is installed, the franchisee shall leave a written notice with the home or business owner of the property on which the temporary line is installed, indicating the need for the temporary line and clearly noting the date of installation of the temporary line; and
 - (3) A franchisee may not, under any circumstances, locate temporary lines off the ground, including, but not limited to temporary lines strung through trees, on top of equipment or shrubbery, across doors, and over structures.
- (g) If a franchisee requires more than 15 working days to permanently locate cables underground or through permanent aerial means, not less than five working days before the expiration of the 15 working day period, the franchisee shall:

- (1) Notify in writing the impacted home or business owner of the need for an extension; and
 - (2) Request an extension, which shall include a justification, from the local franchising authority which may:
 - (i) Grant an extension of up to 15 working days; or
 - (ii) If extreme weather conditions prevent the franchisee from permanently locating cables within the 15 working day period, grant an extension reasonably necessary to permanently locate cables.
- (h) A franchisee shall obtain any required permits before causing any damage or disturbance to public thoroughfares or private property as a result of its construction or operations and shall restore as nearly as possible to their former condition in accord with applicable construction industry standards such private property and public thoroughfares, the latter in a manner approved by the County. If such restoration is not satisfactorily performed within a reasonable time, the County, or the property owner in the case of private property, may, after prior notice to the franchisee, cause the repairs to be made at the expense of the franchisee.
- (i) A franchisee may trim trees within public rights-of-way at its own expense as necessary to protect its wires and facilities, subject to any direction that may be provided by the County. Trees on private property may be trimmed with the consent of the property owner.
- (j) At the request of any person holding a valid building moving permit and upon sufficient notice, the franchisee shall temporarily raise, lower or cut its wires as necessary to facilitate such move upon not less than 72 hours' advance notice. The direct expense of such temporary changes, including standby time, shall be paid by the permit holder, and the franchisee may require payment in advance.
- (k) Enforcement. When the local franchising authority determines that a violation of this section exists or has occurred, the local franchising authority may enforce the provisions of this section with civil penalties pursuant to Title 24 of this Code and may issue a citation without the prior issuance of a notice of violation, as follows:
- (1) Except for a violation of subsection (f)(3) of this section, a violation of this section shall be a Class C offense;
 - (2) A violation of subsection (f)(3) of this section shall be a Class A offense; and
 - (3) Each day that a violation continues is a separate offense.

(C.B. 29, 1988; C.B. 60, 2009, § 1)

Editor's note— County Bill No. 60-2009, § 1, adopted Dec. 8, 2009, amended § 14.416 title to read as herein set out. Former § 14.416 title pertained to similar subject matter. See the Code Comparative Table for complete derivation.

Sec. 14.417. - Subscriber privacy.

A franchisee shall protect the privacy of all subscribers pursuant to the provisions of section 631 of the Cable Act, 47 U.S.C. section 551. A franchisee shall not condition subscriber service on the subscriber's grant of permission to disclose information which, pursuant to Federal law, cannot be disclosed without the subscriber's explicit consent.

(C.B. 29, 1988)

Sec. 14.418. - Technical standards.

- (a) Any cable system constructed within the County shall meet or exceed technical standards consistent with this subtitle, the franchise agreement and the franchisee's application. The system shall be capable of delivering all National Television Systems Committee (NTSC) color and monochrome standards signals and designed to provide picture quality of TASA grade 2 or better and superior reliability. All television signals transmitted on a cable system shall include any closed captioning information for the hearing impaired. Antennas, supporting structures and outside plant used in the system shall be designed to comply with the recommendations of the Electronic Industries Association on tower structures and outside plant.
- (b) All construction, installation and maintenance shall comply with the National Electrical Safety Code, the National Electrical Code, the Bell System Code of Pole Line Construction, all State and local regulations, and good and accepted industry practices.
- (c) At the stages of construction specified in the franchise agreement, the franchisee shall perform, at its expense, proof of performance tests designed to demonstrate compliance with the requirements of this subtitle, the franchise agreement and FCC requirements. The franchisee shall provide the proof of performance test results promptly to the Cable Administrator.
- (d) The Cable Administrator may require periodic proof of performance tests to be performed at the expense of the franchisee. The franchisee shall provide the test results promptly to the Cable Administrator.
- (e) The franchisee shall advise the Cable Administrator when a proof of performance test is scheduled so that the County may have an observer present.
- (f) A franchisee shall not design, install or operate its facilities in a manner that will interfere with the signals of any broadcast station, the electrical system located in any building, the cable system of another franchisee, or individual or master antennas used for receiving television or other broadcast signals.

(C.B. 29, 1988)

Sec. 14.419. - Enforcement remedies.

- (a) The County has the right to apply any one or combination of the following remedies in the event a franchisee violates any provision of the law or its franchise agreement:
 - (1) Impose liquidated damages in such amount, whether per day, incident, or other measure of violation, as provided in the franchise agreement. Payment of liquidated damages by the franchisee will not relieve the franchisee of its obligation to meet the franchise requirements.
 - (2) Revoke the franchise as provided for in section 14.422.
- (b) In determining which remedy or remedies are appropriate, the County shall take into consideration the nature of the violation, the person or persons bearing the impact of the violation, the nature of the remedy required in order to prevent further violations, and such other matters as the County determines are appropriate.
- (c) In addition to or instead of any other remedy, the County may seek legal or equitable relief from any court of competent jurisdiction.

(C.B. 29, 1988; C.B. 82, 1995; C.B. 74, 2005, § 2)

Sec. 14.420. - Renewal of franchise.

- (a) If a franchisee decides to initiate a formal franchise renewal process in accordance with section 626(a)—(g) of the Cable Act, 47 U.S.C. section 546(a)—(g), it shall notify the Cable Administrator

within 30 to 36 months of the franchise expiration date. Upon such notification, or at the County's own initiative, the County shall commence the following process:

- (1) The County Executive shall review and evaluate the future cable-related community needs and interests and the franchisee's past performance. The review and evaluation process shall include opportunity for public comment.
 - (2) Immediately upon completion of the review and evaluation process, the Cable Administrator shall notify the franchisee that it may file a renewal application. The notice shall specify the information to be included in the renewal application and the deadline for filing the application, which shall be no earlier than 30 calendar days following the date of the notice. If the franchisee does not submit a renewal application by the specified date, it will be deemed not to be seeking renewal of its franchise.
 - (3) Upon receipt of the renewal application, the Cable Administrator shall publish notice of its receipt and may schedule one or more public meetings or implement other procedures under which comments from the public on the application may be received.
- (b) In considering a renewal application, the County shall consider whether:
- (1) The cable operator has substantially complied with the material terms of the existing franchise and with applicable law;
 - (2) The quality of the cable operator's service, including signal quality, response to consumer complaints and billing practices (but without regard to the mix, quality or level of cable services or other services provided over the system) has been reasonable in light of community needs;
 - (3) The cable operator has the financial, legal and technical ability to provide the services, facilities and equipment set forth in its proposal; and
 - (4) The cable operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.
- (c) The Council shall hold at least one public hearing to consider the application. The Executive may make recommendations to the Council prior to its public hearing, a copy of which recommendations shall be made available to the franchisee in advance of the Council's public hearing. Following the public hearing on the renewal application, the Council shall either:
- (1) Pass a resolution agreeing to renew the franchise, subject to the negotiation of a franchise agreement satisfactory to the County and the franchisee; or
 - (2) Pass a resolution that makes a preliminary assessment that the franchise should not be renewed.
- (d) The Council's action under subsection (c) above shall be taken within four months of the date of the renewal application notice to the franchisee required in subsection (c)(2) above.
- (e) If a preliminary assessment is made that a franchise should not be renewed, at the request of the franchisee or on its own initiative, the County shall commence an administrative proceeding in accordance with section 626(c) of the Cable Act, 47 U.S.C. section 546(c), and in accordance with the provisions of the Howard County Administrative Procedures Act [appendix B of this Code].
- (f) The Executive shall initiate an administrative proceeding by issuing a hearing order which establishes the issues to be addressed in the hearing and the procedures to be followed, and the Executive shall appoint a presiding officer for the hearing. Upon the completion of the hearing, the presiding officer shall issue a recommended decision. Parties to the hearing and the public shall have 30 calendar days to comment on the recommended decision after its issuance. Within 30 days after the receipt of comments, the Executive may submit recommendations to the Council on whether to grant or deny the application.
- (g) Based on the recommended decision, the comment and arguments presented, and other evidence of record, the Council, following a public hearing, shall make a final determination on whether to

grant or deny the renewal application. The council shall issue a written decision setting forth the reasons for its decision.

- (h) The provisions of subsections (a)—(g) above notwithstanding, a franchisee may submit a proposal for renewal of a franchise in accordance with 47 U.S.C. section 546(h). The County shall hold one or more public hearings or implement other procedures under which comments on the proposal from the public may be received. Following such public hearings or other procedures, the Council shall determine whether the franchise should be renewed and the terms and conditions of any renewal.
- (i) Once the Council grants a renewal application, the County Executive and the franchisee shall agree on a franchise agreement, pursuant to the procedures specified in subsections 14.408(e)—(h), before the renewal becomes effective.
- (j) If renewal of a franchise is denied, the County may acquire ownership of the cable system or affect a transfer of ownership of the system to another person upon approval of the Council. Any such acquisition or transfer shall be at fair market value, determined on the basis of the cable system valued as a going concern but with no value allocated to the franchise itself.
- (k) If renewal of a franchise is denied and the County does not purchase the cable system, the County may require the former franchisee to remove its facilities and equipment. If the former franchisee fails to do so within a reasonable period of time, the County Executive may have the removal done at the former franchisee's and/or surety's expense.

(C.B. 29, 1988)

Sec. 14.421. - Transfers.

- (a) A transfer of a franchise shall not occur without prior approval of the County. A transfer of a franchise will be approved only if the County finds that the transfer is necessary and in the best interests of the County and its residents.
- (b) The proposed transferee shall submit to the Cable Administrator an application to transfer the franchise. An application to transfer a franchise shall meet the requirements of section 14.407 and provide complete information on the proposed transaction, including details on the legal, character, financial, technical and other pertinent qualifications of the transferee, and on the potential impact of the transfer on subscriber rates. At minimum, the information required in subsections 14.407(e)(1)—(4) shall be provided by the proposed transferee. The information required in subsections 14.407(e)(5)—(10) shall also be provided whenever the proposed transferee expects material changes to occur in those areas.
- (c) Final action on an application for transfer of a franchise shall be taken by the Council.
- (d) Approval by the County of a transfer of a franchise does not constitute a waiver or release of any of the rights of the County under this subtitle or the franchise agreement.
- (e) The County may impose a grant fee to cover its costs in excess of the filing fee in considering an application for transfer of a franchise.

(C.B. 29, 1988)

Sec. 14.422. - Revocation or termination of franchise.

- (a) A franchise may be revoked by the Council for failure to construct as required, operate or maintain the cable system as required by this subtitle or the franchise agreement or for other material breach of this subtitle or the franchise agreement. If within 30 calendar days following written notice from the County Executive to the franchisee that it is in material breach of this subtitle or the franchise agreement, the franchisee has not taken corrective action or corrective action is not being actively and expeditiously pursued, the Council, acting on its own motion or upon the recommendation of the

Executive, may give written notice to the franchisee of its intent to consider revocation of the franchise, stating its reasons.

- (b) The Council may initiate an administrative proceeding to investigate facts and make recommendations on possible revocation. Such a proceeding shall be commenced by the issuance of a hearing order which establishes the issues to be addressed in the hearing and the procedures to be followed, and the Council shall appoint a presiding officer for the hearing. Upon completion of the hearing, the presiding officer shall issue a recommended decision. The franchisee and any members of the public shall have 30 calendar days, or such other period of time as the hearing order may specify, to comment on the recommended decision after its issuance. Within 30 days after receipt of any such comments, or such other period as the hearing order may specify, the Executive may submit recommendations to the Council.
- (c) Before final action can be taken, the Council shall hold a public hearing, at which time the franchisee and members of the public shall be given an opportunity to make argument. Following the public hearing the Council shall determine whether or not to revoke the franchise based on any recommended decision, the argument presented at the hearing, any recommendations of the Executive, and other evidence of record. The council's determination shall be reflected in a written opinion setting forth the reasons for its decision.
- (d) Any franchise may, at the option of the County, be revoked 120 calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the franchisee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors or other action or proceeding, unless within that 120-day period:
 - (1) Such assignment, receivership or trusteeship has been vacated; or
 - (2) Such assignee, receiver or trustee has fully complied with the terms and conditions of this subtitle and the franchise agreement and has executed an agreement, approved by the court having jurisdiction, assuming and agreeing to be bound by the terms and conditions of the franchise.
- (e) In the event of foreclosure or other judicial sale of any of the facilities, equipment or property of a franchisee, the County may revoke the franchise by serving notice upon the franchisee and the successful bidder at the sale, in which event the franchise and all rights and privileges of the franchise will be revoked 30 calendar days after serving such notice, unless:
 - (1) The County has approved the transfer of the franchise to the successful bidder; and
 - (2) The successful bidder has reached an agreement with the County Executive to assume and be bound by the terms and conditions of the franchise.
- (f) If the County revokes a franchise, or if for any other reason a franchisee abandons, terminates or fails to operate or maintain service to its subscribers, the following procedures and rights are effective:
 - (1) The County may require the former franchisee to remove its facilities and equipment. If the former franchisee fails to do so within a reasonable period of time, the County may have the removal done at the franchisee's and/or surety's expense.
 - (2) The County, by resolution of the Council, may acquire ownership of the cable system at an equitable price.
 - (3) If a cable system is abandoned by a franchisee, the County may sell, assign or transfer all or part of the assets of the system.
- (g) The County may, upon resolution of the Council, acquire ownership of and operate a cable system, whether or not such ownership is acquired following revocation or forfeiture of a franchise.

(C.B. 29, 1988)

Sec. 14.423. - Arbitration.

- (a) If the County exercises its right to purchase a cable system pursuant to this subtitle or a franchise agreement and the County and franchisee are unable to agree on a price for the purchase of the system, the price may be determined by arbitration. Other matters that are arbitrable under the provisions of a franchise agreement may be subjected to the arbitration procedures specified below.
- (b) The arbitration procedure employed shall be consistent with the rules and procedures of the American Arbitration Association. The County and the franchisee will each select a qualified arbitrator. The two persons selected shall select a third qualified arbitrator, and the three arbitrators will constitute a panel whose decision is binding on both parties. The fees of the first two arbitrators shall be paid by the party selecting such person, and the third person shall be compensated one-half by the County and one-half by the franchisee. The general costs of the proceeding shall be shared equally by the County and the franchisee.

(C.B. 29, 1988)

Sec. 14.424. - Continuity of service mandatory.

- (a) It is the right of all subscribers to receive all available services from the franchisee as long as their financial and other obligations to the franchisee are satisfied.
- (b) In the event of a termination or transfer of the franchise for whatever reason, the franchisee shall do everything in its power to ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances. The franchisee shall cooperate with the County to operate the system for a temporary period following termination or transfer as necessary to maintain continuity of service to all subscribers. The temporary period will not exceed six months without the franchisee's written consent. During such period the cable system shall be operated under such terms and conditions as the County and the franchisee may agree, or such other terms and conditions that will continue, to the extent possible, the same level of service to subscribers and that will provide reasonable compensation to the cable operator.
- (c) If the franchisee discontinues service to its subscribers without County approval, the franchise may immediately be terminated; and the County is empowered to occupy and take possession of all facilities and property, real and personal, related to the cable system for the purpose of operating the system. The County may undertake such operation itself or authorize operation by a contractor.

(C.B. 29, 1988)

Sec. 14.425. - Unlawful solicitation or acceptance of gifts.

It is unlawful for any person to offer any gift, favor, loan, service, promise, employment or anything of value to a County official or employee, or for a County official or employee to solicit or accept any such thing of value, for the purpose of influencing the grant, modification, renewal, transfer or any other matter affecting a franchise or the administration or enforcement of this subtitle.

(C.B. 29, 1988)

Sec. 14.426. - Rates.

Rates and charges published by the franchisee shall reflect the total amount of money actually charged to consumers for the use of the service and may be changed by the franchisee following a minimum 30 days' prior notice to the County and the subscribers. These rates and charges shall be factual and inclusive of all fees charged to consumers for the use of the service. At such time as Federal

law permits rate regulation, the County reserves the right to implement procedures to impose such regulations.

(C.B. 29, 1988; C.B. 42, 1992)

Sec. 14.427. - Access facilities.

- (a) Applications for a franchise shall include proposals for the provision of public, educational and governmental access channels sufficient to meet community needs during the term of franchise as determined by the County. A franchisee or Applicant shall specify what grants, if any, it is willing to make for studio equipment and facilities to be used for local program production by all cable access users. Applicants are encouraged to include proposals for local origination programming by the franchisee.
- (b) All access channel operators shall conform to the following minimum requirements:
 - (1) The County may require that a franchisee provide studio space for access use. Access channels shall be carried on the franchisee's lowest priced service offering.
 - (2) The franchisee shall have no control over the content of the programming carried on access channels. The County may require a franchisee, or select a nonprofit corporation or other entity, to manage the access program and to establish reasonable rules for the use of access channels consistent with the requirements of this subtitle, the franchise agreement and the intended purpose of such channels. Such rules shall be subject to review and approval by the Council following a public hearing.
 - (3) The use of any public access channel shall be made available to any County resident on a nondiscriminatory basis at no charge for channel use. Where access studio facilities are located on a franchisee's premises, the franchisee shall make its personnel available for consultation and assistance to access users at no charge provided that such personnel can be spared from their normal duties.
 - (4) The use of any educational access channel shall be made available free of charge to the County school system or other qualified educational institutions for the transmission of local educational programming.
 - (5) The use of any local governmental access channels shall be made available free of charge to the County for the transmission of government-related programming. The Cable Administrator shall be responsible for the administration of local government access channels.
 - (6) The franchisee shall submit to the County on an annual basis a plan for publicizing access programs and access use.
- (c) At the request of a franchisee the County shall promulgate rules under which channel capacity dedicated to access use may be used by the franchisee when it is not being used for access purposes.

(C.B. 29, 1988; C.B. 38, 1989)

Sec. 14.428. - Cable Advisory Committee.

- (a) *General Provisions.* General provisions applicable to this Committee are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Establishment; Number of Members.* A Cable Advisory Committee shall function to advise the Executive and Council on all matters related to the use of cable systems and facilities. The Committee shall consist of five members.

- (c) *Qualifications.* All members shall be residents of Howard County.
- (d) *Staff.* The County Executive shall designate personnel to serve as staff support for the Cable Advisory Committee and to be responsible for maintaining the records of the Committee.
- (e) *Duties and Responsibilities* The Advisory Committee shall advise the County on all matters related to the use of cable communications operations, and its duties and functions shall be:
 - (1) To review complaint and system malfunction statistics and make any recommendations to the franchisee, Executive or Council as it may find appropriate for the improvement of the system's technical operation.
 - (2) To make recommendations as to possible improvements in general categories of programming or service to subscribers, including matters dealing with control and operation of government, public and education access channels, and the overall operation of the system.
 - (3) To assist in any performance evaluation of a cable system.
 - (4) To perform other duties as directed by the Executive or requested by the Council.

(C.B. 29, 1988; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 14.429. - Performance evaluation.

- (a) The County may periodically evaluate the performance of a franchisee during the franchise term. A franchisee shall cooperate fully with these evaluations and supply the County with all relevant information requested. If the County desires to implement a survey of subscribers in connection with its evaluation of service, a franchisee shall distribute the County's questionnaire to its subscribers. Any meetings between the County and the franchisee for purposes of evaluation shall be publicized in advance and open to the public.
- (b) If evaluation indicates the need for modification to the franchise agreement, the Executive shall attempt to negotiate the necessary changes. The Executive shall issue a report to the Council of the results of the performance evaluation and any recommended changes to the franchise agreement as negotiated with the franchisee.
- (c) The Council may hold a public hearing on any performance evaluation reports. Any franchise agreement modifications shall be approved by the Council before they become effective.

(C.B. 29, 1988)

Sec. 14.430. - Administration.

- (a) The Executive shall have the responsibility for overseeing the day-to-day administration of cable communication operations within the County as governed by this subtitle and applicable franchise agreements. The Executive shall be empowered to take all administrative actions on behalf of the County except for those actions specified herein which are reserved to the Council. The Executive may recommend that the Council take certain actions with respect to the franchise. The Executive shall keep the Council apprised of developments in cable matters and provide the Council assistance, advice and recommendations as appropriate. The Executive shall assist and provide staff support to the Cable Advisory Committee as necessary.
- (b) The council has the sole authority to grant franchises, authorize the execution of franchise agreements, modify franchise agreements, renew franchises, revoke franchises, and authorize the transfer of franchises. Where this subtitle or a franchise agreement specifies that a certain action will be taken by the Council or other named County entity, that action is reserved to the named entity.

- (c) All filings and reports required of franchisees or Applicants pursuant to this subtitle or a franchise agreement shall be made with the County's Cable Administrator unless otherwise specified.

(C.B. 29, 1988)

Sec. 14.431. - Cable Administrator; duties and responsibilities.

- (a) The Cable Administrator shall report to the County Executive and have the responsibility for the day-to-day administration of cable communication operations within the County as governed by this subtitle and by applicable franchise agreements.
- (b) The duties of the Cable Administrator shall include the following:
- (1) To act as the principal staff to the Cable Advisory Committee, assisting the Committee with all of its duties as described in section 14.428 of this subtitle.
 - (2) To manage all performance evaluations pursuant to section 14.429 of this subtitle.
 - (3) To advise the County Executive and the Council on cable matters and provide them with updated information about new developments in the cable industry, cable technology and cable regulatory issues.
 - (4) To accept applications and fees for new cable franchises, franchise renewals, franchise transfers and franchise agreement modifications. Record fees and transfer them to the County Office of Finance. Review all applications for conformity with the requirements contained in this subtitle and make recommendations to the Council concerning their disposition.
 - (5) To accept subscriber complaints about cable system malfunctions and resident complaints of damage and other problems caused by cable construction. Investigate complaints and negotiate their correction as appropriate and periodically report their incidence to the Cable Advisory Committee.
 - (6) To draft rules of procedure and forms to be approved by the Council governing the submission to the County of applications for cable franchises, franchise renewals, franchise agreement modifications and franchise transfers.
 - (7) To generally oversee the performance of franchisees, including oversight of the access channels cited in section 14.427 of this subtitle.
 - (8) To perform such other duties as may be prescribed by the Executive not inconsistent with the provisions of this subtitle.

(C.B. 29, 1988; C.B. 38, 1989)

Sec. 14.432. - Status of existing franchises.

Franchise agreements in effect prior to the enactment of this subtitle [July 6, 1988], which were made pursuant to the previously existing Howard County Cable Television Systems Franchise Act, shall continue in effect until they expire. These franchises may be renewed pursuant to the provisions of this subtitle.

(C.B. 29, 1988)

Sec. 14.433. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 29, 1988)

SUBTITLE 6. - PERMIT AND DISPOSAL FEES FOR USE OF SANITARY LANDFILLS⁽⁵⁾

Footnotes:

--- (5) ---

Editor's note— C.B. 20, 1982, repealed §§ 14.600—14.602, derived from C.B. 29, 1972, and C.B. 48, 1977, and enacted new §§ 14.600, 14.601.

Sec. 14.600. - Annual permit charge.

- (a) *Requirement to Pay Annual Permit Charge.* Howard County may charge a permit fee to use the County Sanitary Landfill.
- (b) *Recommendation by Director of Public Works.* The Director of Public Works shall recommend to the County Council a schedule of annual permit charges to be paid by users of the Howard County Sanitary Landfill(s).
- (c) *Authorization by County Council.* The County Council shall, by resolution, approve a schedule of annual permit charges to be paid by users of the Howard County Sanitary Landfill(s).
- (d) *Collection.* Annual permit charges payable to the Director of Finance of Howard County shall be collected at the landfill(s).

(C.B. 20, 1982; C.B. 31, 2005)

Sec. 14.601. - User fees.

- (a) *Requirement to Pay User Fees.* All persons using the Howard County Sanitary Landfill(s) shall pay user fees, except for:
 - (1) Users disposing of solid waste collected pursuant to Howard County solid waste collection contracts; and
 - (2) Residents of Howard County disposing of personal residential household waste.
- (b) *Recommendation of the Director of Public Works.* Concurrent with introduction of the annual budget and appropriation ordinance, the Director of Public Works shall recommend to the County Council a schedule of user fees, including any special charges and late penalties, for use of the Howard County Sanitary Landfill(s).
- (c) *Authorization by County Council.* At the time of adoption of the annual budget and appropriation ordinance, the County Council shall, by resolution, approve a schedule of user fees, including any special charges and late payment penalties, to be charged for use of the Howard County Sanitary Landfill(s).
- (d) *Collection of User Fees for Use of the Howard County Sanitary Landfill(s).* Fees payable to the Director of Finance are ordinarily payable at the landfill(s) at the time of disposal. At the discretion of the Director of Finance, a user may be extended credit and be billed on a periodic basis for the user charges.
- (e) *Denial of Access to Landfill(s).* The Director of Public Works may deny access to the landfill to any user who is in default in payment of user fees.

(C.B. 20, 1982)

SUBTITLE 7. - SOLICITORS AND PEDDLERS⁶¹

Footnotes:

--- (6) ---

State Law reference— Peddlers, Ann. Code of Md., Business Regulation article, § 17-901 et seq.

Sec. 14.700. - Definitions.

- (a) *Administrator* means the Administrator of the Howard County Office of Consumer Protection or the Administrator's designee.
- (b) *Peddler* means any person who engages in the activity of "peddling."
- (c) *Peddling* means moving about the County by foot or vehicle of any kind, from place to place, house to house, door to door, or upon any street or highway, for the purpose of selling and simultaneously delivering or offering for sale and simultaneous delivery, at retail, any goods, wares, merchandise, services or foodstuffs of any kind whatever.
- (d) *Person* means any person, firm, partnership, association, corporation, company or organization of any kind.
- (e) *Soliciting* means travelling about the County by foot or vehicle of any kind from place to place, house to house, door to door, or upon any street or highway, for the purpose of engaging in any one or more of the following activities:
 - (1) Attempting to obtain orders for the sale and future delivery of any goods, wares, merchandise, services or foodstuffs of any kind whatever.
 - (2) Attempting to obtain subscriptions to books, magazines, or newspapers not published in the County, State or District of Columbia, and every other kind of printed matter.
 - (3) Attempting to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation or project.
- (f) *Solicitor* means any person who engages in the activity of "soliciting."
- (g) *Street and highway* means the entire width between the boundary lines of every way or thoroughfare of any kind used by the public for purposes of vehicular travel, whether actually dedicated to the public and accepted by the proper authorities or otherwise.
- (h) *Vehicle* means every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway.

(C.B. 54, 1977; C.B. 8, 1978; C.B. 12, 2016, § 1)

Sec. 14.701. - Identification card—Required.

No person shall engage in soliciting or peddling in the County unless that person has obtained an identification (ID) card from the Administrator, as provided by this subtitle.

(C.B. 54, 1977; C.B. 8, 1978)

Sec. 14.702. - Identification card—Fee; term.

- (a) *Establishment of Fees.* The County Council, upon the recommendation of the County Executive, shall set the annual fee to be paid in advance for each ID card issued under this subtitle. The fees shall be sufficient to produce an amount of income to the County that shall be approximately equal to the costs of administering this subtitle.
- (b) *Term of Card; Property of County.* The ID card year shall begin on July 1 and end on June 30 in each and every year. Any ID card issued under the provisions of this subtitle shall remain the property of the County and shall be surrendered to the Administrator upon demand.

(C.B. 54, 1977; C.B. 8, 1978; C.B. 32, 1988; C.B. 69, 1991; C.B. 143, 1991)

Sec. 14.703. - Same—Application; display; replacement.

- (a) The Administrator shall furnish each Applicant for an ID card required by this subtitle with a form on which the Applicant shall state his name, address, telephone number, date of birth, sex, weight, height, color of hair and eyes, the name and address and telephone number of the Applicant's employer, if any, and the license tag number of vehicle(s), if any, to be used in connection with the soliciting or peddling.
- (b) Before the Administrator issues an ID card involving the peddling of foodstuffs of any kind, the Applicant for such an ID card shall obtain a separate permit from the Bureau of Environmental Health of the Howard County Health Department showing that the Applicant is in compliance with the health regulations governing food facilities.
- (c) The ID card issued to each Applicant shall be numbered and shall contain the information noted by the Applicant on the form furnished by the Administrator and conspicuous wording that its possession does not constitute endorsement by the County. The holder of an ID card shall carry his ID card on his person when engaged in soliciting or peddling and shall display the ID card to any person who shall request to see it.
- (d) The holder of an ID card which is lost or mutilated shall immediately report the loss or mutilation to the Administrator and shall pay a fee established by the Administrator for the issuance of a duplicate ID card.
- (e) If during the period for which an ID card is issued there is any change in the factual information furnished by the ID card holder to the Administrator under this section, the ID card holder shall fully and promptly communicate the new information to the Administrator upon a form furnished by the Administrator.

(C.B. 54, 1977; C.B. 8, 1978)

Sec. 14.704. - Same—Denial, revocation or suspension; notice; hearing and appeal.

- (a) The Administrator, for the reasons cited in subsection (c) of this section and pending a hearing as required by the Howard County Administrative Procedure Act, may refuse to issue an ID card or may summarily revoke or suspend an ID card which is required under this subtitle. Upon revocation or suspension, the holder of an ID card shall immediately return his ID card to the Administrator and upon failure to do so the Administrator may request and direct that the ID card be confiscated and held pending an appeal.
- (b) Any refusal to issue an ID card to an Applicant or the revocation or suspension of an ID card shall be accompanied by written notice to the Applicant or holder of an ID card delivered personally or sent by certified mail to the address listed in the application of the Applicant or holder of an ID card. The notice shall contain a statement of the reason for the action taken by the Administrator and shall notify the Applicant or holder of an ID card of his right to a hearing under the Administrative

Procedure Act and of his right to appeal to the Board of Appeals. Filing of an appeal shall not stay the revocation or suspension of an ID card unless, upon application, the Board of Appeals shall grant a stay.

- (c) In deciding to refuse to issue an ID card to an Applicant or to revoke or suspend an ID card, factors to be considered by the Administrator shall include, but not be limited to, previous denials, revocations or suspensions, failure to provide complete or accurate information or failure to leave the premises immediately when requested to do so by the owner or occupant.

(C.B. 54, 1977; C.B. 8, 1978)

Sec. 14.705. - Tags or labels for vehicles.

The Administrator shall furnish a metal tag or gum label to each Applicant who is issued an ID card for peddling under this subtitle for each vehicle used by the Applicant. The tag or label shall bear the inscription "Registered Howard County Peddler. No. _____. Expires _____." The number on the tag or label shall be the same number as the number of the ID card issued to the Applicant. The tag or label shall be attached on the right-hand side of the vehicle used by the Applicant and shall be visible at all times.

(C.B. 54, 1977; C.B. 8, 1978)

Sec. 14.706. - Exceptions.

(a) The provisions of this subtitle shall not apply to:

- (1) Any person who is at the premises of an owner or occupant at the prior request or invitation of the owner or occupant of the premises.
- (2) Any person selling or attempting to obtain orders for the sale of goods, wares, merchandise, services or foodstuffs to manufacturers, wholesalers, retailers, or other business or governmental establishments for use in their business or for resale.
- (3) Any person selling milk, vegetables, butter, eggs, poultry, fruit or country produce made or grown by the seller thereof.
- (4) Any person selling or attempting to obtain orders for the sale of goods, wares, merchandise, services or foodstuffs for any charitable or nonprofit association, organization, corporation or project, provided that the charitable or nonprofit association, organization, corporation or project registers annually with the Administrator.

The charitable or nonprofit association, organization, corporation or project registering under this subsection shall submit each year a form furnished by the Administrator giving, as applicable, its name, address, telephone number, the name of a contact person, a description of its proposed soliciting or peddling activities to the extent known, the location and date of the activities to the extent known, and the number or approximate number of individuals who will engage in the activities.

If during the period a charitable or nonprofit association, organization, corporation or project is registered there is any change in the factual information furnished to the Administrator under this subsection, the new information shall be fully and promptly communicated in writing to the Administrator upon a form furnished by the Administrator.

- (5) Insurance brokers and agents with a valid Maryland State insurance license, including bona fide trainees of such brokers and agents.
- (6) Real estate brokers and agents with a valid Maryland State real estate broker and agent license, including bona fide trainees of such brokers and agents.

- (7) Any person engaged in voter registration activities or partisan or nonpartisan election campaigns, including persons supporting or working against a ballot question.
- (8) Any person selling or attempting to obtain orders for the sale of goods, wares, merchandise, services or foodstuffs for companies, firms, corporations or partnerships which:
 - a. Subscribe to or are bound by a policy statement, code or regulation established either by the company, firm, corporation or partnership individually or by a recognized trade association of which the Applicant company, firm, corporation or partnership is a member in good standing and which policy statement, code or regulation:
 - (i) Requires that the offer of products or services for sale shall be truthful and accurate as to price, grade, quantity, make, value, performance, currency of model and availability;
 - (ii) Requires that the terms of any guarantee offered by the solicitor or peddler in connection with the sale shall be furnished to the buyer in writing and shall clearly state the nature and extent of such guarantee; and
 - (iii) Prohibits the initiation or continuation of any deceptive or any unlawful trade practices; and
 - b. Have established a procedure for processing consumer complaints within a reasonable time and providing consumer redress, if it is determined that the consumer was aggrieved by a violation of the policy statement, code or regulation or an unlawful trade practice; and
 - c. Are in compliance with all orders, directives, stipulations and agreements between them and the Howard County Office of Consumer Protection.

A company, firm, corporation or Partnership eligible to be excepted under this subsection shall register annually with the Administrator and shall provide the Administrator with a copy of the applicable code of ethics, the name and telephone number of the resident agent, if any, the names and addresses of those receiving ID cards and other pertinent information concerning the company, firm, corporation or partnership. The application for registration shall be accompanied by a fee as established by the Administrator.

The Administrator shall issue a block of numbered ID cards to the organization for distribution by the organization to individual solicitors and peddlers. The ID cards shall be numbered, and the organization shall maintain a control list of the cards and shall be responsible for them. If the activity upon which the organization engages is of limited duration, the ID cards shall be returned to the Administrator at the expiration of the activity. The holder of an ID card issued by the organization shall carry his ID card on his person when engaged in soliciting or peddling and shall display the ID card to any person who shall request to see it.

If during the period a company, firm, corporation or partnership is registered there is any change in the factual information furnished to the Administrator under this subsection, the new information shall be fully and promptly communicated in writing to the Administrator upon a form furnished by the Administrator.

- (b) Any person excepted by this section from the provisions of this subtitle who is involved in the selling of foodstuffs of any kind shall not be exempt from complying with appropriate health regulations of the Bureau of Environmental Health of the Howard County Health Department.

(C.B. 54, 1977; C.B. 8, 1978; C.B. 69, 1991; C.B. 12, 2016, § 1)

Sec. 14.707. - Hours of operation.

Soliciting or peddling shall be conducted within the County only between 9:00 a.m. and sunset each day, except that the peddling of foodstuffs from a vehicle shall be permitted between the hours of 7:00 a.m. and 10:00 p.m. each day.

(C.B. 54, 1977; C.B. 8, 1978; C.B. 1, 2016, § 1)

Sec. 14.708. - Listing of identification card holders and registered organizations.

The Administrator shall maintain a current listing of all holders of ID cards issued under this subtitle and of all organizations registered with the Administrator, as provided in section 14.706. The Administrator shall furnish a copy of the listing and any changes in factual information furnished to the Administrator by ID card holders and registered organizations to the Howard County Police Department.

(C.B. 54, 1977; C.B. 8, 1978)

Sec. 14.709. - Annual report.

Subject to section 22.1000 of the County Code, the Administrator shall submit to the County Executive and County Council each year a report on the work of the office in carrying out the provisions of this subtitle during the previous year.

(C.B. 54, 1977; C.B. 8, 1978; C.B. 69, 1991; C.B. 43, 2018, § 1)

Sec. 14.710. - Penalty.

Any person who violates any of the provisions of this subtitle shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$50.00 nor more than \$500.00 or imprisoned for not more than 30 days, or be both fined and imprisoned. Alternatively or in addition to and concurrent with all other remedies, the Office of Consumer Protection or the Police Department may enforce this subtitle with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A first violation of this subtitle shall be a Class D offense. Subsequent violations shall be Class B offenses.

(C.B. 54, 1977; C.B. 8, 1978; C.B. 32, 1985; C.B. 12, 2016, § 1)

SUBTITLE 9. - RENTAL HOUSING LICENSE⁽⁸⁾

Footnotes:

--- (8) ---

Editor's note— Section 2 of C.B. 63, 2004 repealed Subtitle 9, §§ 14.900—14.905, which pertained to rental housing licenses and derived from C.B. 31, 1997. Section 4 of C.B. 63, 2004 enacted new provisions, §§ 14.900—14.905, relating to similar subject matter.

Sec. 14.900. - Definitions.

In this subtitle the following terms have the meanings indicated:

(a) *Common ownership community* means:

- (i) A residential or mixed use building that is subject to a condominium regime pursuant to title 11 of the real property article of the Annotated Code of Maryland; or
- (ii) A residential or mixed use "cooperative housing corporation", as that term is defined in section 5-6b-01 of the corporations and associations article of the Annotated Code of Maryland.
- (b) *Common ownership community fees* means fees charged by the entity authorized to impose a fee on the owner or occupant of housing units in connection with the provision of services or the benefit of common areas in the Community.
- (c) *Director* means the director of the Howard County Department of Inspections, Licenses and Permits or the Director's Authorized Designee.
- (d) *Dwelling* means an enclosed space wholly or partly used or intended to be used for living and sleeping.
- (e) *Dwelling unit* has the meaning set forth in the Howard County Property Maintenance Code for Rental Housing and includes a lot as defined in the Maryland Homeowners Association Act in title 11b of the real property article of the Annotated Code of Maryland.
- (f) *Homeowners association* has the meaning set forth in section 11b-101(1) of the real property article of the Annotated Code of Maryland.
- (g) *Homeowners association fees* means fees charged by the entity authorized to impose a fee on the owner or occupant of dwelling units in connection with the provision of services or the benefit of common areas in the community.
- (h) *"Howard County Property Maintenance Code for Rental Housing"* means the International Property Maintenance Code, 2018 Edition, as adopted in title 3, subtitle 7 of the Howard County Code.
- (i) *Owner* has the meaning set forth in the Howard County Property Maintenance Code for Rental Housing.
- (j) *Premises* has the meaning set forth in the Howard County Property Maintenance Code for Rental Housing.

(C.B. 63, 2004; C.B. 80, 2006, § 3; C.B. 10, 2012, § 1; C.B. 15, 2019, § 1)

Sec. 14.901. - Rental housing license.

- (a) *Rental Housing License Required.* Except as provided in subsection (b) of this section, the owner of a dwelling unit in Howard County that is within the scope of the Howard County Property Maintenance Code for Rental Housing shall not rent or lease a dwelling unit unless the owner obtains a rental housing license under this subtitle.
- (b) *Exceptions:*
 - (1) Subsection (a) of this section does not apply to an occupancy of less than 90 days if:
 - (i) The seller of a dwelling unit allows the purchaser to occupy the dwelling unit prior to settlement; or
 - (ii) The purchaser of a dwelling unit allows the seller to occupy the dwelling unit after the settlement.
 - (2) A rental housing license is not required for a hospital or a prison.
- (c) *Rental Housing License Fee.* Upon the recommendation of the County Executive, the County Council shall set by resolution the amount of a rental housing license fee, license transfer fee, and any other special fee associated with the licensing of rental housing.

(d) *Application:*

- (1) The owner of a dwelling unit shall apply for the license and pay all appropriate fees. An application for a rental housing license shall be made on a form provided by the Director and submitted together with the license fee. If any information contained on an application changes after a license is issued, the license holder shall provide the Director with the updated information.
- (2) A rental housing license application shall include:
 - (i) A description of the dwelling unit by unit number (if appropriate), house number, street name, zip code, and the name of the complex if the dwelling unit is located in a named complex;
 - (ii) The name and address of:
 - a. The owner of record and of the managing operator;
 - b. If the owner is a corporation, the name and address of the resident agent; and
 - c. The homeowners association or common ownership community, if applicable;
 - (iii) The name and business address of an adult individual who:
 - a. Is a resident of Maryland;
 - b. Is customarily present in a business office in Maryland; and
 - c. Who shall be designated by the owner as the owner's authorized agent for receiving notices, court process, and other papers on behalf of the owner; however, an owner who is a natural person, resident of Maryland, and who is customarily present in a business office in Maryland may designate themselves as the authorized agent;
 - (iv) The type of dwelling unit;
 - (v) The number of units and stories;
 - (vi) Date and type of construction;
 - (vii) Type of smoke detectors;
 - (viii) Type of heating system;
 - (ix) Type of hot water heating;
 - (x) Source of water;
 - (xi) Type of sewage disposal; and
 - (xii) Certification from the homeowner that homeowner association or common ownership community fees for the dwelling unit are not more than 30 days past due.

(e) *Issuance of License.*

- (i) Upon receipt of an application for a rental housing license, the Director shall inspect the dwelling unit.
- (ii) The Director shall issue a license if the dwelling unit meets the requirements of the Howard County Property Maintenance Code for Rental Housing and the Homeowners Association or Common Ownership Community has not submitted proof of a final adjudication against the homeowner for unpaid fees relating to the unit.
- (iii) If the Director does not issue a license, the Director shall issue a written denial that states what must be done to bring the dwelling unit into compliance with this section.
- (iv) If the Director is satisfied that the deficiencies stated in a denial have been corrected, the Director shall issue a license for the dwelling unit.

- (f) *Renewal of License.*
- (i) A rental housing license may be renewed if: The dwelling unit continues to meet the requirements of the Howard County Property Maintenance Code for Rental Housing other requirements under this section of the Howard County Code, and has provided updated information in the rental license application.
 - (ii) If the requirements of the rental license application as set out in this section are not met, the Director shall issue a written denial that states what must be done to bring the dwelling unit in compliance with this section.
 - (iii) If the Director is satisfied that the deficiencies stated in a denial have been corrected, the Director shall issue a renewal license for the dwelling unit.
 - (iv) The Director shall not issue a renewal license for any dwelling unit for which there are outstanding violation notices from any County agency.
- (g) *Duration of License.* A rental housing license is valid for a period of two years. If a license is reissued after revocation or a license is renewed after correction of an outstanding violation, the Director may limit the license to a six-month period. The Director may limit future renewals after the six-month period to one-year periods for a period of three years, until it is confirmed that the dwelling unit is being maintained to standards set forth in the Howard County Property Maintenance Code for Rental Housing. The fee for the six-month or one-year renewal shall be prorated based on the fee for a two-year license.
- (h) *Transfer of License.* If there is a change of ownership of a dwelling unit and the new owner applies to the Director for a transfer within 15 days of the change of ownership, the license may be transferred to the new owner for the unexpired portion of the term for which it was issued. The application form for a transfer shall contain the same information as the application form for a new license. The Director may charge a transfer fee, to be set by resolution of the County Council upon recommendation of the County Executive.
- (i) *Suspension of License.*
- (i) The Director may suspend a rental housing license if the owner of a dwelling unit fails to correct a violation of the Howard County Property Maintenance Code for Rental Housing within the time period stated in the notice and order issued by the Director.
 - (ii) The Director may suspend a rental housing license if a homeowners association or common ownership community provides documentation of a final adjudication that the owner is more than 30 days past due on homeowners association or common ownership community fees for the dwelling unit.
 - (iii) The suspension under this subtitle shall end when:
 - a. The Director is satisfied that the violation has been corrected; or
 - b. The homeowners association or common ownership community submits to the Director documentation that the owner has made payment of overdue homeowners association or common ownership community fees.
- (j) *Revocation of License.* The Director may revoke a rental housing license if one of the following occurs:
- (i) The owner of the dwelling unit fails:
 - a. To keep the dwelling unit in good repair; or
 - b. To correct a violation within the time period stated in a notice or order issued by the Director;
 - (ii) The dwelling unit presents a danger to the health, safety, or welfare of the public or the occupants;

- (iii) The dwelling unit fails to comply with the provisions of the Howard County Property Maintenance Code for Rental Housing; or
 - (iv) The homeowners association or common ownership community provides documentation of a final adjudication that the owner is more than 30 days past due on homeowners association or common ownership community fees for the dwelling unit.
- (k) *Placard.* Upon denial, suspension, revocation, or expiration of a rental housing license, the Director shall place a placard upon the dwelling unit in accordance with the procedures set forth in the Howard County Property Maintenance Code for Rental Housing.

(C.B. 63, 2004; Ord. No. C.B. 80, 2006, § 3; C.B. 10, 2012, § 1)

Sec. 14.902. - Enforcement authority.

- (a) *In General.* The Director shall interpret, administer, enforce, and implement the provisions of this subtitle.
- (b) *Notices and Orders.* The Director may issue a notice or order to abate a violation of this subtitle.
- (c) *Inspections.* The Director may enter a dwelling unit at a reasonable time to make inspections pursuant to this subtitle. Inspections are performed for the protection and promotion of public safety, health, and welfare. Inspections, which are purely governmental in nature, are made solely for the public benefit and shall not be construed as providing any warranty or representation concerning the condition of the dwelling unit to the public.
- (d) *Right of Entry:*
 - (1) The owner, occupant, tenant, or other person in charge of a dwelling unit, property, or premises regulated by this subtitle shall give the Director entry and free access to any part of the dwelling unit, property, or premises for the purposes of inspection. If entry or access is refused or restricted, the Director may seek a court order to allow entry and free access.
 - (2) The occupant or tenant of a dwelling unit, property, or premises shall give the owner or operator access at reasonable times to make inspections and to carry out maintenance, repairs, or alterations necessary to comply with the provisions of this subtitle.

(C.B. 63, 2004; C.B. 80, 2006, § 3)

Sec. 14.903. - Notices and orders.

- (a) *Violations.* If the Director determines that there has been a violation of this subtitle or has reasonable grounds to believe that a violation has occurred, the Director shall give notice of the violation under subsections (b) and (c) of this section.
- (b) *Form.* The written notice shall include:
 - (1) A description of the dwelling unit sufficient for identification;
 - (2) A description of the violation; and
 - (3) A reasonable time period to correct the violation.
- (c) *Service.* The notice shall be sent to the owner. The notice is properly served upon the owner if a copy:
 - (1) Is delivered to the owner personally;
 - (2) Is sent by certified mail, return receipt requested, or first-class mail to the address of the owner listed on the rental housing license application;

- (3) Is sent by certified mail, return receipt requested, or first-class mail to the owner's authorized Maryland agent at the address listed on the rental housing application;
- (4) Is posted in a conspicuous place on the dwelling unit; or
- (5) If service cannot be obtained by one of the methods set forth above, service may be obtained by publishing the notice at least once in a local newspaper of general circulation.

(C.B. 63, 2004)

Sec. 14.904. - Appeal.

Any aggrieved person may appeal a decision of the Director to revoke, deny, suspend, or approve a rental housing license under this subtitle to a Board of Appeals' Hearing Examiner in accordance with title 2, subtitle 2 of the Howard County Code.

(C.B. 63, 2004)

Sec. 14.905. - Enforcement and penalties.

- (a) *Generally.* The Department may institute any action at law or equity, including injunction or mandamus, to enforce the provisions of this subtitle.
- (b) *Criminal Penalties.* A person who violates any provision of this subtitle or knowingly provides a false statement to the Department is guilty of a misdemeanor and upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both.
- (c) *Civil Penalties.* Alternatively, and in addition to and concurrent with all other remedies, the Department of Inspections, Licenses and Permits may enforce this subtitle pursuant to title 24, "Civil Penalties" of the Howard County Code. A violation of this subtitle is a Class B offense. Each day that a violation continues is a separate offense.

(C.B. 63, 2004; C.B. 80, 2006, § 4; C.B. 10, 2012, § 1)

SUBTITLE 10. - PAWNBROKER AND SECONDHAND DEALERS⁽⁹⁾

Footnotes:

--- (9) ---

State Law reference— Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act, Ann. Code of Md., Business Regulation article, § 12-101 et seq.

Sec. 14.1000. - Purpose.

The purpose of this subtitle is to protect the safety and welfare of the citizens of Howard County by regulating pawnshops and secondhand dealers in order to prevent the disposition of stolen property, to identify stolen property, and to return stolen property to its owners.

(C.B. 5, 2005, § 1)

Sec. 14.1001. - Definitions.

In this subtitle the following terms have the meanings indicated:

- (a) *Antique dealer* means a person whose primary retail trade is buying and selling objects made in, or typical of, an earlier period of time, that either have special value because of their age or are examples of works of art or handicrafts.
- (b) *Department* means the Howard County Department of Inspections, Licenses and Permits.
- (c) *Director* means the Director of the Department of Inspections, Licenses and Permits or the Director's authorized designee.
- (d) *Item* means tangible personal property including, but not limited to, a household appliance, personal computer, compact disc player, digital video disc player, power tool, camera, firearm, radio, television set, video game system, video game accessory or component, or stereo equipment.
- (e) *Pawnbroker* means a person who engages in pawnbroker transactions.
- (f) *Pawnbroker or secondhand dealer establishment* means a person with a fixed place of business where pawnbroker or secondhand dealer transactions occur. A pawnbroker or secondhand dealer establishment includes both the person and its fixed place of business.
- (g) *Pawnbroker transaction* means engaging in the act of:
 - (1) Lending money on the deposit or pledge of tangible personal property other than secondhand precious metal objects, coins, or numismatic items; or
 - (2) Purchasing tangible personal property, other than secondhand precious metal objects, coins, or numismatic items, on the condition of reselling the property to the seller at a stipulated price.
- (h) *Person* means an individual, corporation, partnership, business trust, limited liability company, or any other type of business entity.
- (i) (1) *Secondhand dealer* means a person that engages in secondhand dealer transactions.
 - (2) *Secondhand dealer* does not include:
 - (i) A charitable, religious, or nonprofit organization, if the exchange of items for consideration is incidental to the organization's primary activity;
 - (ii) An antique show, trade show, convention, or auction;
 - (iii) A flea market as defined in the Howard County Zoning Regulations;
 - (iv) A person whose primary retail trade is new and unused video game components, video game systems, video games, or video game accessories; or
 - (v) An antique dealer.
- (j) *Secondhand dealer transaction* means engaging in the act of receiving tangible personal property, other than secondhand precious metal objects, coins, or numismatic items, and offering the tangible personal property to the public for sale, trade, barter, or other consideration.

(C.B. 5, 2005, § 1)

Sec. 14.1002. - Licenses required.

- (a) A person shall not own or operate a pawnbroker or secondhand dealer establishment within Howard County unless the person obtains a pawnbroker or secondhand dealer establishment license as required by this subtitle.
- (b) A person shall not conduct or participate in pawnbroker or secondhand dealer transactions unless the person obtains an employee license as required by this subtitle.

(C.B. 5, 2005, § 1)

Sec. 14.1003. - Requirement to maintain license.

- (a) A license required by this subtitle shall be issued for two calendar years.
- (b) A license required by this subtitle shall be renewable upon payment of a license fee and compliance with the requirements of this subtitle.
- (c) If a person required to be licensed under this subtitle ceases to engage or operate in pawnbroker or secondhand dealer transactions or is no longer employed as a pawnbroker or secondhand dealers, the license shall be returned to the Department upon cessation of the pawnbroker or secondhand dealer transactions.

(C.B. 5, 2005, § 1)

Sec. 14.1004. - Transferability.

- (a) A license to operate a pawnbroker or secondhand dealer establishment shall not be transferred from one person to another.
- (b) A person who holds a pawnbroker or secondhand dealer establishment license shall notify the Director in writing prior to moving the establishment from one location to another location within Howard County.
- (c) An employee license shall not be transferred from one individual to another.

(C.B. 5, 2005, § 1)

Sec. 14.1005. - Fees.

- (a) The County shall charge a license application fee and a two-year license fee for each license required by this subtitle.
- (b) A license shall be issued for two calendar years and the license fee shall be due upon application for a new or renewed license.
- (c) There shall not be a refund of a license application fee. There shall not be a refund or proration of a two-year license fee, except that a first two-year license fee submitted with the initial application may be refunded if the initial license is not granted.
- (d) The County Council shall annually adopt by resolution a fee schedule for a license application and a license.

(C.B. 5, 2005, § 1)

Sec. 14.1006. - Applications in general.

- (a) An application for a license shall be submitted to the Department on a form provided by the Director.
- (b) An application shall include a notarized statement attesting to the truth of the information provided under penalties of perjury which shall be signed by:
 - (1) Each individual listed on the application; or
 - (2) If the Applicant is a corporation, association, partnership, sole proprietorship, or other business entity, each authorized officer, Director, or general partner of the Applicant.
- (c) An application shall be accompanied by payment of the application fee and the license fee for the first two-year term.

- (d) An individual under the age of 18 shall not be eligible to receive a license under this subtitle.
- (e) The Director shall have the authority to obtain a criminal background check on each individual listed in the application.
- (f) During the term of the license, if there is a change in the information that a person provided in an application for a license or license renewal, the person must report the change to the Department within 30 days after the change occurs and must certify, under penalties of perjury, that the new information is correct.

(C.B. 5, 2005, § 1)

Sec. 14.1007. - Application for pawnbroker or secondhand dealer establishment license.

- (a) If an Applicant for a pawnbroker or secondhand dealer establishment is an association, partnership, or corporation the application shall include information from the following individuals:
 - (1) If the Applicant is an association or partnership, the required application information shall be provided for each associate or partner;
 - (2) If the Applicant is a corporation, the required application information shall be provided for each officer or Director; or
 - (3) If another corporation owns ten percent or more of the stock of the Applicant, the required information shall also be provided for each officer or Director of the owning corporation.
- (b) An Applicant that is an association, partnership, corporation, limited liability company, or other business entity shall provide a copy of all organizational documents, including, without limitation, articles of incorporation.
- (c) For each individual listed in an application, the application shall include:
 - (1) That individuals:
 - (i) Full name, including maiden name, aliases, and names under which the individual has previously been known;
 - (ii) Date of birth, residence address, Social Security Number, and residence phone number at the time of application and for the three-year period preceding the date of application; and
 - (iii) Business address and business phone number at the time of application;
 - (2) A complete set of fingerprints taken by the Howard County Police Department;
 - (3) Information regarding any pawnbroker or secondhand dealer-related permit or license issued in any jurisdiction which has been denied, suspended, or revoked and the reasons for the denial, suspension, or revocation; and
 - (4) A State-issued photograph identification card or driver's license.
- (d) An application for a pawnbroker or secondhand dealer establishment license shall include:
 - (1) The location, mailing address, and phone number of the premises where the pawnbroker or secondhand dealer will operate;
 - (2) The location, mailing address, and phone number of an off-site storage location where the pawnbroker or secondhand dealer will store items;
 - (3) If the pawnbroker or secondhand dealer is not the owner of the premises, written acknowledgement from the owner of the premises approving the use of the premises to engage in pawnbroker or secondhand dealer transactions;

- (4) If the pawnbroker or secondhand dealer is not the owner of the off-site storage location, written acknowledgement from the owner of the off-site storage location approving the use of the off-site storage location to store items; and
 - (5) If the pawnbroker or secondhand dealer is not the owner of the premises or off-site storage location, they shall include a copy of their current lease with their application.
- (e) An application shall include an authorization for governmental inspection, including police inspection, of the premises or off-site storage location during the application process and while the license is in effect for the purpose of ensuring compliance with this subtitle.

(C.B. 5, 2005, § 1)

Sec. 14.1008. - Application for an employee license.

- (a) Only an individual shall be eligible for an employee license.
- (b) For each individual listed in the application, the application shall include:
 - (1) The individuals:
 - (i) Full name, including maiden name, aliases, and names under which the individual has previously been known;
 - (ii) Date of birth, residence address, Social Security Number, and residence phone number at the time of application and for the three-year period preceding the date of application; and
 - (iii) Business address and business phone number at the time of application; and
 - (2) A complete set of fingerprints taken by the Howard County Police Department;
 - (3) Information regarding any pawnbroker or secondhand dealer-related permit or license issued in any jurisdiction which has been denied, suspended, or revoked and the reasons for the denial, suspension, or revocation;
 - (4) A State-issued photograph identification card or driver's license; and
 - (5) Three recent photographs of the individual required to be licensed, not more than two inches square.

(C.B. 5, 2005, § 1)

Sec. 14.1009. - Granting application.

The Director shall approve an application unless:

- (a) The information provided by the Applicant is incorrect or incomplete;
- (b) The Applicant has been convicted of a felony, crime of moral turpitude, or a violation of gambling, controlled dangerous substance, or theft laws;
- (c) The Applicant's license to act as a pawnbroker or secondhand dealer or as an employee of a pawnbroker or secondhand dealer in any jurisdiction has been denied, revoked, or suspended; or
- (d) The premises listed in the application does not meet the County's health, zoning, fire or building code requirements.

(C.B. 5, 2005, § 1)

Sec. 14.1010. - Operating requirements.

- (a) A pawnbroker or secondhand dealer establishment may be open to the public only between the hours of 7:00 a.m. and 10:00 p.m. and shall not conduct pawnbroker or secondhand dealer transactions with the public at any other time.
- (b) A pawnbroker or secondhand dealer shall not conduct business through the use of a drive-up window or other practice, service, or device that enables an individual to conduct business from a motor vehicle without leaving the motor vehicle.
- (c) A person licensed shall conspicuously display a license granted pursuant to this subtitle within the premises.

(C.B. 5, 2005, § 1)

Sec. 14.1011. - Trading with minors prohibited.

A pawnbroker or secondhand dealer shall not engage in pawnbroker or secondhand dealer transactions with an individual who is under the age of 18.

(C.B. 5, 2005, § 1)

Sec. 14.1012. - Recordkeeping requirements.

- (a) A pawnbroker or secondhand dealer shall maintain a record of each item purchased, bartered, exchanged, or received in the course of business, including a record of the disposition of the item.
- (b) The record shall be signed by the seller and the pawnbroker or secondhand dealer or an agent or employee of the pawnbroker or secondhand dealer, and shall include:
 - (1) The date, time, and place of the transaction;
 - (2) The name and address of the principal, if the transaction is conducted by an agent;
 - (3) A comprehensive description of the item, including any visible identification marks such as initials, name of manufacturer, model and serial number, owner applied identification numbers, and whether the item appears to be new or in its original box or packaging;
 - (4) The consideration received;
 - (5) For each individual from whom the pawnbroker or secondhand dealer acquires an item:
 - (i) The name, address, telephone number, date of birth, and driver's license number of the individual; or
 - (ii) Identification information about the individual that:
 - 1. Identifies the individual from at least two forms of identification, which may include an age of majority card, military identification, or passport; and
 - 2. Provides a physical description of the individual, including the gender, race, any distinguishing features, and approximate age, height, weight, hair and eye color of the individual; and
 - (6) The name, address, and telephone number for each individual to whom the pawnbroker or secondhand dealer sells or transfers the item.
- (c) The pawnbroker or secondhand dealer shall:
 - (1) Maintain the record for at least three years from the date of the transaction;
 - (2) Retain the record in an electronic data storage medium specified by the Police Department; and

- (3) Submit a copy of the record to the Police Department by electronically transmitting the record by 10:00 a.m. on the next business day after the transaction.

(C.B. 5, 2005, § 1)

Sec. 14.1013. - Holding periods.

- (a) A pawnbroker or secondhand dealer shall hold each item purchased or received in the course of business for ten days after submitting a copy of the record of the transaction or until the item is inspected by the Police Department, whichever occurs first.
- (b)
 - (1) A pawnbroker or secondhand dealer may submit to the Police Department a written request for a shorter holding period for a specific item.
 - (2) Within 96 hours after receiving the request, the Police Department shall approve or deny the request.
 - (3) If the Police Department does not respond to the request within 120 hours, the request is deemed to be approved.
- (c) During the holding period for an item, the pawnbroker or secondhand dealer:
 - (1) Shall tag the item in accordance with police department requirements;
 - (2) Shall store the item in a secure location on the premises that is separate from other items or at the off-site storage location listed in the application; and
 - (3) Shall not remove the item from the pawnbroker or secondhand dealer's licensed location of business or off-site storage location.
- (d) The holding period required by this section does not apply to a pawned item that is redeemed with the original pawn ticket.

(C.B. 5, 2005, § 1)

Sec. 14.1014. - Release of stolen property to the Police Department.

A pawnbroker or secondhand dealer is subject to the provisions of the business regulation article, section 12-401 of the Annotated Code of Maryland in regard to the release of stolen property to the Police Department.

(C.B. 5, 2005, § 1)

Sec. 14.1015. - Inspections and right of entry.

- (a) A pawnbroker or secondhand dealer shall allow an authorized member of the Department, the Police Department, or other enforcement agency to enter the pawnbroker or secondhand dealer establishment or storage premises at any reasonable time for the purpose of enforcing this subtitle.
- (b) If a pawnbroker or secondhand dealer refuses to allow entry, the County may seek a court order allowing entry.
- (c) An authorized member of the Department, the Police Department, or other enforcement agency shall have the right to enter a building, structure, or premises without the prior consent of the owner or occupant where there is evidence that a violation of this subtitle exists which threatens or may threaten the public health and safety for the purpose of enforcing the provisions of this subtitle. The authorized member of the Department, the Police Department, or other enforcement agency shall produce proof of identity prior to entry.

- (d) This section does not prohibit the Police Department from seeking a search warrant for the investigation of any criminal violation, including a violation of this subtitle.

(C.B. 5, 2005, § 1)

Sec. 14.1016. - Regulations.

The Chief of Police or the Director may adopt regulations to implement this subtitle.

(C.B. 5, 2005, § 1)

Sec. 14.1017. - Notice of violation.

- (a) Except as provided in subsection (c) of this section, if a violation of this subtitle is found, the Director shall provide to the licensee a written notice that describes the violation, specifies the action necessary to correct the violation, and sets forth the time to correct the violation.
- (b) The Director shall serve a notice of violation by certified mail, restricted delivery or by personal service. If service cannot be obtained by certified mail, restricted delivery or personal service, the notice may be posted in a conspicuous location on the pawnbroker or secondhand dealer establishment.
- (c) A notice of violation shall not be required if the licensee violates the same provision of this subtitle for which it had received one notice of violation within a 12-month period.

(C.B. 5, 2005, § 1)

Sec. 14.1018. - Denial, revocation or suspension of license.

- (a) The Director may issue an order denying, revoking, or suspending a license for the following reasons:
- (1) The information provided by the licensee or Applicant in the application is incorrect, incomplete, or has not been updated as required by this subtitle;
 - (2) The licensee or Applicant has been convicted of a felony, crime of moral turpitude, or a violation of controlled dangerous substances, gambling, or theft law;
 - (3) The licensee or Applicant's permit or license to act as a pawnbroker or secondhand dealer in any jurisdiction has been denied, revoked, or suspended;
 - (4) A licensee has failed to comply with a notice of violation; or
 - (5) The licensee or Applicant has violated one or more of the provisions of this subtitle.
- (b) An order denying, revoking, or suspending a license shall be served upon the licensee or Applicant by certified mail, restricted delivery or by personal service. The order shall contain the reasons for the denial, revocation, or suspension. If service cannot be obtained by certified mail, restricted delivery or personal service, the notice may be posted in a conspicuous location on the pawnbroker or secondhand dealer establishment.
- (c) Within 30 days of the date of an order, a person aggrieved may appeal the order to suspend, revoke, or deny a license to the Department in accordance with administrative procedures act set forth at title 2, subtitle 1, article 3 of the Howard County Code. The filing of an appeal shall not stay the order of the Director.
- (d) Within 30 days of the date of the decision of the Department on the appeal of an order, a person aggrieved may appeal the decision to the Circuit Court of Howard County, Maryland in accordance

title 2, subtitle 1, article 3 of the Howard County Code. The filing of an appeal shall not stay the order of the Department.

(C.B. 5, 2005, § 1)

Sec. 14.1019. - Civil penalties.

- (a) The Department may institute any action at law or equity, including injunction or mandamus, to enforce the provisions of this subtitle.
- (b) Alternatively, and in addition to and concurrent with all other remedies, the Department may enforce the provisions of this subtitle with civil penalties in accordance with title 24 of this Code.
 - (1) A violation of section 14.1015 of this subtitle is a Class A offense.
 - (2) A first violation of any other provision of this subtitle is a Class B offense. A subsequent violation of any other provision of this subtitle is a Class A offense.
- (c) Each day that a violation continues is a separate offense.

(C.B. 5, 2005, § 1)

Sec. 14.1020. - Criminal penalties.

A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$900.00 or imprisonment not exceeding five months or both.

(C.B. 5, 2005, § 1)

Sec. 14.1021. - Severability.

If any part of this subtitle is held invalid, the invalidity shall not affect the other parts.

(C.B. 5, 2005, § 1)

SUBTITLE 11. - COMMON OWNERSHIP COMMUNITY REGISTRATION

Sec. 14.1100. - Purpose; applicability.

- (a) The purpose of this subtitle is to protect the public health, safety, and welfare by further enhancing the Department's ability to conduct fire safety inspections by requiring a Common Ownership Community to register with the Department.
- (b) This subtitle shall apply to common ownership communities as defined in this subtitle.

(C.B. 53, 2009, § 1)

Sec. 14.1101. - Definitions.

In this subtitle the following terms have the meanings indicated:

- (1) *Common area* means:
 - (i) All of a multifamily residential building, except the individual dwelling units; and

- (ii) The property owned by the Common Ownership Community that is surrounding the multifamily residential building.
- (2) *Common ownership community* means:
 - (i) A multifamily residential building that is subject to a condominium regime pursuant to Title 11 of the Real Property Article of the Annotated Code of Maryland; or
 - (ii) A multifamily residential "Cooperative Housing Corporation", as that term is defined in section 5-6B-01 of the Corporations and Associations Article of the Annotated Code of Maryland.
- (3) *Council of Unit Owners* shall have the meaning described in section 11-109 of the Real Property Article of the Annotated Code of Maryland.
- (4) *Department* means the Department of Inspections, Licenses and Permits.
- (5) *Director* means the Director of the Department of Inspections, Licenses and Permits or the Director's designee.
- (6) *Relevant fire safety requirements* means fire safety requirements set forth in:
 - (i) The Property Maintenance Code for Rental Housing, set forth in title 3, subtitle 7 of this Code;
 - (ii) The Howard County Fire Prevention Code, set forth in section 17.104 of this Code; and
 - (iii) The Howard County Building Code, set forth in title 3, subtitle 1 of this Code and any codes adopted in the Howard County Building Code by reference.

(C.B. 53, 2009, § 1)

Sec. 14.1102. - Registration.

- (a) A Common Ownership Community shall register with the Department annually on a form provided by the Department.
- (b) Upon the recommendation of the County Executive, the County Council may adopt a registration fee by resolution.
- (c) Within 30 days of the change, a Common Ownership Community shall notify the Department if there is a change in:
 - (1) The name of the community;
 - (2) The ownership interest of the community, including a change in a resident agent or officer;
 - (3) The management company or maintenance company; or
 - (4) Any other information required on the registration form.

(C.B. 53, 2009, § 1)

Sec. 14.1103. - Inspection and enforcement authority.

- (a) The Director shall interpret, administer, enforce, and implement the provisions of this subtitle for:
 - (1) Failure to register or failure to notify the Department of a change in information as required by this subtitle; or
 - (2) Failure to comply with relevant fire safety requirements.
- (b) The Director may:

- (1) Inspect a common area for compliance with relevant fire safety requirements; and
 - (2) Enter a common area at a reasonable time to make inspections pursuant to this subtitle.
- (c) Inspections, which are purely governmental in nature, are made solely for the public benefit and shall not be construed as providing any warranty or representation concerning the condition of the common area to the public.
- (d) The Common Ownership Community, occupant, tenant, or other person in charge of a common area subject to this subtitle shall give the Director entry and free access to any part of the common area, property, or premises for the purposes of inspection under this subtitle. If entry or access is refused or restricted, the Director may seek a court order to allow entry and access.

(C.B. 53, 2009, § 1)

Sec. 14.1104. - Notices of violation; citations.

- (a) If the Director determines that there has been a violation of this subtitle or of relevant fire safety requirements or has reasonable grounds to believe that a violation has occurred, the Director shall issue a notice of violation under this section.
- (b) A notice of violation:
- (1) Shall be in writing; and
 - (2) Shall include:
 - (i) A description of the Common Ownership Community sufficient for identification;
 - (ii) A description of the violation; and
 - (iii) A reasonable time period to correct the violation.
- (c) The Director may issue a citation for failure to comply with a notice of violation and a citation shall contain the information required by section 24.106(III) of this Code.

(C.B. 53, 2009, § 1)

Sec. 14.1105. - Service of notices of violation and citations.

- (a) Subject to subsection (b) of this section, a notice of violation and citation is properly served if a copy is hand delivered or sent by first class mail:
- (1) If the Common Ownership Community is incorporated:
 - (i) To the resident agent;
 - (ii) To the Council of Unit Owners of a condominium regime; or
 - (iii) To an officer of the corporation or to a member of the Board of Directors of a Cooperative Housing Corporation; or
 - (2) If the Common Ownership Community is not incorporated, to the Council of Unit Owners.
- (b) If service cannot be obtained by one of the methods set forth in subsection (a) of this section, service may be obtained by:
- (1) Publishing the notice of violation or citation at least once in a local newspaper of general circulation; or
 - (2) Posting the notice of violation or citation in a conspicuous place in the common area where the violation existed or has occurred.

- (c) In addition to the service requirements set forth in this section, a copy of the notice of violation or citation shall be sent to the management company or maintenance company for the Common Ownership Community.

(C.B. 53, 2009, § 1)

Sec. 14.1106. - Penalties.

- (a) The Department may institute any action at law or equity, including injunction or mandamus, to enforce the provisions of this subtitle.
- (b) A person who violates any provision of this subtitle is guilty of a misdemeanor and upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both.
- (c) Alternatively, and in addition to and concurrent with all other remedies, the department of inspections, licenses and permits may enforce this subtitle pursuant to title 24, "civil penalties" of the Howard County Code. A violation of this subtitle is a Class B offense. Each day that a violation continues is a separate offense.

(C.B. 53, 2009, § 1)

TITLE 15 - NATURAL RESOURCES

SUBTITLE 3. - FENCES

Sec. 15.300. - Party fences; duty as to.

When the lands of any two persons adjoin, each of them shall make and maintain one-half of the whole length of the line of fence between them, and if either of said persons shall fail or neglect to make his proportion of said fence, or to keep or put the same in good repair within 60 days after he shall have been notified and requested to do so in writing, then the party making said request may make or repair said fence at the expense of the party so neglecting or refusing, to be recovered from him in an action of debt, with costs of suit.

(P.L.L. 1930, Art. 14, § 194; 1912, Ch. 211; 1918, Ch. 238, § 2)

Sec. 15.301. - Same; hitherto unenclosed land.

Should any person wish to fence in any land which has hitherto been unenclosed, after having built his proportion of said fence, he shall give to the party whose land adjoins his notice in writing that he must erect his proportion of said fence within 60 days; and if the party so notified shall fail to erect his proportion of said fence, the same remedy as given in section 15.300 shall apply.

(P.L.L. 1930, Art. 14, § 195; 1918, Ch. 238, § 3)

Sec. 15.302. - Same; determination of cost.

Before proceeding, however, to make or repair the fences mentioned in sections 15.300 and 15.301, the person who has given the notification in writing shall apply to a judge of the district court of the said County, who, upon affidavit of the party that he has given such notice, and that said fence has not been erected or repaired within the time specified, shall summon three disinterested landholders, who shall view the said fence and shall determine the proper amount of money to be expended in erecting or

repairing the same in a good and substantial manner, and said inquisition shall be put in writing, and the party erecting or repairing such fence shall not expend more than said sum.

(P.L.L. 1930, Art. 14, § 196; 1918, Ch. 238, § 4)

Sec. 15.303. - Same; construction.

The fences to be made or kept in repair shall be at least four feet high, and shall be sufficiently close to prevent hogs from pressing through same; provided, said fence be not within five miles from the City of Baltimore.

(P.L.L. 1930, Art. 14, § 197; 1918, Ch. 238, § 5)

Sec. 15.304. - Same; compensation of appraisers.

The landowners summoned under section 15.302 shall be allowed the same per diem compensation as witnesses before the District Court of Howard County for each day they may be engaged in the performance of their duties.

(P.L.L. 1930, Art. 14, § 198; 1918, Ch. 238, § 6)

SUBTITLE 4. - BEVERAGE CONTAINERS⁽³⁾

Footnotes:

---- (3) ----

Editor's note— C.B. 26, 1977 repealed sub. 4, §§ 15.400—15.403, and enacted in lieu thereof a new sub. 4, §§ 15.400—15.413, pertaining to beverage containers. The act from which this subtitle is derived was approved at a referendum held in 1978. Certain sections failed to pass, and these have been noted at the proper places.

Sec. 15.400. - Definitions.

For the purposes of this subtitle, unless the context requires otherwise, the following words have the meanings given herein:

- (a) *Beverage* means beer or other malt beverages and mineral waters, soda water and similar soft drinks in liquid form and intended for human consumption, whether or not carbonated, but does not include uncarbonated water, soups, fluid milk products, natural or partially natural reconstituted or frozen fruit, vegetable or meat juices, or liquids intended for medicinal purposes only.
- (b) *Beverage container* means the individual, separate, sealed glass, metal or plastic bottle, can, jar or carton containing a beverage.
- (c) *Biodegradable material* means material which is capable of being broken down by bacteria into basic elements.
- (d) *Consumer* means every person who purchases a beverage container for use or consumption.
- (e) *Dealer* means every person in Howard County who engages in the sale of beverages in beverage containers to a consumer, and includes every person in Howard County who engages in the business of servicing and replenishing coin-operated vending machines in which beverages are sold

in beverage containers. However, "dealer" does not mean a church, school, political, civic or charitable group or organization.

- (f) *Director* means the Director of the Department of Inspections, Licenses and Permits of Howard County or his designee.
- (g) *Distributor* means every person who engages in the sale of beverages in beverage containers to a dealer in Howard County, including any manufacturer who engages in such sales.
- (h) *Manufacturer* means every person bottling, canning or otherwise filling beverage containers for sale to distributors or dealers.
- (i) *Place of business* means the location at which a dealer sells or offers for sale beverages in beverage containers to consumers.
- (j) *Refillable* means a beverage container which can be refilled at least five times and is so designated by type by the Director.
- (k) *Soft drink* means ginger ale, root beer, sarsaparilla, soda pop or any soda water, cola or other carbonated or noncarbonated beverage.
- (l) *Use or consumption* includes the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale or the keeping or retention of a beverage for the purposes of sale.

(C.B. 26, 1976; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Secs. 15.401—15.404. - Reserved.

Editor's note— Section 15.401, relative to refund value required for beverage containers; § 15.402, requiring dealers and distributors to accept and pay refund value for empty beverage containers; § 15.403, authorizing dealers and distributors to refuse to accept certain empty containers; and § 15.404, requiring certain markings on beverage containers, were defeated in the 1978 referendum.

Sec. 15.405. - Certain metal beverage containers prohibited.

No person shall sell or offer for sale in Howard County any metal beverage container so designed and constructed that a part of the container is detachable in opening the container without the aid of a can opener.

(C.B. 26, 1976)

Sec. 15.406. - Certain connecting devices prohibited.

No person shall sell or offer for sale in Howard County any beverage containers connected to each other with plastic rings or similar devices which are not classified as biodegradable by the Director.

(C.B. 26, 1976)

Sec. 15.407. - Nonrefillable beverage containers prohibited.

No person shall sell or offer for sale in Howard County any beverage containers not designated as refillable by the Director.

(C.B. 26, 1976)

Sec. 15.408. - Authorization to certify certain beverage containers.

- (a) To promote the use in Howard County of reusable beverage containers of uniform design, and to facilitate the return of containers to manufacturers for reuse as a beverage container, the Director may certify beverage containers which satisfy the requirements of this section.
- (b) A beverage container may be certified if:
 - (1) It is reusable as a beverage container by more than one manufacturer in the ordinary course of business; and
 - (2) More than one manufacturer will, in the ordinary course of business, accept the beverage container for reuse as a beverage container and pay the refund value of the container.
- (c) The Director may by rule establish appropriate liquid capacities and shapes for beverage containers to be certified or decertified in accordance with the purposes set forth in subsection (a) of this section.
- (d) A beverage container shall not be certified under this section if by reason of its shape or design, or by reason of words or symbols permanently inscribed thereon, whether by engraving, embossing, painting or other permanent method, it is reusable as a beverage container in the ordinary course of business only by a manufacturer of a beverage sold under a specific brand name.

(C.B. 26, 1976)

Sec. 15.409. - Granting certification of beverage containers; review and withdrawal of certification granted.

- (a) Unless an application for certification under section 15.408 is denied by the Director within 60 days after the filing of the application, the beverage container shall be deemed certified.
- (b) The Director at any time may review certification of a beverage container. If after such review, with written notice and hearing afforded to the person who filed the application for certification under section 15.408, the Director determines the container is no longer qualified for certification, he shall withdraw certification.
- (c) Withdrawal of certification shall be effective not less than 30 days after written notice to the person who filed the application for certification under section 15.408 and to the manufacturers referred to in subsection (b) of section 15.408.

(C.B. 26, 1976)

Sec. 15.410. - Certification and withdrawal procedures.

The procedures for certification or withdrawal of certification provided for in sections 15.408 and 15.409 shall be in accordance with the Howard County Administrative Procedure Act.

(C.B. 26, 1976)

Cross reference— Administrative Procedure Act, § 2.100 et seq.

Sec. 15.411. - Penalties.

Any person found guilty of violating this subtitle shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$100.00. Each day of violation shall constitute a separate offense.

(C.B. 26, 1976)

Sec. 15.412. - Authority to study and report on effectiveness of this subtitle.

- (a) During the period commencing on the enforcement date of this subtitle, and ending when he submits the report provided for in subsection (b) of this section, the County Executive shall cause to be conducted a study of the operation of the provisions of this subtitle that shall include but not be limited to an analysis of:
- (1) The problems if any, incurred in the distribution, sale and return of beverage containers subject to the provisions of this subtitle, including the effect, if any, on tax revenues accruing to Howard County;
 - (2) The effectiveness of the provisions of this subtitle in reducing energy consumption, solid waste and the incidence of the littering by beverage containers in Howard County;
 - (3) The effect of the provisions of this subtitle on consumer beverage prices;
 - (4) The degree of consumer acceptance of the provisions of this subtitle;
 - (5) The costs incurred in the enforcement of the provisions of this subtitle.
- (b) Not later than 12 months following the enforcement date of this subtitle, the County Executive shall prepare and submit to the County Council a report of his findings made pursuant to subsection (a) of this section and his recommendations with respect to any legislative proposals considered by him to be necessary as the result of the study conducted as required by subsection (a) of this section.

(C.B. 26, 1976)

Sec. 15.413. - Enforcement date.

- (a) The enforcement of the subtitle, except for sections 15.405, 15.406 and 15.407, shall not take effect until January 1, 1977.
- (b) Section 15.405 or 15.406 or 15.407 of this subtitle severally or together shall take effect when two counties contiguous to Howard County enact substantially similar legislation.

(C.B. 26, 1976)

SUBTITLE 5. - AGRICULTURAL PRESERVATION⁽⁴⁾

Footnotes:

--- (4) ---

Editor's note— C.B. 63, 2018, § 1, adopted Oct. 9, 2018, changed the title of subtitle 5 from "Agricultural Land Preservation" to the present title.

Editor's note— Subtitle 5, §§ 15.501—15.510, was repealed and reenacted to read as set out in §§ 15.500—15.521 by C.B. 10, 1993. The subtitle was formerly derived from C.B.'s 13, 1978; 47, 1979; 2, 1981; 7, 1983; 39, 1983; 3, 1985; 49, 1986; 72, 1987; 3, 1988; 62, 1988; 9, 1989; 17, 1989; 45, 1989; 151, 1991.

State Law reference— Agricultural land preservation, Ann. Code of Md., Agriculture article, § 2-501 et seq.

Sec. 15.500. - Short title; findings; purpose.

- (a) *Short Title.* This subtitle may be known as the Howard County Agricultural Sustainability and Land Preservation Act.
- (b) *Findings.* Much of the agricultural land in the County is in jeopardy of being lost for any agricultural purpose because of development pressures stemming from rapid growth in the region's population. It is in the public interest to preserve these agricultural lands and a robust agricultural economy because:
 - (1) Agricultural lands enhance the material and aesthetic quality of life in the County and are valued by both urban and rural residents;
 - (2) Maintaining viable farms makes possible the provision of fresh, high quality food close to the consumer;
 - (3) Agricultural lands serve as valued natural and ecological resources by providing needed open spaces for clean-air sheds, watershed, and floodplain protection;
 - (4) Preservation of agricultural land provides an eventual saving in the cost of public services that development would otherwise require.
- (c) *Purpose.* The purpose of this act is to protect the health, safety and well-being of present and future residents of Howard County by advancing the sustainability of agriculture as a viable sector of the County's economy and by conserving and protecting 30,000 acres of agricultural land as a resource of major importance. The County intends to acquire development rights by purchase of the land, by purchase of the development rights and by acceptance of dedicated remainders from cluster subdivision pursuant to the subdivision and zoning regulations. The County also intends to support farming, agricultural endeavors and its investment in easements by offering technical assistance, promoting agribusiness innovation, and developing future market opportunities.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Sec. 15.501. - Nonapplicability.

Except as expressly provided in this subtitle, the provisions of this subtitle do not apply to agricultural land preservation easements acquired by the County or districts established before the effective date of this act [May 1, 1993]. The law in effect at the time an easement was acquired will continue to govern easements acquired before the effective date of this act.

(C.B. 10, 1993)

Sec. 15.502. - Definitions.

For purposes of this subtitle, the following terms shall have the meanings indicated:

- (a) *Administrator* means the Director of the Department of Planning and Zoning or the Director's designee.
- (b) *Agricultural endeavors* means those agricultural uses that require the filing of a Schedule F for federal income tax purposes.

- (c) *Agricultural use* means farming and includes:
 - (1) Dairying, pasturage, growing crops, bee keeping, horticulture, floriculture, orchards, plant nurseries, viticulture, silviculture, aquaculture, and animal and poultry husbandry;
 - (2) The breeding, raising, training and general care of livestock for uses other than food, such as sport or show purposes;
 - (3) Construction and maintenance of barns, silos and other similar structures, the use of farm machinery, the primary processing of agricultural products and the sale of agricultural products produced on the land where the sales are made; and
 - (4) Other uses directly related to or as an accessory use of the premises for farming and agricultural purposes.
- (d) *Agricultural land preservation program* means the acquisition and stewardship of County agricultural land preservation easements and programs to support farming and agricultural endeavors. The program may be referred to as the "ALP Program".
- (e) *Board* means the Howard County Agricultural Preservation Board as described in section 15.503 of this subtitle. The Board may also be referred to as the "APB".
- (f) *Dedication* or *dedicated* refers to the process by which a landowner places a preservation parcel under a restrictive easement of the ALP Program.
- (g) *Department* means the Department of Planning and Zoning.
- (h) *Development right* means the right to develop the parcel for purposes other than agricultural uses. *Development right* includes, but is not limited to, the right to use the property for industrial or commercial uses, for residential purposes (except as set forth in this subtitle), or the storage or depositing of trash, junk, rubbish or debris.
- (i) *Easement; agricultural land preservation easement* means a recorded restriction on exercising the development rights on land.
- (j) *Grantor* means the landowner who conveyed an easement on a parcel to the County.
- (k) *Landowner* means the legal owner or owners of a parcel.
- (l) *Preservation parcel* means a parcel of land:
 - (1) Which is created in a subdivision after clustering; or
 - (2) That is:
 - (i) The sending parcel on a density exchange option or on a cluster exchange option pursuant to the zoning regulations; and
 - (ii) Subject to an agricultural land preservation easement.
- (m) *Pricing formula* means a formula adopted by resolution of the County Council to assign point values for various characteristics of a farm which make its preservation as agricultural land more or less valuable to the County.
- (n) *Public interest use* means a use which:
 - (1) Does not unduly interfere with the agricultural use of property subject to an easement; and
 - (2) Has been determined by the County Council to be a public interest use.
- (o) *Tenant housing* means housing for workers fully engaged in operation of the agricultural use and their families.

(C.B. 10, 1993; C.B. 19, 2006, § 1; C.B. 63, 2018, § 1)

Sec. 15.503. - Agricultural Preservation Board.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Establishment; Number of Members; Method of Appointment.* There is an Agricultural Preservation Board consisting of seven members who shall be appointed by the County Executive and confirmed by the County Council. When exercising the power of appointment and confirmation, the County Executive and County Council shall consider, at a minimum, the following areas including, without limitation:
 - (1) In order to ensure that members represent the diversity of farms and agricultural endeavors within the County, when appointing members under subsection (c)(2) of this section, consideration should be given to individuals based on the following criteria including, without limitation:
 - (i) Size of the agricultural operation;
 - (ii) Location of the farm or agricultural endeavor;
 - (iii) Type of farming or other agricultural endeavors; or
 - (iv) Participation in the ALP Program or the State of Maryland Land Preservation Foundation.
 - (2) When appointing members under subsection (c)(4) of this section, consideration should be given to individuals with experience or knowledge in the following areas including, without limitation:
 - (i) Land easements;
 - (ii) Real estate;
 - (iii) Agricultural economic development;
 - (iv) Sciences that relate to agriculture; or
 - (v) Other relevant experience.
- (c) *Membership:*
 - (1) All members shall be residents of Howard County.
 - (2) At least three of the members shall receive at least 50 percent of their annual income, at the time of their appointment, from active farming;
 - (3) At least one member shall own and farm property subject to an easement in the County's ALP Program;
 - (4) At least two of the members shall not receive income from agricultural endeavors.
 - (5) The Board may recommend board members to the County Executive based on the criteria listed in subsections (b)(1) and (b)(2) of this section.
- (d) *Executive Secretary.* A County employee from the Office of Community Sustainability shall be assigned to serve as the Executive Secretary to the Board and shall attend all meetings.
- (e) *Meetings.* The Board shall meet at least once every three months and more frequently as necessary to conduct the affairs of the Board. Meetings may be called by the chair or by any two members. The Board may decide not to meet one month in the spring and one month in the fall for the planting and harvesting seasons.
- (f) *Voting.* Any action or recommendation of the Board shall be by the affirmative vote of a majority of the members, except that five affirmative votes are needed to recommend to the County Executive acquisition of an easement.

- (g) *Conflict of Interest.* If a member of the Board or the member's spouse, parent, child, or affiliated business interest has a financial interest in a parcel, an offer may be made to sell an easement in the parcel to Howard County, provided that:
- (1) Pursuant to provisions of the Howard County Charter and the Howard County Code regarding conflicts of interest, the County Council has authorized the member to negotiate with the County for sale of the easement; and
 - (2) The Board member, in their Board capacity, does not participate in any discussions concerning price, terms of purchase or other issues related to the purchase; and
 - (3) The Board member abstains from discussing and voting on the Board's recommendation to the County Executive regarding the purchase of the parcel, and the price and terms.
- (h) *Duties and Responsibilities.* The Board shall have the following duties:
- (1) For the County Executive and County Council, the Board shall:
 - (i) Make recommendations on:
 - a. The acquisition of easements as provided in this subtitle;
 - b. The criteria and method for calculating the price for purchase of an easement;
 - c. ALP Program policy, and agricultural policy in general;
 - d. Agricultural and agricultural preservation issues by providing written or oral testimony; and
 - (ii) Listen to concerns and ideas of individuals, institutions, and organizations on agricultural issues affecting the County; and
 - (iii) Report annually on the status of the program and issues of particular interest or concern to the agricultural community.
 - (2) For the Department, the Board shall:
 - (i) In accordance with the terms of the deed of easement and this subtitle, review and make recommendations on proposals for:
 - a. The location of permitted lots and dwellings;
 - b. The construction of tenant housing;
 - c. Parcel subdivision of the land; and
 - d. Requests pertaining to an easement brought by the owners of the property subject to the easement. This section is not intended to limit the Department's police powers or the County's property rights under the easement;
 - (ii) Host or participate with the Department to conduct outreach, education or both, outreach and education, for potential easement applicants and existing property owners; and
 - (iii) Make recommendations on agricultural issues, including the evaluation of zoning related complaints and easement enforcement, based on the Board's knowledge of common and acceptable farming practices. This section is not intended to limit the Department's police powers related to zoning enforcement or the County's property rights under the easement;
 - (3) For the Hearing Examiner, the Board shall review and make recommendations on commercial solar facility and other conditional uses sought on easements as provided in the Howard County Zoning Regulations.
- (i) *Agricultural Preservation Advisory Board.* There is an Agricultural Preservation Advisory Board established pursuant to Title 2, subtitle 5 of the Agricultural Article of the Annotated Code of Maryland which makes recommendations on properties participating in the Maryland Agricultural Preservation Program. The advisory Board consists of five members of the Howard County

Agricultural Preservation Board who are also designated as members of the Agricultural Preservation Advisory Board. The other two members of the Howard County Agricultural Preservation Board shall not participate in the deliberations of the Agricultural Preservation Advisory Board.

(C.B. 63, 2018, § 1)

Editor's note— C.B. 63, 2018, § 1, adopted Oct. 9, 2018, added a new § 15.503, repealed § 15.504, and renumbered the existing § 15.503 as § 15.504. The former § 15.504 pertained to purchase of easements and derived from C.B. 10, 1993.

Sec. 15.504. - Methods of acquiring easements.

- (a) *Methods of Acquisition* . The County may acquire agricultural land preservation easements on land in the County in the following ways:
 - (1) By purchasing the development rights on eligible land.
 - (2) By dedication pursuant to the provisions of the zoning regulations concerning dedication of preservation parcels.
 - (3) By donation of the development rights on eligible land from the owners.
- (b) *Purchase of Easements* .
 - (1) There is a plan to finance the purchase of easements. The County Executive shall establish methods of paying landowners for these easements, including long-term obligations of the County through the use of installment purchase contracts. Since these contracts involve the spending of County money in future fiscal years, they are subject to approval by the County Council, pursuant to section 612 of the Howard County Charter. Contracts are exempt from the provisions of Section 19-205 and 19-206 of the Local Government Article of the Annotated Code of Maryland.
 - (2) The price of an easement shall be based on a pricing formula developed by the Board and approved by the County Executive and by resolution of the County Council.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Editor's note— C.B. 63, 2018, § 1, adopted Oct. 9, 2018, repealed § 15.504 and renumbered the existing § 15.503 as § 15.504. The former § 15.504 pertained to purchase of easements and derived from C.B. 10, 1993.

Sec. 15.505. - Easement administration.

- (a) *Procedures*. The Board may develop procedures for the review of parcels offering development rights to the County, the rating of desirability, the pricing of an agricultural land preservation easement, and the functioning of the ALP program and other related matters.
- (b) *Purchase Price Formula*. There is a purchase price formula for determining the price the County will pay per acre to purchase an agricultural land preservation easement. The formula shall be set by resolution of the County Council.
- (c) *Maps and Records*. The official maps of parcels subject to an agricultural land preservation easement are the 1 inch = 600 feet zoning maps. The Administrator shall update maps on a regular basis to reflect the addition of new parcels and the amendment of existing parcels.

(C.B. 10, 1993; C.B. 9, 2013, § 1; C.B. 63, 2018, § 1)

Sec. 15.506. - Easement eligibility criteria.

- (a) *Buying Easements.* Howard County may buy the development rights on a parcel provided that the purchase is consistent with the intentions and policies of the general plan and the parcel meets each of the criteria listed below:
- (1) *Developable.* The parcel shall be capable of being further developed to a greater residential density than presently exists or for nonagricultural uses. To meet this criteria, the parcel shall:
 - (i) Be in a zoning district which permits development to a higher residential density than presently exists; and
 - (ii) Be capable of being subdivided or developed for nonagricultural uses by right, notwithstanding the effect of the growth tier designation of the parcel on the County's general plan in terms of the parcel's major subdivision capability when the landowner applies to sell development rights to the County under this Act.
 - (2) *Size.* The parcel contains at least 20 contiguous acres.
 - (3) *Soils.* The parcel shall meet the following soils criteria:
 - (i) More than 50 percent of the parcel shall be U.S. Department of Agriculture capability Class I, II and III soils, and more than 66 percent of the parcel shall be Class I through IV soils; and
 - (ii) The parcel shall have:
 - a. A complete soil conservation and water quality plan approved by the local soil conservation district; and
 - b. Verification by the local soil conservation district that the plan reflects current conditions and activities on the land.
- (b) *Dedicated Acquisitions.* The criteria for the acceptance of development rights on a preservation parcel are that the parcel, if farmed, have a complete soil conservation and water quality plan approved by the local soil conservation district and verification that the plan reflects current conditions and activities on the land.
- (c) *Donated Acquisitions:*
- (1) The criteria for the acceptance of donated development rights on any parcel are that the parcel:
 - (i) If farmed, have a complete soil conservation and water quality plan approved by the local soil conservation district and verification that the plan reflects current conditions and activities on the land.
 - (ii) The parcel shall be capable of being further developed to a greater residential density than presently exists or for nonagricultural uses. To meet this criteria, the parcel shall:
 - a. Be in a zoning district which permits development to a higher residential density than presently exists; and
 - b. Be capable of being subdivided or developed for nonagricultural uses by right.
 - (2) Notwithstanding paragraph (1) of this subsection, an easement on real property may be donated to the County if the real property was released from an agricultural land preservation easement:
 - (i) To create a lot under section 15.514 of this subtitle; or
 - (ii) For a public interest use under section 15.516 of this subtitle.

(C.B. 10, 1993; C.B. 63, 2003, § 1; C.B. 19, 2006, § 1; C.B. 9, 2013, § 2; C.B. 23, 2017, § 1; C.B. 63, 2018, § 1)

Sec. 15.507. - Process for buying easements.

This process applies only to buying easements and does not apply to donated easements or to easements acquired by dedication of a preservation parcel.

- (a) *Applications.* An application to sell the development rights shall be submitted to the Administrator by the landowner. The application shall be in a form approved by the Department, shall contain the information required and shall be accompanied by a nonrefundable application fee, the amount of which is set by resolution of the County Council.
- (b) *Number of Applications.* A landowner may submit an application for each parcel or may submit a single application as part of a package for multiple contiguous parcels.
- (c) *Review by Administrator:*
 - (1) The Administrator shall review each application to determine if all eligibility criteria for acquiring an easement are met.
 - (2) If the eligibility criteria are met, the Administrator shall evaluate the parcel, considering geographic location, productivity, soil characteristics, accessibility, size, developability, contiguity to other land on which the County holds easements, restrictions and covenants on the land, comments from other County departments, and any other information which may assist the Board in evaluating the desirability of the property.
 - (3) The Administrator shall prepare a detailed report on the parcel and the pricing formula score and shall submit the report, the application and the Administrator's evaluation and recommendation to the Board for its consideration.
 - (4) If the eligibility criteria are not met, the Administrator shall reject the application and shall notify the landowner of the rejection and the reason(s) for rejection. The landowner may request the Board to review the Administrator's decision to reject the application.
- (d) *Review by Board:*
 - (1) The Board may review the application, the Administrator's report and recommendation and may make an on-site inspection of the parcel.
 - (2) The Board shall hold a public meeting to receive comments from the public as to whether the parcel offered is acceptable and desirable.
 - (3) After the public meeting, the Board shall determine the price to be offered according to the pricing formula and may provide any recommendations to the County Executive concerning the acquisition.
- (e) *Purchase:*
 - (1) *Offers to landowners.* After determining the price to be paid per acre, based on the pricing formula, the Board shall make an offering proposal to the landowner to purchase the development rights. An offer made under this section is subject to the availability of adequate borrowing authority.
 - (2) *Recommendation to County Executive.* If the landowner agrees to the price, terms and conditions of the offering proposal, the Board shall advise the County Executive of the agreement in a written notification briefly describing the property and the price, terms and conditions agreed upon.
 - (3) *Action by County Executive.* The County Executive may not modify the agreed upon price, terms and conditions, and may only approve or disapprove the purchase as proposed.

- (4) *Installment purchase; multiyear agreement; Federal tax exemption.* If the County is to pay the price in installments, County Council approval of a multiyear agreement is required, pursuant to section 612 of the Howard County Charter. In addition, if the County and the landowner intend that the interest paid under the installment purchase agreement is to be exempt from federal income taxation, the transaction shall comply with all relevant provisions of the Internal Revenue Code of 1986, as amended.

(C.B. 10, 1993; C.B. 19, 2006, § 1; C.B. 9, 2013, § 3; C.B. 63, 2018, § 1)

Sec. 15.507A. - Alternate process for the purchase of easements.

- (a) *Applicability.* Notwithstanding any other provision of this subtitle, the process under this section applies to the purchase of an agricultural land preservation easement if the source of all or a portion of the funds for the purchase is a State or Federal grant program that requires, as a condition of the use of the funds, that a process other than that contained in this subtitle be used.
- (b) *Price of Easement.* To determine the price the County will pay for an agricultural land preservation easement the Administrator shall use the formula under subsection 15.505(b) of this subtitle or other method required by the program from which the funds originate.
- (c) *Notification to Potential Participants.* The Administrator may advertise the requirements for participation in the program or may notify potential Applicants through any means authorized under the program from which the funds originate.
- (d) *Review by Administrator.* The Administrator shall prepare an analysis of the proposed purchase of an easement based upon criteria for qualification under the program from which the funds originate. If the purchase of the easement is approved by the regulatory or administrative authority for the program from which the funds originate, the Administrator shall include the analysis in a report submitted to the Board.
- (e) *Review by Board:*
- (1) The Board shall review the application, the Administrator's report and recommendation and may make an on-site inspection of the parcel.
 - (2) The Board shall hold a public meeting to receive comments from the public as to whether the parcel offered is acceptable and desirable.
 - (3) The Board shall make a recommendation to the County Executive regarding the purchase of the easement. The Board may not revise the price to be offered for the purchase.
- (f) *Process for Purchase:*
- (1) *Confirmation of price and conditions of sale.* The Administrator shall confirm the purchase price for the development rights and any specific conditions required with the appropriate regulatory or administrative authority, and shall notify the property owner in a manner consistent with the requirements of the program under which the funds are provided.
 - (2) *Recommendation to the County Executive.* If the landowner agrees to the price, terms and conditions of the offering proposal, the Administrator shall notify the County Executive in writing of the agreement describing the property, the price, funding sources, and the terms and conditions agreed upon.
 - (3) *Action by County Executive.* The County Executive may not modify the agreed upon price, terms, and conditions, and may only approve or disapprove the purchase as proposed.
 - (4) *Installment purchase; multiyear agreement.* If the County is responsible as a participating party to a contract that requires the payment of funds from a fiscal year beyond the year in which the contract is made, the contract shall be approved by the County Council as a multiyear agreement under section 612 of the Howard County Charter.

(C.B. 7, 1999; C.B. 9, 2013, § 4; C.B. 63, 2018, § 1)

Sec. 15.508. - Process for acquiring an easement by donation.

This section applies only to the donation of agricultural land preservation easements.

- (a) A landowner whose parcel meets the criteria of subsection 15.506(c) may apply to donate an easement to the County.
- (b) The application shall be completed by the landowner and submitted to the Administrator.
- (c) The Administrator shall make a report and recommendation to the Board. The Board shall then make a recommendation to the County Executive whether or not to accept the donation.
- (d) If the County Executive agrees to accept donation of an easement, the Executive shall send a letter to the landowner accepting the offer.

(C.B. 10, 1993)

Sec. 15.509. - Process for acquiring an easement by dedication of a preservation parcel.

The Administrator may accept easements on preservation parcels which meet the criteria of subsection 15.506(b) during the subdivision process as set forth in the subdivision regulations and shall notify the Board of any such acquisition.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Sec. 15.510. - Fee simple acquisitions.

Funds dedicated for the acquisition of agricultural land preservation easements may be used to purchase land in fee simple, provided that the land shall then be subject to all the restrictions of an agricultural land preservation easement.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Sec. 15.511. - Restrictions.

- (a) The restrictions and covenants imposed by the agricultural land preservation easement shall be held by the County or its assigns in perpetuity and shall run with the land and bind all subsequent owners.
- (b) Land subject to an agricultural land preservation easement may not be:
 - (1) Developed for purposes other than agricultural uses.
 - (2) Used for commercial, industrial or residential purpose except as provided in section 15.514 or section 15.516.
 - (3) Subdivided except as provided in section 15.514.
- (c) No dwellings may be constructed on land subject to an agricultural land preservation easement except as provided in section 15.514.

(C.B. 10, 1993)

Sec. 15.512. - Obligations.

- (a) *Soil Conservation and Water Quality Plan.* The landowner shall continue to maintain a current soil conservation and water quality plan, approved by the local soil conservation district, and shall implement the plan according to the approved schedule.
- (b) *Agricultural Value Not to Be Reduced.* The owner shall not reduce the agricultural value of the land by use of practices unacceptable to the United States Department of Agriculture and the Maryland Department of Agriculture. If the land is not cropped or managed for pasture, it shall be maintained to control erosion and noxious weeds.

(C.B. 10, 1993)

Sec. 15.513. - Enforcement/penalties.

- (a) *Inspection.* The Administrator shall have the right, with prior notice to the landowner, to enter the land on which the County holds an agricultural land preservation easement in order to inspect for compliance with the conditions of the deed of easement.
- (b) *Civil Penalties.* The County may impose civil penalties pursuant to title 24 of the Howard County Code for failure of the landowner to maintain and implement the approved soil conservation and water quality plan, which failure shall be a Class A offense.
- (c) *Damages.* The County may seek monetary damages of up to 25 percent of the value of the easement from a landowner who substantially reduces the value of the easement by engaging in practices which are unacceptable to the U.S. Department of Agriculture or the Maryland Department of Agriculture.
- (d) *Injunction.* In addition to other remedies, the County may seek an injunction to halt practices which violate the terms and conditions of the easement.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Sec. 15.514. - Rights.

- (a) *General.* The landowner retains all rights of a fee simple owner, except for the development rights which are extinguished by the easement and the restrictions and conditions imposed in the deed of easement pursuant to this subtitle. The agricultural land preservation easement is perpetual and does not grant the public any rights of access or rights to the use of the land.
- (b) *Limited Number of One-Acre Lots.* This subsection applies only to parcels of 50 acres or more. A landowner may subdivide one one-acre lot per 50 acres of the total contiguous acreage which is subject to the easement. The County will release the easement for each one-acre lot permitted after all the following conditions are met:
 - (1) The Board has approved the release of the easement after determining that each lot is located to minimize any disruption of existing or potential future agricultural activities; and
 - (2) The landowner repays the County the price per acre that the County paid for the easement for each lot released.
 - (3) The one-acre maximum lot size permitted under this section may be increased by a maximum of 20 percent pursuant to sections 104.E.6 and 105.E.6 of the Howard County Zoning Regulations.
- (c) *Limited Number of Dwellings.* Only the following dwellings, which may not be subdivided from the land, may be constructed on land subject to an agricultural land preservation easement, after the Board has determined that they are located so as to minimize disruption of existing or potential future agricultural activities:

- (1) An existing dwelling which is no longer habitable may be replaced, provided that the existing dwelling is demolished;
- (2) If permitted under the deed of easement; tenant housing may be constructed at a density of one tenant dwelling per 25 acres; this density includes tenant housing which existed when the County acquired the easement;
- (3) A landowner's dwelling, if:
 - (i) There were no dwellings other than tenant housing on the parcel when the County acquired the easement; and
 - (ii) The parcel is 50 acres or larger; and
 - (iii) The parcel is not a subdivision or separate portion of the parcel on which the County acquired the easement, unless the landowner has relinquished the right to subdivide one of the one-acre lots allowed pursuant to section 15.517.
- (d) *Parcel Subdivision*. If the right to subdivide has not been relinquished under the terms of the deed of easement, a landowner may subdivide a larger parcel into smaller parcels if all the following conditions are met:
 - (1) The Board has reviewed the proposed subdivision and has determined that it meets requirements of this paragraph;
 - (2) Before subdivision the parcel is at least 100 acres;
 - (3) After subdivision, each parcel is at least 50 acres;
 - (4) After subdivision, the number of dwellings on each parcel does not exceed the numbers permitted by this section; and
 - (5) The deed of easement on the parcel is amended to allocate among the subdivided parcels any unexercised rights to create residential lots pursuant to this paragraph to ensure that no additional residential lots or dwellings are permitted as a result of the parcel subdivision.

(C.B. 63, 2003, § 1; C.B. 19, 2006, § 1; C.B. 53-2006, § 1; C.B. 9, 2013, § 5)

Sec. 15.515. - Exchange of easements.

- (a) *Authority* . In very limited circumstances and only where the exchange of easements would benefit the ALP program, the County may release the easement from land subject to a:
 - (1) Purchased easement;
 - (2) Donated easement; or
 - (3) Dedicated easement on a preservation parcel that is:
 - (i) Created, in accordance with the zoning regulations, on a density exchange option sending parcel; and
 - (ii) Subject to an agricultural land preservation easement.
- (b) *Value of the exchange* . An easement may only be exchanged for an easement on contiguous land of equal or greater acreage and agricultural value.
- (c) *Conditions to complete an exchange* . The exchange may not take place unless:
 - (1) The Board approves the exchange; and
 - (2) The subdivision regulations permit the exchange; and

- (3) The landowner bears all expenses in connection with the exchange, including, but not limited to, all subdivision fees, survey and engineering costs and any title search or title insurance required by the County.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Sec. 15.516. - Public interest uses.

At the request of the landowner and with the approval of the County Council, the County may release the easement on up to one acre of land for a public interest use provided that:

- (a) The Board, after public hearing, has recommended the release of the easement for the public interest use; and
- (b) The County Council, after public hearing, has passed a resolution finding that the proposed use is in the public interest and authorizing release of the easement; and
- (c) The landowner pays the County for the release at the same price per acre that the County paid to acquire the easement, plus interest at the general rate of interest.

(C.B. 10, 1993)

Sec. 15.517. - Optional right to exchange children's or grantor's lots.

A landowner who has the right to create one or more one-acre lots for the owner's personal use or the personal use of a child pursuant to the provisions of a deed of easement recorded prior to May 1, 1993, may, instead, elect to create one-acre lots permitted under section 15.514 on the following conditions:

- (a) The landowner relinquishes any further rights to create lots pursuant to the existing deed of easement; and
- (b) In determining the number of lots allowed by this election, any one-acre lots already created for the grantor or the grantor's children shall be deducted from the total number allowed pursuant to section 15.514;
- (c) The deed of easement is amended to reflect the exercise of this option.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Sec. 15.517A. - Optional right to build a dwelling in exchange for relinquishing the right to create a one-acre lot.

- (a) *Applicability.* The provisions of this section apply only on parcels smaller than 50 acres which have not been subdivided since the County acquired the easement, except for the creation of one-acre lots as permitted under the terms of the deed of easement. In addition, the parcel shall be one on which:
 - (1) The County acquired the easement before May 1, 1993;
 - (2) The landowner has the right to create one or more lots for the owner's personal use or the personal use of a child; and
 - (3) No dwelling of any kind existed at the time the County acquired the easement.
- (b) *Right to Build a Dwelling.* A landowner may build a dwelling which shall not be subdivided from the land, provided that the landowner relinquishes one of the one-acre lots to which he or she is entitled

under the terms of the deed of easement and amends the deed of easement to reflect the exercise of this option.

(C.B. 52, 1994)

Sec. 15.518. - Transitional provisions—Districts.

- (a) *Districts Required under Previous State Law.* Maryland Agricultural Land Preservation Foundation (the Foundation) law effective prior to July 1, 2007 required parcels to be included in agricultural land preservation districts before the landowner could offer an easement to the State. This requirement was repealed by Chapter 650 of the 2007 Laws of Maryland. This section deals with the status of the agricultural land preservation districts.
- (b) *Status of Districts in Which the State Has Purchased an Easement.* Pursuant to Chapter 650 of the 2007 Laws of Maryland, any district in which an easement has been transferred to the Foundation remains in force and may not be terminated.
- (c) *Status of Districts in Which the State Does Not Hold an Easement.* Pursuant to Chapter 650 of the 2007 Laws of Maryland, districts in which the State does not hold an easement were terminated as of July 1, 2012.

(C.B. 63, 2018, § 1)

Editor's note— C.B. 63, 2018, § 1, adopted Oct. 9, 2018, repealed the former § 15.518, and enacted a new § 15.518 as set out herein. The former § 15.518 pertained to Agricultural Land Preservation Board and derived from C.B. 10, 1993; C.B. 19, 2006, § 1; C.B. 68, 2016, § 1; C.B. 43, 2018, § 1.

Sec. 15.519. - Transitional provisions—Parcels subject to an agricultural land preservation easement acquired before May 1, 1993.

Except as specifically provided in this subtitle, the laws in effect prior to May 1, 1993 governing the use of parcels subject to an agricultural preservation easement, including the types and number of dwellings and the potential for subdivision, shall continue to govern all parcels which were subject to an agricultural land preservation easement prior to the effective date of this act.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Editor's note— C.B. 63, 2018, § 1, adopted Oct. 9, 2018, repealed the former § 15.519, and renumbered the former §§ 15.520 and 15.521 as §§ 15.519 and 15.520, as set out herein. The former § 15.519 pertained to the Maryland Agricultural Preservation Districts—authority, purpose, applicability; and derived from C.B. 10, 1993.

Sec. 15.520. - Transitional provisions—Districts.

- (a) *Districts Required Under Previous County Law.* Howard County agricultural land preservation law effective prior to May 1, 1993 required parcels to be included in agricultural land preservation districts before the landowner could offer the easement to the County. Pursuant to Council Bill No. 10-1993, that law was repealed and replaced by this subtitle which does not require the establishment of agricultural land preservation districts. There are parcels, however, which are in agricultural land preservation districts and which the landowners have not sold the development rights to the County. This section deals with the status of the agricultural land preservation districts.

- (b) *Status of Districts in Which the County Has Purchased an Easement.* All the parcels in which the County bought or was authorized to buy the easement before May 1, 1993 were in agricultural preservation districts. The district agreement for parcels subject to an agricultural preservation easement is superseded by the deed of easement and is hereby terminated.
- (c) *Status of Districts in Which the County Does Not Hold an Easement.* Districts in which the County does not hold an easement may continue as provided in the district agreement and pursuant to the law in effect when the district was created. However, the County shall terminate the district upon the written request of the landowner.

(C.B. 10, 1993; C.B. 63, 2018, § 1)

Editor's note— See editor's note to § 15.519.

TITLE 16 - PLANNING, ZONING AND SUBDIVISIONS AND LAND DEVELOPMENT REGULATIONS^[1]

Footnotes:

--- (1) ---

State Law reference— Zoning and planning, Ann. Code of Md. art. 66B, § 1.00 et seq.; applicability to County, Ann. Code of Md. art. 66B, § 1.02

SUBTITLE 1. - SUBDIVISION AND LAND DEVELOPMENT REGULATIONS^[2]

Footnotes:

--- (2) ---

Editor's note— C.B. 43, 1980, repealed subtitle 1 of title 16 and enacted in lieu thereof a new subtitle 1. Formerly, subtitle 1 was derived from C.B. 41, 1975; C.B. 27, 1977; C.B. 47, 1979; C.B. 19, 1979; C.B. 22, 1979; and C.B. 58, 1979. The new subtitle was amended by C.B. 9, 1982; C.B. 39, 1982; C.B. 47, 1982; C.B. 28, 1984, C.B. 59, 1984; C.B. 13, 1986; C.B. 12, 1987; C.B. 17, 1987; C.B. 21, 1988; C.B. 47, 1988; C.B. 61, 1988; C.B. 62, 1988; C.B. 66, 1988; C.B. 25, 1989; C.B. 13, 1990; C.B. 10, 1991; C.B. 11, 1992; C.B. 38, 1992; and C.B. 99, 1992. A new subtitle, §§ 16.100—16.157, was added by C.B. 121, 1992.

State Law reference— Subdivision regulations, Ann. Code of Md. art. 66B, § 5.01 et seq.

ARTICLE I. - GENERAL

Sec. 16.100. - Short title.

This subtitle may be cited as the Subdivision and Land Development Regulations of Howard County, Maryland.

(C.B. 121, 1992)

Sec. 16.101. - legislative intent.

- (a) *Purpose.* The purpose of this subtitle is to promote the health, safety, and general welfare of the residents of the County by:
- (1) Assisting orderly, efficient, and integrated development of land.

- (2) Providing the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the County.
- (3) Using land and buildings in ways which avoid traffic congestion and which provide for pedestrian movement.
- (4) Guiding public and private policy and action in order to provide infrastructure, including:
 - (i) Adequate and efficient transportation by a variety of means, including alternatives to the automobile.
 - (ii) Water systems of adequate size and pressure for water supply and fire protection.
 - (iii) Sewerage and adequate drainage.
 - (iv) Schools, parks, playgrounds, recreation, and other public facilities.
- (5) Ensuring that land use is consistent with the transportation and the water and sewer elements of the general plan, zoning regulations, and zoning map.
- (6) Determining development densities in the County, in conjunction with the zoning map and regulations.
- (7) Providing for development and the erection of structures in areas free from danger of flooding, erosion, stream siltation, soil slump, unsuitable sanitary conditions and other hazards.
- (8) Preserving the scenic beauty and natural resources of the County, including wetlands, streams, water quality, topography, forests and other vegetation.
- (9) Ensuring appropriate development with regard to natural features.
- (10) Preserving cultural features and historic sites or structures.
- (11) Providing for adequate open space for recreation, light and air and to prevent overcrowding of the land and undue congestion.
- (12) Ensuring adequate provisions are made for public fire protection.
- (13) Providing uniform procedures and standards for the processing of subdivision plans.
- (14) Assisting County officials in securing adequate records of land titles.

(C.B. 121, 1992; C.B. 52, 2001, § 1)

Sec. 16.102. - Applicability.

This subtitle shall apply to all divisions of land and all development of land situated within Howard County, with the following exceptions:

- (a) *Comprehensive Development.* This subtitle shall not apply where it is inconsistent with the zoning regulations concerning comprehensive development in areas zoned new town, planned golf course community, mixed-use, or other planned unit development.
- (b) *Rights-of-Way or Land Acquisition or Disposition.* The provisions of this subtitle do not apply to parcel or lot line changes occurring as a result of highway, road, street, utility or other improvements which require acquisition or disposition of right-of-way or land by a public agency or a corporation regulated by the Public Service Commission, provided that any remaining lots shall be consistent with the zoning regulations.
- (c) *Minor Subdivisions and Resubdivisions:*
 - (1) *Exempt from sketch and preliminary plan.* Provided that the proposed subdivision does not involve public road improvements, a minor subdivision is exempt from the sketch plan and preliminary plan procedures of this subtitle. Initial submissions of minor subdivisions may be at the final plan stage.

- (2) *Plat to cover entire parcel.* Submissions shall cover the entire parcel being subdivided, except for agricultural preservation subdivisions or parcels of 50 acres or more that have not been previously included on a recorded plat.
 - (3) *Zoning.* The Department of Planning and Zoning may permit minor subdivisions or resubdivisions which are not in accordance with the minimum lot size requirements of the zoning regulations if:
 - (i) The minor subdivision or resubdivision improves the compliance of existing lots that do not meet current zoning bulk regulations by bringing the noncomplying lots as close to zoning compliance as possible; and
 - (ii) The remainder of the parcel after the minor subdivision or resubdivision is in accordance with the zoning regulations.
- (d) *Resubdivisions Exempt from Sketch and Preliminary Plan:*
- (1) Resubdivision plan approval is required in order to modify a previously recorded plat for residential and nonresidential properties by adding or deleting lots or modifying lot lines. A resubdivision is exempt from the sketch plan and preliminary plan procedures of this subtitle if:
 - (i) There are no public road improvements required; and
 - (ii) There is no addition to the area previously recorded, except for the inclusion of deeded acreage which only provides the site with access or public road frontage.Initial submissions of such resubdivisions may be at the final plan stage.
 - (2) Resubdivision lots shall be renumbered using the next highest unrecorded lot number in the subdivision.
- (e) *Agricultural Preservation Subdivisions Exempt from Sketch and Preliminary Plan.* Parcels in the agricultural preservation program which are eligible for subdivision are not required to submit a sketch plan or preliminary plan. The initial submission may be a final plan.
- (f) *Merger of Nonresidential Parcels.* Where two or more nonresidential parcels that have not been part of a previously recorded subdivision are to be merged and interior lot lines are to be eliminated, neither a sketch plan nor a preliminary plan is required as long as no public road improvements are required. The initial submission may be a final plan.
- (g) *Multifamily Development:* Existing parcels planned for multifamily dwellings are exempt from the subdivision submission requirements of this subtitle, if no additional lots are created and no public road improvements and no right-of-way dedication is required. Such projects are subject to the site development plan requirements and all other requirements of this subtitle.
- (h) *Pending Subdivisions and Developments.* Except as otherwise provided by law, if the processing requirements of sections 16.144, 16.147, and 16.156 of this subtitle are met, plans which have reached the following stages in the approval process prior to the effective date of this subtitle shall continue to be processed in accordance with the regulations which were in effect at the time of plan approval:
 - (1) Preliminary plan original signature or preliminary equivalent sketch plan original signature approval;
 - (2) Final plan approval letter for minor subdivisions and resubdivisions; or
 - (3) Site development plan original signature approval.If the approved plans fail to meet the processing requirements, the plans shall be resubmitted pursuant to this subtitle. Plan changes that alter the limits of submission or the limits of disturbance shall also be processed pursuant to this subtitle.

- (i) *Cemetery Preservation:*

- (1) *Time limits on Planning and Zoning extended.* The time limit requirements imposed on the Department of Planning and Zoning for approval/denial of a submitted sketch plan or preliminary equivalent sketch plan, preliminary plan, or final plan, pursuant to section 16.144 of this subtitle, and for approval/denial of a site development plan pursuant to section 16.156 of this subtitle, shall be extended to allow for compliance with the public meeting, recommendation and final decision making requirements of subtitle 13 of this title, "Cemetery Preservation."
- (2) *Milestones stayed.* If a cemetery boundary documentation and accommodation plan is required to be submitted for the first time after the approval of a sketch plan or a preliminary equivalent sketch plan, pursuant to subtitle 13 of this title, "Cemetery Preservation," then any milestone imposed, pursuant to section 16.144 of this subtitle, requiring the submission of a preliminary plan or a final plan, shall be stayed from the time of the submission of the cemetery boundary documentation and accommodation plan to the time of the decision by the Department of Planning and Zoning of that plan.

(C.B. 121, 1992; C.B. 13, 1993; C.B. 20, 1996; C.B. 15, 1998; C.B. 52, 2001, §§ 1, 2; C.B. 45, 2003)

Sec. 16.103. - Administration.

- (a) *Provide Information to All Parties.* The Department of Planning and Zoning shall keep all parties to a proposed subdivision or development advised in writing of the Department's recommendations and actions.
- (b) *Department of Planning and Zoning Responsible for Final Action.* The Department of Planning and Zoning is responsible for the final approval or disapproval of proposed subdivisions and site developments. In making its decision on a subdivision or site development plan the Department shall consider the reports and recommendations of the review committee and other appropriate agencies to which it has sent the plan for comment and recommendation.
- (c) *Plans Approved if They Comply with Requirements.* The Department of Planning and Zoning shall approve a subdivision or site development plan which:
 - (1) Complies with the requirements of this Title and the provisions of subtitle 11, "Adequate Public Facilities"; subtitle 12, "Forest Conservation,"; and subtitle 13, "Cemetery Preservation," of this title; and
 - (2) Is consistent with the zoning regulations.
- (d) *Plans Approved if No Action Within Prescribed Time Limitations.* If the Department does not act on a subdivision plan or site development plan within the time limits of this subtitle, the plan shall have automatic approval.
- (e) *Types of Final Action.* Final action by the Department of Planning and Zoning on a subdivision or site development submittal shall be:
 - (1) Approval;
 - (2) Approval with required modification; or
 - (3) Denial.
- (f) *Financial Obligations for Required Improvements; Developer's Agreement.* Upon approval of a subdivision or site development plan, the developer shall post financial obligations for the required public improvements. A developer's agreement and a major facilities agreement, if required, shall be executed between the developer and the County prior to recording of the record plat or signature approval of the site development plan. The agreement may provide that the developer may be partially released from the surety requirements of the agreement upon partial completion of the work in accordance with the criteria established by the Department of Public Works.

- (g) *Conflict with Other Regulations.* If a provision of this subtitle overlaps or contradicts another law covering the same subject matter, the provision which is more restrictive or imposes higher standards or requirements shall govern.
- (h) *Lots in a Proposed Subdivision May Not Be Sold.* The owner or agent of an owner of a proposed subdivision shall not transfer or sell any proposed lots within the subdivision before it has received final plat approval and been recorded or filed in the office of the Clerk of the Circuit Court for Howard County. The description of a lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from this prohibition. Violations shall be enforced pursuant to section 16.106 of this subtitle.
- (i) *Building and Other Permits:*
 - (1) The Department of Planning and Zoning shall not endorse a building permit in any subdivision or development until and unless the requirements of these regulations have been met.
 - (2) If a site development plan is required by these subdivision regulations, no permit shall be issued for the construction, alteration, or use of a structure or lot unless:
 - (i) Signature approval of the site development plan original is complete; and
 - (ii) The permit is in accordance with the approved site development plan.
- (j) *Correction Plats.* The Department of Planning and Zoning may administratively approve corrections or revisions to previously recorded plats which do not change the number of lots or the lotting plan. The addition or modification of any public or private easements must be processed as a correction plat and recorded in the land records of Howard County, with the exception of revertible easements and easements for on-site sewage disposal systems.
- (k) *Fees.* Fees for the processing of plans pursuant to this subtitle shall be established by the County Council with recommendations from the Department of Planning and Zoning. The Department of Planning and Zoning may refund any portion of fees if the Director determines an error was made in collecting the fee.

(C.B. 121, 1992; C.B. 3, 1993; C.B. 20, 1996; C.B. 52, 2001, § 2)

Sec. 16.104. - Waivers.

- (a) *Authority to Grant.* So that substantial justice may be done and the public interest secured, the Department of Planning and Zoning may grant waivers of the requirements of this subtitle, except as prohibited in subsection (d), in situations where the Department finds that extraordinary hardships or practical difficulties may result from strict compliance with this subtitle or determines that the purposes of this subtitle may be served to a greater extent by an alternative proposal.
- (b) *Conditions Under Which Waiver May Be Granted.* The Department of Planning and Zoning may approve a waiver to a provision of this subtitle provided that:
 - (1) The developer has presented a petition demonstrating the desirability of waiver; if the County requests additional justifying information, the information must be submitted within 45 days of the Department's letter of request. If the information is not submitted by the deadline, the Department shall deny the petition.
 - (2) The waiver shall not have the effect of nullifying the intent and purpose of this subtitle.
 - (3) Within 30 days of the date of the Department's decision letter regarding a waiver petition, the developer may submit additional information to support a request for the Department to:
 - (i) Modify any approval conditions;
 - (ii) Reverse the Department's denial; or
 - (iii) Add or delete specific waiver requests.

- (4) After 30 days, requests for reconsideration will require a new petition for a waiver and payment of fees in accordance with the adopted fee schedule.
- (5) Any waiver to the minimum requirements of this subtitle in regard to a particular subdivision or development shall be appropriately noted on the final plat or site plan.
- (c) *Period of Validity.* The waiver petition, if approved, will remain valid for 12 months from the date of approval or as long as a subdivision or site development plan is being actively processed in accordance with the processing provisions of section 16.144 of this subtitle. Subdivisions or site developments which fail to meet the processing requirements will be required to submit a new waiver request. Waivers granted to extend time limits for plan processing will remain valid for the time duration specified.
- (d) *No Waivers of Floodplain, Wetland, Stream, or Steep Slope Regulations in the Tiber Branch Watershed.* The Department may not grant waivers of any requirement of section 16.115 or section 16.116 of this title for any property located in the Tiber Branch Watershed unless the waiver:
 - (1) Was requested on or before November 7, 2016;
 - (2) Is necessary for the reconstruction of existing structures or infrastructure damaged by flood, fire, or other disaster;
 - (3) Is necessary for the construction of a stormwater management or flood control facility as part of a redevelopment project;
 - (4) Is necessary for the retrofit of existing facilities or installation of new facilities intended solely to improve stormwater management or flood control for existing development;
 - (5) Is requested as part of a development proposal and the Director of the Department of Public Works, or his designee serving as Floodplain Administrator, finds that upon completion of construction of the development, which may include off-site improvements within the Tiber Branch Watershed, there will be improvement to flood control in the Tiber Branch Watershed at least ten percent more than what would otherwise be required by law; or
 - (6) Is necessary for the construction of an addition, garage, driveway or other accessory use improvement of an existing residential structure on property located within the Tiber Branch Watershed that increases the square footage of the impervious surfaces on the property by no more than 25 percent over the square footage of impervious surfaces that existed on the property prior to the effective date of this bill [Dec. 9, 2016].

(C.B. 121, 1992; C.B. 20, 1996; C.B. 52, 2001, § 2; C.B. 80, 2016, § 1)

Sec. 16.105. - Appeals.

- (a) *Appeal to Board of Appeals.* A person aggrieved by an order of the Department of Planning and Zoning may, within 30 days of the issuance of the order, appeal the decision to the Board of Appeals.
- (b) *Appeal to Circuit Court.* The decision of the Board of Appeals may be appealed to the Circuit Court for Howard County in accordance with section 501 of the Howard County Charter.

(C.B. 121, 1992; C.B. 45, 2003)

Sec. 16.106. - Enforcement.

- (a) *In Violation of Approved Plan or Failure to have Approved Plan.* If property is developed, used, or maintained in violation of or without obtaining an approved final plan or site development plan, the County shall institute appropriate action to compel compliance. In addition to and concurrent with all other remedies, the County may enforce the provisions of an approved final plan or site development

plan with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of this Code and subtitle 16 of this title. A violation shall be a Class B offense under title 24 of this Code or an offense subject to a fine in the amount set forth in section 16.1608 of this title.

- (b) *Transferring Land Prior to Subdivision Plan Approval:*
- (1) The County may enforce the provision which prohibits the transfer or sale of lots in a proposed subdivision before final plat approval and recordation with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of this Code. A violation shall be a Class A offense.
 - (2) The County may enjoin such a transfer or sale by action for injunction brought in any court of equity jurisdiction.
 - (3) In addition to the foregoing the County may institute and maintain a civil action to set aside and invalidate any conveyance made in violation of the prohibition on transferring lots in an unapproved or unrecorded subdivision.
- (c) *Vacating of Plat.* The County may vacate a recorded plat when a developer fails to comply with the requirements of an executed developer's agreement and the value of the surety is insufficient for the County to complete the required public improvements if the following provisions apply:
- (1) No lots have been sold; and
 - (2) The current owner is unwilling to make the surety sufficient or to restrict sale of lots until the surety is made sufficient.
- (d) *County Shall Take Whatever Action Necessary.* Nothing in this section shall prohibit the County's taking whatever action is necessary to enforce the provisions of this subtitle and to protect the public health, safety and welfare.

(C.B. 121, 1992; C.B. 20, 1996; C.B. 52, 2001, § 2; C.B. 3, 2008, § 2)

Sec. 16.107. - Severability.

If any portion of this subtitle is held invalid or unconstitutional by a court of competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision; and the holding shall not affect the validity of the remaining portions of the subtitle.

(C.B. 121, 1992)

Sec. 16.108. - Rules of construction; definitions.

- (a) *Rules of Construction.* The following rules apply to the text of this subtitle:
- (1) The particular shall control the general.
 - (2) In case of any difference of meaning or implication between the text of this subtitle and any caption, illustration, summary table, or illustrative table, the text shall control.
 - (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
 - (4) Words used in the present tense shall include the future; words used in the singular number shall include the plural; words used in the plural number shall include the singular.
 - (5) A *building* or *structure* includes any part thereof.
 - (6) The phrase *used for* includes *arranged for, designed for, intended for, maintained for, or occupied for.*
 - (7) The word *person* includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

- (8) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction *and*, *or*, or *either/or*, the conjunction shall be interpreted as follows:
 - (i) *And* indicates that all the connected items, conditions, provisions, or events shall apply;
 - (ii) *Or* indicates that the connected items, conditions, provisions, or events may apply separately or in any combination; and
 - (iii) *Either/or* indicates that the connected items, conditions, provisions, or events shall apply separately but not in combination.
 - (9) The word *includes* shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
 - (10) All terms defined in subtitles 11 and 12 of this title, in the County zoning regulations and the Design Manual where occurring in this subtitle, shall have the meanings specified in those regulations.
 - (11) The word *County* means Howard County, Maryland. The word *State* means the State of Maryland. The term *County boundary* means any exterior boundary of the County.
 - (12) The terms *County Council*, *County Executive*, *Board of Appeals*, *Director of Planning and Zoning*, *Planning Board*, *County Solicitor*, *Director of Public Works*, *Director of Fire and Rescue Services*, *Director of Recreation and Parks*, *Department of Education*, and *County Health Officer* mean the respective council, boards and officers of the County.
 - (13) Throughout these regulations, all words, other than the terms specifically defined above and below, shall have the meaning implied by their context in these regulations or their ordinarily accepted definitions.
- (b) *Definitions.* As used in these regulations, the following terms shall be defined as follows:
- (1) *Active processing time* means the period of time after formal application for approval of a sketch plan, preliminary equivalent sketch plan, preliminary plan, final plan and plat, or site development plan during which the County is required to determine whether or not the development or subdivision plan or plat and attendant documents conform to County regulations. If a reviewing agency makes a written request to the developer for additional data or information, the time between issuance of the request and receipt of the reply is not part of the active processing time.
 - (1.1) *Adjoining property* means land which is touching or would be touching in the absence of an intervening utility or road right-of-way, other than a principal arterial highway, shall be considered adjoining for purposes of this subtitle.
 - (2) *Agricultural preservation subdivisions* means subdivisions of land in the County or State agricultural preservation programs, for which an agricultural preservation easement has been acquired pursuant to title 15, subtitles 5 and 6 of the Howard County Code and title 2, subtitle 5 of the Agricultural Article of the Annotated Code of Maryland.
 - (3) *Application, formal* means an application is formal when the Department of Planning and Zoning determines that the required number of plans and attendant documents have been submitted in the form required by these regulations and the appropriate fees have been paid.
 - (4) *Area, gross* means the entire area within a subdivision plan or plat or development project.
 - (5) Reserved.
 - (6) *Building development* means the improvement of land by the addition of structures.
 - (7) *Building envelope* means the area of a lot in which the principal buildings shall be located. The envelope is formed by the building restriction lines.

- (8) *Building restriction line* means lines established on lots to indicate the setbacks required by the zoning regulations for the zoning district in which the lot is located or the setbacks required by section 16.120 of this subtitle, if more restrictive.
- (8.1) *Bulk parcel* means bulk parcels may be recorded to permit a developer to stage subdivision or when project phasing is necessary because tentative housing allocations are not available. The bulk parcel must be resubdivided or developed in accordance with the pre-established phasing plan and may initially be buildable or non buildable depending on whether one housing unit allocation has been granted for the parcel.
- (9) *Capital budget* means the plan of the County, approved in the annual budget and appropriation ordinance, to receive and expend funds for capital projects during the first fiscal year included in the capital program.
- (10) *Capital program* means an annual document approved by resolution of the County Council indicating planned County capital projects authorized for the current fiscal year and for the following five fiscal years.
- (11) Reserved.
- (12) *Dedication* means the offering for conveyance of land or public improvements for any general and public uses, reserving to the owner no other rights than those of the general public.
- (13) *Design manual* means Howard County's technical standards, approved by resolution of the County Council, for design, construction and inspection of bridges, roads, storm drain structures, stormwater management systems, sidewalks, walkways, pathways, trails, parking areas, traffic-control devices, water and sewer facilities, and other improvements.
- (14) *Developer* means an individual, partnership, public agency or corporation (or their agent) that undertakes the responsibility for any or all of the activities covered by this subtitle, particularly the designing of a subdivision or site development plat or plan showing the layout of the land and the required public improvements. The term *developer* is intended to include the term *subdivider* even though the personnel involved in successive stages of the project may vary.
- (15) *Develop* or *development* means the establishment of a principal use on a site; a change in a principal use of a site; or the improvement or alteration of a site by the construction, enlargement, or relocation of a structure; the provision of stormwater management or roads; the grading of existing topography; the clearing or grubbing of existing vegetation; or any other non-farming activity that results in a change in existing site conditions.
- (16) Reserved.
- (17) *Developer's agreement* means an agreement between the County and the developer, covering the developer's financial obligations for all required public improvements relating to the subdivision.
- (18) Reserved.
- (18A) *Driveway* means a privately owned and maintained road which provides direct vehicular access from a public or private road to one or more lots or parcels.
- (19) Reserved.
- (20) *Final plat* means the official record of a division of land approved by the Department of Planning and Zoning and recorded in the land records of Howard County.
- (21) *Final subdivision plan* means a final plat and supporting detailed plans and data demonstrating that all technical requirements of the County's regulations have been met.
- (22) *Fire lane* means a lane within a road or a separate driveway to provide adequate emergency vehicle access.
- (23) *Floodplain* means that area which would be inundated by stormwater runoff equivalent to that which would occur from a rainfall of 100-year frequency, assuming total development of the

- watershed as shown in the general plan of the County. Floodplain determination shall be in accordance with the Design Manual.
- (24) *Frontage* means that portion of a lot or parcel of land which adjoins a public road that provides vehicular access to the property.
- (25) *General plan* means a plan for the County, approved by ordinance of the County Council, which includes, but is not limited to a plan for land use and land conservation and multiyear plans for transportation, public facilities, water, sewerage, parkland, housing, human services, historic preservation and environmental protection.
- (26) Reserved.
- (27) *Government action* means the action or inaction of a governmental agency in relation to a timely filed action by a developer. *Governmental agency* means an agency of the Federal, State, or local government, including, but not limited to, the U.S. Corps of Engineers, the Maryland Department of the Environment, the County Council, the Zoning Board, and the Board of Appeals.
- (28) *Health authority* means The Health Officer of Howard County or the officer's duly authorized representative.
- (28.1) *Initial plan submittal*. For required presubmission community meetings, the initial plan submittal is the:
- (i) Zoning petition, if it includes a site plan or a preliminary development plan;
 - (ii) Conditional use petition, if required;
 - (iii) Sketch plan or preliminary equivalent sketch plan for a major subdivision;
 - (iv) Final plan for a minor subdivision or resubdivision; or
 - (v) Site development plan for single-family units on deeded parcels, or for condominium or rental units on a parcel which is not part of a recorded subdivision that authorized an equal or greater number of residential units than proposed on the site development plan.
- (29) *Landscape edge* means the area around the perimeter of a development designated for buffer or screen plantings in accordance with the Landscape Manual.
- (30) *Lot or parcel* means a piece of land described in a final plat or deed and recorded in the land records of Howard County in accordance with the laws and regulations in effect at the time of recordation.
- (31) *Maryland Coordinate System* means a system of plan rectangular coordinates established for defining and stating the position or location of points on the surface of the earth within the State of Maryland.
- (31.1) *Major subdivision* means the division of a residential or agricultural parcel into five or more residential lots, including buildable preservation parcels, but excluding open space and nonbuildable preservation parcels.
- (32) *Minor subdivision* means the division of a residential or agricultural parcel that has not been part of a previously recorded subdivision, into four or fewer residential lots (including buildable preservation parcels but excluding open space and nonbuildable preservation parcels), either all at one time or lot by lot. However, a lot of 20 acres or less created by a division approved by Howard County prior to January 1, 1984 in order to comply with a court-ordered partition of real property, shall not be considered part of a previously recorded subdivision within the meaning of this definition.
- (32.1) *Net area* means the *gross area* minus all steep slopes existing at the time of subdivision and the area within the 100-year floodplain.

- (33) *Open space* means a separate lot or area which provides for protection of the environment, for recreation or for public use, including: public facilities such as schools, libraries, fire stations and parks as shown on the general plan or hiking, biking, and equestrian trails.
- (34) *Owner* means the person or other legal entity holding current legal title.
- (35) *Parcel number* means a descriptive term used to identify portions of land contained in the tax maps of Howard County.
- (36) *Pathway* or *walkway* means as distinguished from a sidewalk and crosswalk which are incorporated in a street right-of-way, a pathway or walkway is a paved path within a ten-foot pedestrian right-of-way, usually extending from a street to another street, or to a school site, open space, or other public or general use area.
- (37) *Pavement* means that portion of a street or walkway surfaced for vehicular or pedestrian traffic and constructed according to the Design Manual.
- (38) *Phased subdivision* means a subdivision utilizing sequential development by sections pursuant to a sketch plan for the entire subdivision which includes a schedule for submission of plans for the various sections and a schedule for completion of these sections.
- (39) *Pipestem lot* means a residential lot that is shaped like a pipe or flag, and is separated from the nearest road by another lot, except for an unbuildable strip of land 50 feet or less in width.
- (40) *Preliminary equivalent sketch plan* means a sketch plan which also provides the information required with a preliminary plan.
- (41) *Preliminary plan* means the preliminary engineered drawings and supplementary material that indicate how the proposed layout of the subdivision will meet the technical requirements of the County regulations.
- (41.1) *Preservation parcel* means a parcel in the RC or RR zoning district that encompasses all or a portion of the preserved area of a cluster subdivision or receiving subdivision, or that is designated as a sending parcel on a final plat of easement. A preservation parcel is encumbered by a preservation parcel easement and may be buildable or nonbuildable depending on whether one of the housing units permitted by zoning will be located on the parcel.
- (41.2) *Preservation parcel easement* means a permanent easement that prohibits a preservation parcel from subdivision and most types of development, as specified in the requirements for the RC and RR zoning districts.
- (42) *Public* means open to common use, whether or not public ownership is involved.
- (43) *Public improvements* means public improvements include all the infrastructure and improvements which this subtitle requires a developer to install in a subdivision or land development.
- (44) *Recorded subdivision* means a subdivision which has been recorded pursuant to:
- (i) Approval by the Howard County Planning Commission prior to March 12, 1969;
 - (ii) Approval by the Department of Planning and Zoning on or after March 12, 1969; or
 - (iii) A plat recorded prior to the requirement for County approval, including, but not limited to, North Laurel Park, Harwood Park, Lennox Park, The Cedars, Villa Heights, High Ridge Park, and Nordau.
- (45) *Reservation; reserve* means the identification and setting aside of an area of land on a subdivision or site development plan for future condemnation or acquisition for public use, which subjects the land reserved to use limitations for a specified period of time. Such land may be designated on the general plan or in the County or State capital improvement program or the State highway needs inventory.

- (45.1) *Residential infill* means a residential development in the area planned for both water and sewer service that creates one or more units on a property that adjoins an existing residential unit.
- (46) *Resubdivision* means a further division or modification of an existing subdivision previously approved by the County and recorded in the Howard County Land Records. However, a lot of 20 acres or less created by a division approved by Howard County prior to January 1, 1984 in order to comply with a court-ordered partition of real property, shall not be considered part of an existing subdivision previously approved by the County within the meaning of this definition.
- (47) *Review committee* means an advisory group to the Department of Planning and Zoning, organized to coordinate the subdivision and site development plan review process. The group shall include, but not be limited to, representatives of the following agencies:
- (i) Department of Public Works;
 - (ii) Health Department;
 - (iii) Department of Education;
 - (iv) Department of Recreation and Parks;
 - (v) Department of Fire and Rescue Services;
 - (vi) Department of Inspections, Licenses and Permits;
 - (vii) Soil conservation district;
 - (viii) Maryland State Highway Administration; and
 - (ix) Office of Transportation.
- (48) *Scenic road* means a public road or road segment that is included in the scenic roads inventory adopted by the County Council in accordance with section 16.1403 of this Code.
- (49) *Right-of-way* means a strip or parcel of land designated for use as a street, highway, driveway, alley, or walkway or for any drainage or public utility purpose or other similar uses.
- (50) *Sidewalk* means a paved walk primarily for pedestrian traffic, normally placed parallel to a street or highway and within the street right-of-way.
- (51) *Sight distance* means visual distance along a road or across an intersection, more specifically described in the Design Manual.
- (52) *Site development plan* means the plan indicating the location of existing and proposed buildings, structures, paved areas, walkways, existing and proposed grades, vegetative cover, landscaping, and screening within a lot or parcel proposed for development.
- (53) *Sketch plan* means a sketch indicating the developer's general objectives and lay-out for development of the land. The basic role of the sketch plan is to allow the County to provide the developer with important information that may affect the project and to ensure that the plan complies with Zoning Regulations and incorporates good planning and development principles.
- (54) *Soil map* means a map showing soil map symbols and outlines of soil types (U.S.D.A.—1968 and subsequent amendments).
- (55) *Steep slope* means a slope that averages 25 percent or greater over ten vertical feet.
- (56) *Stormwater management*:
- (i) *Quantity control* means a system of vegetative, structural, and other measures that control the increased volume and rate of surface runoff caused by development.
 - (ii) *Quality control* means a system of vegetative, structural and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff from development.

- (57) *Stormwater management plan* means a set of drawings or other documents, submitted as a prerequisite to obtaining stormwater management approval, which contain all of the information and specifications required by the Department of Public Works.
- (58) *Stream* means water, flowing in a definite direction in a channel with a bed and banks, and having a substantial degree of permanence, although flow may vary and in times of drought may cease to flow for a period of time. Includes perennial or intermittent streams, but does not include ditches or gullies resulting entirely from pipe outfalls or other man made features. Streams usually are shown on the 1 inch = 200 feet topographic maps of Howard County produced by Howard County or the soil survey of Howard County, Maryland, but field verification is necessary.
- (59) *Street, highway, road* means a facility providing for vehicular traffic. The Howard County General Plan designates highways which perform an arterial or collector function.
- (60) *Subdivision* means any division of a lot or parcel of land into lots or parcels for the immediate or future transfer of ownership, sale, lease or building development. The term includes lot mergers and resubdivision and, when appropriate to the context, shall relate to the process of subdivision or to the land subdivided.
- (61) *Traffic-control devices* means signs, signals, markings, and other devices prescribed to regulate, guide, or warn traffic.
- (62) *Trails* means as distinguished from a walkway and pathway which are paved, a natural path within a minimum ten-foot hiking/biking/equestrian right-of-way, intended to be open for common use.
- (63) *Wetland* means any land which has been determined by the Army Corps of Engineers or the Maryland Department of the Environment to be a regulated or jurisdictional wetland, as well as any land determined by the Soil Conservation District to be regulated wetlands using Federal and State standards.

(C.B. 121, 1992; C.B. 51, 1994; C.B. 107, 1994; C.B. 20, 1996; C.B. 52, 2001, §§ 1, 2; C.B. 45, 2003, § 1; C.B. 39, 2009, § 1; C.B. 5, 2017, § 1; C.B. 20, 2017, § 1)

Sec. 16.109. - Maps; coordinates; elevations, etc.

- (a) *Coordinates Using Maryland Coordinate System.* Coordinates for the outline of the subdivision or site development shall be established in the meridian of the Maryland Coordinate System, if control points and published information are within one mile of proposed subdivision. If not, the Department of Public Works will provide geodetic control. A note shall be placed on the vicinity map indicating the source of Maryland coordinate data.
- (b) *Elevations.* Elevation shown on preliminary and site development plans and on related topographic maps shall be based on current datum in accordance with Department of Public Works standards.
- (c) *Geodetic Control Survey Stations.* Howard County geodetic control survey stations located on the site to be developed shall be plotted accurately on the site development plan and similar construction documentation. The developer shall identify all those stations which require relocation. The Department of Public Works shall relocate these stations before a building permit is issued.

(C.B. 121, 1992)

Secs. 16.110—16.113. - Reserved.

ARTICLE II. - DESIGN STANDARDS AND REQUIREMENTS

Sec. 16.114. - General.

- (a) *Design Consistent with Subtitle.* In designing a subdivision or site development plan, the developer shall comply with the requirements of this subtitle.
- (b) *Consideration Consistent with Subtitle.* The Department of Planning and Zoning in considering an application for the subdivision or development of land shall be governed by the standards of this subtitle.
- (c) *Consistent with General Plan and Zoning Regulations and Map.* The subdivision or site development plan layout shall be consistent with:
 - (1) The transportation, and the water and sewer elements of the general plan of the County; and
 - (2) The zoning regulations and map, especially in relation to development densities, the permitted uses of land and the bulk requirements.
- (d) *Reflect Unique Characteristics of Site.* Subdivisions and site development plans shall reflect the uniqueness of the site responding to its topography, wetlands, streams, forests, historic resources and its relationship to adjoining land uses and roads, both proposed and existing.

(C.B. 121, 1992)

Sec. 16.115. - Floodplain preservation.

- (a) *Development Restricted in 100-Year Floodplain (Base Flood Elevation).* Development within the boundaries of the 100-year floodplain (base flood elevation) shall be pursuant to title 16, subtitle 7 of this Code. Most land within base flood elevation is considered a protection area (i.e., a stream valley or valuable ecological area or scenic resource) which is shown:
 - (1) In the General Plan of Howard County for conservation status; or
 - (2) In the master plan of parks for acquisition as a conservation area; or
 - (3) In the capital improvement program for acquisition as a conservation area.
- (b) *Floodplain Protection.* In subdivisions and site development plans containing a 100-year floodplain (base flood elevation), the floodplain land shall be protected in accordance with one of the following alternatives. Prior to the recordation of the final plat and final acceptance of the construction drawings, a deed description of the floodplain will be provided when requested.
 - (1) *Deed the floodplain land to the County.* Developers are encouraged to dedicate and deed the land in the 100-year floodplain (base flood elevation) to Howard County as permanent open space.
 - (2) *Grant a floodplain easement to Howard County.* If the floodplain is not dedicated to the County, the developer shall grant the County right of entry through a perpetual easement, and shall:
 - (i) Dedicate and deed the land area within the 100-year floodplain (base flood elevation) in fee simple to a legally constituted property owners association. The property owners association may use the area in any manner consistent with the maintenance and preservation of the area as a floodplain; or
 - (ii) Include the 100-year floodplain (base flood elevation) within the boundary of the lots in accordance with section 16.120 of this subtitle. The property owner whose lot includes floodplain area may use the area in any manner consistent with the maintenance and preservation of the area as a floodplain.
- (c) *Prohibitions on Use of Floodplain Land:*
 - (1) A person shall not store materials of any kind in a floodplain either temporarily or permanently. Accordingly, building materials and other debris shall not be stored or discarded in floodplains.

- (2) No clearing, excavating, filling, altering drainage, or impervious paving, may occur on land located in a floodplain unless required or authorized by the Department of Planning and Zoning upon the advice of the Department of Inspections, Licenses and Permits, the Department of Public Works, the Department of Recreation and Parks, the Soil Conservation District, or the Maryland Department of the Environment. Any proposed construction of a structure located within a floodplain shall be subject to the requirements of the Howard County Building Code.
- (d) *Delineation on Final Plats and Site Development Plans.* Floodplain limits shall be clearly defined, except for agricultural preservation subdivisions and rural cluster subdivisions where the floodplain is obviously not critical to the proposed development as defined by the Design Manual nor critical to calculation of forest conservation obligations. Final plats and site development plans shall show the following information:
 - (1) Floodplain elevations at every bearing change to be designated along floodplain limits. Elevation shall be designated at not greater than 200-foot horizontal intervals.
 - (2) Bearings and distances or coordinated values along each line.
 - (3) The area shall be labeled as "100-year floodplain, drainage, and utility easement".

(C.B. 121, 1992; C.B. 20, 1996; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1; C.B. 41, 2013, § 1(2))

Sec. 16.116. - Protection of wetlands, streams, and steep slopes.

(a) *Streams and Wetlands:*

- (1) Grading, removal of vegetative cover and trees, paving, and new structures shall not be permitted within 25 feet of a wetland in any zoning district.
 - (2) Grading, removal of vegetative cover and trees, paving, and new structures shall not be permitted within:
 - (i) Fifty feet of an intermittent stream bank;
 - (ii) Seventy-five feet of a perennial stream bank for Use I streams as classified by the Maryland Department of the Environment in residential zoning districts and residential and open space land uses in the NT, PGCC, and MXD districts;
 - (iii) One hundred feet of a perennial stream bank for Use III and IV streams; and
 - (iv) Fifty feet of a perennial stream bank in nonresidential zoning districts.
 - (3) In residential subdivisions, wetlands, streams, and their buffers shall be located in required open space or a nonbuildable preservation parcel rather than on residential lots except as permitted by section 16.120 of this subtitle.
 - (4) Wetlands and the required buffers for wetland and streams shall be delineated on final plats and site development plans with a clear notation of use restrictions. Wetlands need not be delineated for agricultural preservation subdivisions or rural cluster subdivisions if a qualified professional certifies that wetlands and buffers will not be impacted by the proposed lots or potential development.
- (b) *Steep Slopes.* Steep slopes are slopes that average 25 percent or greater over ten vertical feet.
- (1) Grading, removal of vegetative cover and trees, new structures, and paving shall not be permitted on land with existing steep slopes, except when:
 - (i) The on-site and off-site contiguous area of steep slopes is less than 20,000 square feet; and
 - (ii) There is sufficient area, a minimum ten feet, outside of stream and wetland buffers for required sediment and erosion control measures.

- (2) In residential subdivisions steep slopes existing at the time of subdivision shall be located in required open space or a nonbuildable preservation parcel, except as permitted by section 16.120 of this subtitle.
- (c) *Necessary Disturbance:*
- (1) Grading, removal of vegetative cover and trees, and paving are not permitted in wetlands, streams, wetland buffers, stream buffers or steep slopes unless the Department of Planning and Zoning determines based on a detailed justification provided by the developer that:
 - (i) It is necessary for construction of public or private roads, driveways, utilities, trails, pathways, or stormwater management facilities which are essential for reasonable development of the property;
 - (ii) The design minimizes disturbance;
 - (iii) There is no other reasonable alternative; and
 - (iv) The cost of an alternative improvement shall not be a factor in deciding whether the criteria in subject subsection (i) above can be met.
 - (2) Reasonable development, for the purpose of this subsection, does not guarantee maximum possible development under the zoning regulations for density receiving subdivisions in the RC and RR zoning districts. In any zoning district, achieving the maximum possible density is not sufficient justification alone to allow disturbance.
 - (3) If permitted, the grading, removal of vegetative cover and trees, or construction shall only be to the extent required to accommodate the necessary improvements. In these cases, the Department of Planning and Zoning shall require the least damaging designs, such as bridges, bottomless culverts or retaining walls, as well as environmental remediation, including the planting of the areas where grading or removal of vegetative cover or trees has taken place utilizing best practices for ecological restoration and water quality enhancement projects.
 - (4) An applicant shall request permission from the Department of Planning and Zoning for a necessary disturbance exception in writing for the grading, removal of vegetative cover and trees, or paving as described in subsection (c) of this section.
 - (5) The Department of Planning and Zoning shall make available to the County Council and the public on the Department's webpage a monthly report that includes the following information for each application for a necessary disturbance exception:
 - (i) The name of the applicant;
 - (ii) The date of the application;
 - (iii) Project name;
 - (iv) Project type;
 - (v) A description of the project;
 - (vi) The action of the Department to deny the application, approve the application, or advise the applicant to seek alternative compliance; and
 - (vii) If approved, include in the report the applicant's mitigation requirement.

(C.B. 121, 1992; C.B. 20, 1996; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1; C.B. 4, 2019, § 1)

Sec. 16.117. - Forest conservation and preservation of natural cover.

- (a) *Forest Resource Protection.* Land to be subdivided or developed shall be designed and improved in reasonable conformity to existing topography in order to minimize clearing or alteration of existing plant communities, especially forest areas, and to minimize associated stormwater runoff and soil

erosion impacts. Where required by subtitle 12 of this title, a forest conservation plan shall be submitted.

- (b) *Residential Restrictions.* In residential subdivisions forest conservation easements shall be located in open space or a nonbuildable preservation parcel except as permitted in section 16.120 of this subtitle.

(C.B. 121, 1992; C.B. 52, 2001, § 2)

Sec. 16.118. - Protection of historic resources.

- (a) *Historic Resource Identification.* Historic districts identified on the zoning map and historic sites designated by resolution of the County Council shall be shown on subdivision and site development plans. Human burial grounds shall also be identified by the developer.
- (b) *Guidelines.* The following guidelines suggest ways to improve project design and do not prohibit either demolition of historic structures or relocation of burial grounds in accordance with State law. This section applies upon adoption of a list of historic sites and criteria for nomination adopted by council resolution.
 - (1) Historic buildings, structures and landscape features which are integral to the historic setting should be located on a single lot of suitable size to ensure protection of the historic structure and setting. If demolition is proposed, information explaining this decision shall be provided (structural condition, cost to retain, etc.).
 - (2) Whenever possible, historic resources should be integrated into the design of the subdivision or site plan. If compatible, new and historic structures may be juxtaposed. Alternately, open space may be used to buffer the historic resources from new development.
 - (3) Access to the historic property should be via its existing driveway, wherever possible.
 - (4) The new subdivision road should be sited so that the lot layout does not intrude on the historic resources. The road should be oriented so that views of the historic property from the public road are of its primary facade.
 - (5) Grading, construction and landscaping on the adjacent lots should enhance views to and from the historic property, while buffering views of new development.
 - (6) Achieving the maximum possible density is not sufficient justification to allow adverse impacts on historic resources.
- (c) *Cemeteries.* Cemeteries shall be dealt with in accordance with subtitle 13 of this title. In any case, no grading or construction shall be permitted within 30 feet of a cemetery boundary or within ten feet of individual grave sites.

(C.B. 121, 1992; C.B. 13, 1993; C.B. 20, 1996; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1)

Sec. 16.119. - Highways, streets, and roads.

Streets, roads and highways within Howard County shall be located, designed and constructed in accordance with the Howard County Design Manual.

- (a) *General Guidelines.* In designing a highway, street, or road system, the following guidelines shall apply:
 - (1) Safe vehicular and pedestrian access shall be provided to all parcels of land.
 - (2) Highways, streets, and roads shall be suitably located, and adequately improved to accommodate prospective traffic and to afford access for emergency services, road maintenance, and other County services.

- (3) Residential streets shall clearly relate to their local function and traffic volumes. Pedestrian-vehicular conflict points shall be minimized.
- (4) Land uses which create high volumes of traffic within residential areas shall be considered in the design of the circulation pattern.
- (5) Local residential street systems shall be designed to minimize through traffic movement, but at the same time provide reasonably direct access to the primary circulation system.
- (6) Local circulation systems and land development patterns shall not conflict with the efficiency of bordering arterial routes.
- (7) The street layout shall be continuous in alignment and grade with existing streets, planned or platted, with which they are to connect.
- (8) Proposed public streets shall be extended to the boundary lines of the proposed subdivision so that a connection can be made to all adjacent properties. However, if the Department of Planning and Zoning determines after consultation with the review committee that such extension is not desirable due to environmental conditions or is not necessary for the coordination of existing streets or the most advantageous development of adjacent tracts, the Department may require transfer of a fee simple right-of-way to the adjacent property that is sufficient to accommodate a use in common driveway. If the adjacent property owner will not accept fee simple right-of-way transfer, then an access easement of equivalent size shall be recorded.

No subdivision shall be designed so as to create or perpetuate the landlocking of adjacent undeveloped land. The County Council may by its resolution terminate the extension of an existing street.

- (9) The street system layout shall be designed insofar as practicable to preserve natural features such as streams, wetlands, forest, topography, scenic views, and other natural features.
 - (10) Where required by this subtitle, the developer shall be responsible for street right-of-way, paving, curbs, gutters, shoulders, sidewalks, ramps, streetlights, street trees, and traffic-control devices.
 - (11) Street system layout shall provide for the acceptable disposal of stormwater to comply with provisions elsewhere in this subtitle and the Design Manual.
 - (12) Where topography or other conditions make the inclusion of utilities or drainage facilities within street rights-of-way impractical, perpetual unobstructed easements at least 20 feet in width for such utilities shall be provided across property outside the street right-of-way as determined by the Department of Public Works. Surface drainage easements exclusive of storm drainage outfalls shall be a minimum of ten feet.
 - (13) Streets which are permanently designed with only one end open to vehicular traffic shall be terminated in accordance with the Design Manual. If the street may be extended in the future and designated as a future extension on the record plat, a temporary T-turnaround shall be provided.
 - (14) Pedestrian walkways to commercial or institutional uses, schools, or other public facilities such as parks, nearby streets, or transit connections shall be provided where the Department of Planning and Zoning has determined that existing access is inadequate.
- (b) *Streets in Commercial and Industrial Areas:*
- (1) Subdivisions shall include a public right-of-way that will provide continuous access to a County or State street or highway.
 - (2) Streets carrying commercial and industrial traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent residential areas.

- (3) The design of streets, service drives, and pedestrian ways shall provide for safe and hazard-free internal circulation.
 - (4) Traffic movements in and out of commercial and industrial areas shall not interfere with external traffic, nor shall the movements create hazards to adjacent residential areas. Where required by the Department of Planning and Zoning, adjacent commercial uses shall consolidate entrances, use shared driveways or be interconnected to promote safe traffic movement. In such instances, cross easements are required.
- (c) *Grades.* Grades of streets shall not exceed the standards of the Design Manual, except that the Department of Planning and Zoning after consultation with the Department of Public Works may permit steeper grades where warranted by unusual topographic conditions or for the purpose of preserving trees or other natural conditions.
- (d) *Alignment.* Horizontal and vertical alignment for streets shall not exceed the standards of the Design Manual except where permitted by the Department of Planning and Zoning after consultation with the Department of Public Works.
- (e) *Intersections:*
- (1) Streets shall be designed to intersect as close to right angles as possible.
 - (2) Multiple intersections involving junctions of more than two streets shall be avoided.
 - (3) Roadways entering opposite sides of another roadway shall be located in accordance with the Design Manual.
 - (4) Minimum curb radii and paving radii at street intersections shall adhere to the Design Manual.
 - (5) The public right-of-way lines on corner lots at an intersection shall be truncated by straight lines joining points 25 feet back from the theoretical property line intersection in each quadrant.

Where the Department of Planning and Zoning, after consultation with the Director of Public Works, determines that more width is necessary to provide safe sight distance or for traffic channelization, it may require a cutoff greater than the 25 feet cited above.
 - (6) No building, structure, or planting shall be permitted within the public right-of-way, which obstructs the vision of those using the intersection.
- (f) *Access Restrictions:*
- (1) Where a proposed subdivision involves frontage on an arterial road, or a residential subdivision fronts a major collector, the street layout should provide vehicular access to the subdivision by a lower classification public road, except as provided in paragraph (3) of this subsection.
 - (2) The statement "Vehicular egress and ingress is restricted" shall be shown with limits on the final subdivision plat to prevent residential, commercial, or industrial driveways from having direct access to arterial highways and residential driveways from access to major collector roads.
 - (3) For subdivisions and site development plans with no other means of access except from a restricted access road, the Department of Planning and Zoning may approve a single use-in-common driveway that meets the minimum sight distance requirements of the Design Manual or the State Highway Administration's access requirements, if the Department determines that a public road is not required in accordance with subsection 16.119(a)(8) of this subtitle.
 - (4) For agricultural preservation subdivisions with no other means of access except from a restricted access road, the Department of Planning and Zoning may approve one or more driveway access points, based on justification by the owner and compliance with the Design Manual.
 - (5) For commercial and industrial properties adjoining a local road serving an existing single-family detached residential area and also having frontage and a State Highway Administration

approved, permanent vehicular access point on a State road, the Department of Planning and Zoning shall not approve a vehicular access driveway onto the local road.

- (g) *Rights-of-Way.* Streets and highways shall require a minimum right-of-way in accordance with the Design Manual or the requirements of the State Highway Administration.

(1) *Provision of rights-of-way for existing County and State roads:*

- (i) The owner shall provide the additional right-of-way to meet the minimum requirements when the existing right-of-way is insufficient because:
- a. The proposed subdivision or development borders, adjoins or includes an existing County or State road the right-of-way width of which does not conform to minimum right-of-way widths established by the Design Manual or the Maryland State Highway Administration; or
 - b. The general plan shows realignment of an existing County or State road that requires use of some of the land in the proposed subdivision or development and direct driveway access is provided to the proposed development.
- (ii) For subdivisions, the additional right-of-way shall be dedicated and deeded to the County or State on the recorded plat, unless the Department of Planning and Zoning determines that the traffic impact on an arterial road is minimal, in which case a right-of-way reservation will be required. For site development plans, the right-of-way shall be reserved or may be voluntarily deeded to the County or State prior to signature approval of the original site development plan. A plat will not be required.

(2) *Dedication of rights-of-way for new roads which provide access to subdivisions:*

- (i) Where a new County or State road, designated on the general plan, is located within and will provide direct driveway access to a proposed subdivision, the owner shall provide the right-of-way for the road in the general location indicated on the general plan.
- (ii) The Department of Planning and Zoning, after consultation with the Director of Public Works, or for State roads, the Maryland State Highway Administration, shall determine the right-of-way width, based on the density of development and projected traffic.
- (iii) For subdivisions, the right-of-way shall be dedicated and deeded to the County or State with the final plat, when direct driveway access is provided to the proposed subdivision.

(3) *Reservation of rights-of-way for new roads:*

- (i) *Requirement to reserve rights-of-way.* Where a proposed County or State road, designated on the general plan or included in the State highway needs inventory, is located within, but will not provide direct driveway access to a proposed subdivision or is located on a proposed site development plan, the owner shall reserve rights-of-way for the road.
- a. Except as provided in subparagraphs (iii), (iv) and (v) of this paragraph, no permit or approval shall be issued for development or subdivision on any part of the reserved right-of-way, nor shall the area of the reserved right-of-way be used in calculating the residential density allowed by zoning, open space, and forest conservation requirements.
 - b. Alternately, the additional right-of-way may be voluntarily dedicated to the County or the State, in which case the area of dedicated right-of-way shall be used in calculating residential density and open space requirements. A dedicated right-of-way shall be deeded to the County or the State either on the recorded plat or prior to signature approval of the site development plan.
- (ii) *Location and width.* The location and width of the reserved right-of-way shall be determined by the County or the State.
- (iii) *Petition for development on right-of-way for County or State road.* If the owner of property which includes a proposed County or State road files a petition for alternative compliance

in accordance with section 16.104 of this subtitle to allow development or subdivision on any part of the land within the proposed County or State road right-of-way, the Department of Planning and Zoning may grant the petition to issue the permit or approval if:

- a. The entire property of the landowner, excluding the proposed County or State road right-of-way, cannot yield a reasonable return to the owner unless the permit or approval is granted; and
 - b. In balancing the interest of the County to preserve the integrity of the general plan and the interest of the landowner to the use and benefits of the property, considerations of reasonable justice and equity require granting the request.
- (iv) *Requirements if Department of Planning and Zoning approves the petition.* If the Department of Planning and Zoning grants a petition to issue a permit or approval for development or subdivision within a proposed County or State road right-of-way, the Department shall specify details regarding the extent and character of the development or subdivision and may impose reasonable requirements benefitting the County as a condition of granting the petition.
- (v) *Requirements regarding reservations:*
- a. The period of time for which the right-of-way is reserved shall be specified on the recorded plat, permit, or approval. Written approval of all legal and equitable owners of the property is required for reservations longer than three years from the date of recordation of the plat or approval of the development.
 - b. With the written approval of the Department of Planning and Zoning, the reserved land may be used for agricultural and temporary uses permitted by the zoning regulations. The Department of Planning and Zoning may allow any permitted use of the reserved land which it finds will not impair the efficient and economic use of the land for a road.
 - c. The right-of-way area may be included within the area of lots in a subdivision provided that the right-of-way area is not used to satisfy minimum lot size requirements or other zoning requirements.
- (h) *Rail Service.* If rail service is proposed for the subdivision, the proposed alignment shall have prior approval by all County, State, and Federal regulatory bodies having jurisdiction before recordation of the final subdivision plat.

(C.B. 121, 1992; C.B. 51, 1994; C.B. 16, 1995; C.B. 20, 1996; C.B. 15, 1998; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1; C.B. 21, 2005, § 1)

Sec. 16.120. - Lot layout.

- (a) *Lot Access from Arterial Highways or Major Collector Roads:*
- (1) Residential lots, preservation parcels, and bulk parcels shall not derive direct access from arterial highways or major collector roads. Where residential lots, preservation parcels, and bulk parcels abut such roadways, access to the lots shall be in accordance with section 16.119 of this subtitle.
 - (2) Nonresidential lots shall not derive direct access from arterial highways. Where nonresidential lots front on such roadways, access to the lots shall be in accordance with section 16.119 of this subtitle.
- (b) *Lot Design:*
- (1) *Size, width, depth, etc.* The size, width, depth, shape, orientation, and yards of lots shall not be less than specified in the zoning regulations for the district within which the lots are located and shall be appropriate for the use contemplated, and available public utilities.

- (2) *Land for street widening:*
- (i) *Minimum lot area.* Land dedicated for street widening shall not be counted in satisfying the minimum lot area requirements of the zoning regulations.
 - (ii) *Special provision for minor subdivisions.* Land dedicated for street widening in a minor subdivision may be counted to satisfy up to ten percent of the minimum lot size requirements not to exceed the actual area dedicated, notwithstanding any provisions to the contrary in the zoning regulations or in this subtitle.
- (3) *Nonbuildable lots.* Lots using private sewerage or a private water system shall meet the requirements of the Maryland State Department of Environment. Lots which do not meet the requirements will be labeled "Nonbuildable until approved by the County Health Officer." The creation of any nonbuildable lot (excluding non-buildable preservation parcels) must be approved by both the Department of Planning and Zoning and the Health Department.
- (4) *Usable design.* Residential lots shall be designed to be usable in terms of:
- (i) Regular, generally rectangular lot shape;
 - (ii) Lot dimensions generally not exceeding a three to one lot depth to lot width ratio;
 - (iii) Not being encumbered by environmentally sensitive features:
 - a. For a lot or buildable preservation parcel 20,000 square feet or greater in size, excluding any pipestem area, steep slopes may be on the lot if located no closer than 35 feet from the building envelope. A deck may project ten feet beyond the building envelope;
 - b. For a lot or buildable preservation parcel of ten acres or greater in size, floodplains, wetlands, streams, their buffers, and forest conservation easements for afforestation, reforestation, or retention may be located on the lot or parcel if the building envelope is no closer than 35 feet from these environmental features provided that a deck may project ten feet beyond the building envelope;
 - c. For R-20 infill subdivisions that are restricted in using optional lot sizes under subsection 16.121(a) of this subtitle, steep slopes, floodplains, wetlands, wetlands buffers, streams, and stream buffers may be located on lots, provided that the building envelope is no closer than 35 feet from these environmental features, and provided that a deck may project ten feet beyond the building envelope; and
 - d. For condominium units and rental apartments, protected environmental features shall be located in open space with units no closer than 15 feet from the protected features;
 - (iv) Not being encumbered by access easements for stormwater management facilities or open space, except in accordance with subsection 16.121(e) of this subtitle; and
 - (v) *Drainage:*
 - a. The centerline of drainage swales shall be no closer than 15 feet from the rear of a residential dwelling.
 - b. Drainage inlets, outlets, headwalls, and rip-rap shall not be located within the building envelope on residential lots unless, based on justification prepared by the developer, the Department of Planning and Zoning determines there is no better alternative.
- (5) *Excessive noise levels:*
- (i) For residential subdivisions or site development plans a noise study may be required in accordance with the Design Manual. The subdivision or site development plan layout shall ensure that the noise level in the rear yard does not exceed the standard set in the Design Manual. Where necessary, noise mitigation shall be provided.

- (ii) Where residential lots will be impacted by excessive noise levels from an existing or proposed highway or railroad, and a wall or fence is required for noise mitigation, it shall be located in open space and maintained by a homeowner's association, if open space is being created. If open space is not being created, noise walls and fences shall be located on residential lots with cross easements for maintenance to be recorded with the final plat.
- (6) *Pipestem residential lots:*
- (i) *Limit on adjoining driveway entrances.* Pipestem lots are permitted. Not more than two pipestem lots may have adjoining driveway entrances to a public right-of-way, except that additional adjacent pipestem lots may be approved if the Department of Planning and Zoning determines that this design better protects environmental features or yields a better lot layout. In such instances a use-in-common driveway must be provided in accordance with the Design Manual.
 - (ii) *Length of pipestem lot.* The length of the pipestem shall not exceed:
 - a. One thousand five hundred feet for noncluster subdivision lots in the RC or RR zoning districts. For cluster subdivisions, the Department of Planning and Zoning may approve a greater pipestem length if this permits lots to be better located with respect to preservation parcels; or
 - b. Eight hundred feet for lots in all other zoning districts that are served by an individual or use-in-common driveway.
 - (iii) *Minimum lot area.* Minimum lot area shall not include the area of the pipestem.
 - (iv) *Front yard setback.* For pipestem lots the front yard setback shall be established in the nonpipestem area to permit best utilization for the lot and greatest privacy to the adjacent lot. The front setback shall be measured as a line parallel to the front lot line.
 - (v) *Subdivision layout:*
 - a. The subdivision lot layout shall pair or cluster pipestem lots whenever possible, so that the units on pipestem lots face each other across the use-in-common driveway.
 - b. In order to avoid orientation and privacy problems, new homes on pipestem lots shall be oriented side to rear, not front to rear, in relation to adjoining lots that front on a public road.
 - c. Pipestem lots shall not be created on both sides of a frontage lot in the same subdivision.
 - (vi) *Driveway setback from project boundary.* The driveways for pipestem lots shall be located at least ten feet from the project boundary to provide space for required perimeter landscaping to buffer the adjacent property. Where a ten-foot buffer is not possible due to the existing parcel's configuration, drainage, or easement constraints, or is undesirable because future subdivision of the adjoining parcel may require sharing the use-in-common driveway under subsection (c)(2)(iv) of this section, the Department of Planning and Zoning may approve a five-foot driveway buffer. In such instances, a hedge, solid fence, wall, or Type D landscape edge is required, except in the front setback from a public road, where a solid screen would block sight distance.
- (7) *Side lot lines.* Side lot lines shall be at right angles or radial to street right-of-way lines unless a variation from this rule will give a better street or lot plan as determined by the Department of Planning and Zoning.
- (8) *Abutting two streets.* Lots which abut two streets, other than corner lots, will be permitted only when necessary to avoid fronting lots on nonaccess roads or where their use resolves special site planning or land use problems.
- (9) *Transmission mains and power lines.* Where residential lot lines include or adjoin an easement for certain utilities, additional setbacks are required:

- (i) From an underground high-volume and pressure-transmission main or high-tension power line, the lots shall allow a 30-foot minimum distance between the easement and any proposed dwelling units on the lots. Decks are not subject to this requirement.
- (ii) From an easement for a public water or sewer line, the lots shall allow the minimum distance between the easement and any proposed dwelling unit on the lots specified in section 5.4.B.5 of Volume II of the Design Manual. Decks are subject to this requirement.

(10) *Fire access :*

- (i) Fire lanes or other approved access ways may be required adjacent to commercial, industrial, townhouse and apartment buildings to provide reasonable fire access.
- (ii) The Department of Planning and Zoning, shall determine when and where fire lanes are to be required for all types of structures, including multifamily residences, based upon the recommendation of the Director of Fire and Rescue Services.

- (11) *Commercial, industrial and multifamily bulk parcel subdivisions.* Developers of commercial, industrial and multifamily subdivisions have difficulty predicting the lot design needed by future users. The developer shall follow the requirements of this subtitle, but shall place primary emphasis on the street layout and on the development's relationship to any adjoining residential area. Bulk parcels to be resubdivided to fit user's specifications may be utilized.

Any lots to be created shall provide adequate space for buildings, off-street parking and loading, stormwater management, forest conservation and landscaping to protect adjacent residential areas from potential nuisances that could be created by a commercial, industrial, or multifamily development.

- (12) *Multifamily developments.* Off-street parking requirement shall be met within 200 feet or less from the main entrance to an apartment building or the midpoint of a group of single-family attached units. Parking shall be distributed as evenly as possible throughout the development to avoid parking shortages in any area.

(c) *Minimum Frontages:*

- (1) *Commercial, industrial or apartment.* All commercial, industrial or apartment lots shall have a minimum frontage of 60 feet on an approved public road which provides access to the property. Lots for individual businesses within a commercial center or industrial development that have shared access and parking may be approved by the Department of Planning and Zoning without public road frontage.
- (2) *Single-family detached.* All lots, preservation parcels, or bulk parcels for single-family detached dwellings shall have minimum lot frontages on approved streets within a public right-of-way which provides access to the property as follows:
 - (i) Twenty feet for single pipestem and nonpipestem lots and preservation parcels which cannot be further divided under current zoning;
 - (ii) Lots or preservation parcels which share access shall have sufficient frontage collectively to meet the driveway easement requirements in the Design Manual;
 - (iii) Nonpipestem, single pipestem, and adjacent pipestem lots which have enough subdivision potential under current zoning to require future provision of a public road shall have sufficient frontage collectively to meet the public road right-of-way requirements in the Design Manual, including future right-of-way truncation. Cross easements for future road construction shall be provided;
 - (iv) If subdivision lots with access from a use-in-common driveway adjoin a parcel that can be further subdivided under the parcel's current zoning, cross easements shall be recorded that will allow use and, if required by the design manual, improvement of the use-in-common driveway by the future adjoining subdivision. Shared use and maintenance of a

single use-in-common driveway will be required only if the total development potential of the two subdivisions under current zoning will not exceed six units;

- (v) For pipestem lots and preservation parcels with shared access, an access and maintenance easement for the driveway shall be recorded for the impacted lots and referenced on the final plan. When appropriate, the easement shall indicate that any party to the easement may construct a public road to permit further subdivision;
 - (vi) It shall be noted on the final subdivision plat that refuse collection, snow removal, and road maintenance for pipestem lots and preservation parcels are provided to the junction of the public road and the pipestem driveway; and
 - (vii) Frontage on a public road is not required for agricultural preservation subdivisions if the lots being created are provided with an access easement containing an individual or shared driveway meeting the requirements of the Design Manual.
- (3) *Single-family semidetached.* Single-family semidetached lots shall have a minimum of 15 feet of frontage on a public road.
 - (4) *Single-family attached.* Single-family attached lots shall have a minimum of 15 feet of frontage on a public road. Single-family attached lots may be approved without public road frontage provided they front on a commonly owned area containing a parking area or private road not exceeding a length of 200 feet measured from the edge of the public right-of-way along the centerline of the private road.
 - (5) *Nonbuildable preservation parcels.* Nonbuildable preservation parcels shall have 20 feet of frontage unless the Department of Planning and Zoning determines that a different frontage is needed for the proposed use.

(C.B. 121, 1992; C.B. 20, 1996; C.B. 13, 1999; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1; C.B. 8, 2016, § 1)

Sec. 16.121. - Public sites and open space.

(a) *Open Space Requirements:*

- (1) *Purpose.* The purpose of open space requirements are:
 - (i) To properly locate and preserve open space which protects environmental resources and provides for recreation or public use; and
 - (ii) To equitably apportion costs of providing the sites necessary to serve the additional families brought into the community by subdivisions or developments on the basis of the additional need created.
- (2) *Calculated as percentage of gross area of proposed subdivision or site development.* Required open space shall be calculated as the following percentage of the gross area of the proposed subdivision or development. The area of any overhead utility transmission line easements shall be deducted from gross area before calculating the open space requirement.

Zoning District		Minimum Open Space
RC, RR:	Agricultural Preservation Subdivisions	None
	Cluster, DEO or CEO Subdivisions	None

	Non-Cluster Subdivisions	Fee-in-lieu
R-ED		50 percent
R-20:*	All lots 20,000 square feet or greater	6 percent
	Developments using optional lot size:**	
	Min. Lot size 18,000 square feet	10 percent
	Min. Lot size 16,000 square feet	20 percent
	Min. Lot size 14,000 square feet	30 percent
	Min. Lot size 12,000 square feet	40 percent
R-12:*	All lots 12,000 square feet or greater	8 percent
	Developments using optional lot size:*	
	Min. Lot size 10,800 square feet	10 percent
	Min. Lot size 9,600 square feet	20 percent
	Min. Lot size 8,400 square feet	30 percent
	Min. Lot size 7,200 square feet	40 percent
R-SC		25 percent
R-SA-8		25 percent
R-A-15		25 percent
RMH		25 percent
PEC, NT, MXD, PGCC, PSC: As provided in Zoning Regulations		

* Developers in the R-20 and R-12 districts electing to use optional lot size shall select an optional minimum lot size to apply to the entire subdivision. For example, the developer of a 50-acre parcel in the R-20 district may create a subdivision with a minimum lot size of 14,000 square feet if at least 30 percent of the gross parcel area, or 15 acres, is provided as open space.

** R-20 and infill subdivisions or resubdivisions creating ten or fewer lots may not use the optional lot size method unless there are wetland, stream or floodplain areas that the Department of Recreation and Parks wants to be dedicated to the County as open space. The creation of homeowner association open space is not permitted. If dedication to the County is required, R-20 lot sizes may be reduced to 18,000 square feet, exclusive of the pipestem areas.

(3) *Suitability.* Only land which is suitable to achieve the County's open space objectives for environmental protection, recreation and the provision of sites for public use can be used to meet the minimum open space requirements. Suitability is defined as follows:

- (i) Open space shall incorporate floodplains, wetlands, streams, wetland and stream buffers, forest conservation easements, and shall be linked with protected environmental land on adjacent property.
- (ii) Recreational open space and landscaped squares or areas should be integrated into subdivision design to create focal points along streets and at entrances.
- (iii) Parking lot islands, driveway easements serving nonopen space uses, overhead utility transmission lines, and narrow strips under 35 feet wide may not count towards minimum open space requirements.

(4) *Recreation open space.* A portion of the open space which is accessible and usable for recreation shall be provided:

- (i) All residential subdivisions and site developments with more than ten dwelling units or more shall have recreation open space, except in the RC and RR zoning districts and except as provided in the new town, mixed use development, PSC, and PGCC zoning districts;
- (ii) Recreation land shall be regular in shape (generally square or rectangular) and suitable for active recreation uses such as tot lots, ball fields, and courts or for passive recreation in formal parks and squares;
- (iii) Recreation open space shall not include wetlands or stream buffers, floodplains, forest conservation easements, stormwater management easements, inlets, outfalls, and stormwater management credit areas, or slopes over ten percent;
- (iv) At least 20 feet of the perimeter of the recreation land must front on a public or private road and the recreation area should be centrally located to the lots it serves.
- (v) Recreation land should generally be consolidated into a single area, but may be divided for more equitable distribution into two areas if the subdivision contains 50 or more residential lots.
- (vi) The following chart indicates the amount of recreation open space required:

Project Type	Recreation Requirement
Single-Family Detached R-20, R-12, square feet/unit	200

Single-Family Detached R-ED, R-SC, R-SA-8, R-A-15, square feet/unit	300
Single-Family Attached, square feet/unit	400
Apartments, square feet/unit	400
R-MH Dwellings, square feet/unit	400 or as provided in subparagraph(4)(vii) of this subsection

(vii) Recreational open space may be satisfied in whole or in part in the R-MH district by the construction of amenities including: community center, pool facility, or sports court paved area at a ratio of ten square feet of floor surface area per dwelling unit.

(b) *Dedication of Required Open Space; In-Lien Fee Payments:*

- (1) At the discretion of the County, all or a portion of the open space area shall be dedicated and deeded without charge to Howard County or to the State of Maryland if adjacent to an existing State park. For condominium or rental unit site development plans, the open space may be transferred to the County by deed rather than a subdivided lot.
- (2) The Department of Planning and Zoning may at the Department's discretion require the developer to pay a fee-in-lieu of actual establishment of open space if:
 - (i) The subdivision does not use the optional lot size provision in the R-20 or R-12 zoning district and the Department of Recreation and Parks has determined that creation of open space is not necessary or desirable;
 - (ii) The size of the area required for dedication is small (generally under one-half acre) and has no potential for expansion via the subdivision of an adjacent parcel; and
 - (iii) The open space would have little environmental or recreational purpose.
- (3) In-lieu fee payments shall be:
 - (i) As established in the fee schedule adopted by the County Council; and
 - (ii) Held in escrow and used by the County for the purpose of acquiring open space land in the general area of the subdivision or development and shall be used for this and no other purpose.

(c) *Dedication to Homeowners' Association:*

- (1) When the Department of Planning and Zoning does not require open space dedication to the County or payment of an in-lieu fee, the developer of a subdivision shall create an open space lot(s) to convey to an incorporated homeowners' association for the subdivision. The total area of the open space lots shall equal or exceed the total area of open space required for the subdivision.
- (2) Concurrent with a recording of the final plat these open space lots shall be conveyed by the developer to an incorporated property owners' association approved and accepted by the State Department of Assessments and Taxation.

- (3) The date of acceptance and approval of the articles of incorporation of such property owners by the State Department of Assessments and Taxation shall be noted on the final plat prior to recording.
 - (4) The Department of Planning and Zoning shall review and approve any documents deemed necessary to ensure that ownership and maintenance of such open space land by a responsible homeowners' association is guaranteed prior to recording of the final plat.
- (d) *Designated Open Area.* When the County waives dedication of open space and all land within a condominium or rental development is to remain under single ownership, the open space requirement may be satisfied by the designation of an open area on the site development plan. The designated open space area need not be a separate lot, but in all other respects shall conform to open space requirements.
- (e) *Access and Frontage:*
- (1) If a public road is being created or an existing public road is available that permits and is viable for direct access, open space lots or areas shall have a minimum of 40 feet of frontage on a public road for access by pedestrians and maintenance vehicles. Open space frontage may be reduced to a minimum of 20 feet if the adjacent side yard setback for one or both abutting lots in combination is increased by the total amount of open space frontage reduction, but only if the abutting lots are a part of the proposed development. For any additional access points provided, frontage may be reduced to 20 feet.
 - (2) If a subdivision or development project will be accessed exclusively by a use-in-common driveway or a private road, the required open space may be created without public road frontage provided that one of the following applies:
 - (i) The open space will be owned by a homeowner's association or a condominium association and all of the residential lots, condominium units, or apartment units will directly adjoin the open space;
 - (ii) The open space will be owned by the County, all of the residential lots in the subdivision or development project will directly adjoin the open space, and the County has determined that an easement for public access or County maintenance is not needed because a public access point that is adequate to serve the open space already exists;
 - (iii) If all of the residential lots do not directly adjoin the open space, and the open space will be owned by the County, an access easement shall be established that:
 - a. Has a minimum width of 12 feet;
 - b. Grants the County use of the use-in-common driveway;
 - c. Does not require the County to participate in maintenance of the use-in-common driveway; and
 - d. Accommodates pedestrian access and periodic access for maintenance and emergency vehicles; or
 - (iv) If all of the residential lots do not directly adjoin the open space, and the open space will be owned by a homeowner's association or a condominium association, an access easement shall be established that:
 - a. Has a minimum width of 12 feet; and
 - b. Accommodates pedestrian access and periodic access for maintenance and emergency vehicles.
 - (3) Two adjacent open space lots may share the fee simple frontage or access easement described in paragraphs (1) and (2) of this subsection if the Department of Planning and Zoning determines that access will be acceptable for the proposed use of the open space.

- (4) Open space access points shall be located so as to be reasonably accessible from all lots within the subdivision.
- (5) An asphalt path or markers specified by the Department of Recreation and Parks shall be installed to clearly delineate open space access points. An open space pathway connection to an adjacent school, park, open space, or commercial area may be required.
- (f) *Condition of Open Space Land.* Open space dedicated to the County shall meet the minimum standards regarding property boundary markers and other requirements set forth in the developer agreement as a condition of the release of the developer's performance bond. Further, where open space has been adversely affected by the developer's operation (by clearing, grading, drainage or construction activities), the developer shall restore it pursuant to a restoration plan approved by the County prior to the release of the performance bond.
- (g) *Acceptance.* The approval by the Department of Planning and Zoning of a final subdivision plat shall not be deemed to constitute or imply the County's acceptance of any park, recreation, or other public land shown on the plat until such land has been determined to be in an acceptable condition in accordance with subsection (f) of this section.

(C.B. 20, 1996; C.B. 52, 2001, § 2; C.B. 50, 2002, § 1; C.B. 45, 2003, § 1)

Sec. 16.122. - Reservations of land for public facilities.

- (a) *Land Not Being Dedicated as Open Space.* When land in a subdivision or development is needed for a County park, school, road, or other public facility which is proposed in the general plan or in the County's or State's capital program and the land is not being dedicated as open space pursuant to section 16.121, the County may require that the land be reserved.
- (b) *Reserved at Written Request of Agency Which Requires the Land.* A reservation shall be required only when the agency charged with the responsibility for the designated use makes a written request to the Department of Planning and Zoning for reservation of the land.
- (c) *Value.* Acquisition of the reserved land by Howard County, the Board of Education or other public agency shall be at the unimproved value of the land.
- (d) *Conditions.* The following conditions apply to land reserved pursuant to this section:
 - (1) No reservation shall continue for longer than three years from the date of recordation of the plat or approval of the site development plan except with written approval of all legal and equitable owners of the property.
 - (2) The period of time for which the land is reserved shall be specified on the recorded plat or site development plan.
 - (3) Upon written approval of the Department of Planning and Zoning the reserved land may be used for agricultural purposes and other temporary uses permitted by the zoning regulations.
 - (4) The reserved land may be included within the area of lots in a subdivision as long as that area is not used to satisfy minimum lot size requirements or other zoning requirements.

(C.B. 121, 1992)

Sec. 16.123. - Grading, soils and sediment control.

- (a) *Grading:*
 - (1) *Prior approval of the Department of Inspections, Licenses and Permits.* No person shall grade, strip, excavate, or fill land, except for farming, without first having obtained approval of the

Department of Inspections, Licenses and Permits pursuant to the requirements of subtitle 4 of title 3, "Buildings," of this Code.

- (2) *Grading in conformity with final subdivision plat or site development plan.* Grading for public roads and all other grading shall be performed under a valid permit issued by the Department of Inspections, Licenses and Permits in accordance with forest conservation, road construction, storm drainage, stormwater management, grading, utility, and erosion and sediment control plans approved as a part of the final subdivision plat required under section 16.147 "Final Subdivision Plan and Final Plat" of this subtitle or a site development plan approved under section 16.154, "Site Development Plan Procedures," of this subtitle.
 - (3) *Minimum area to be disturbed.* Prior to approval of the subdivision plat or site development plan, the Department of Planning and Zoning shall consider the comments of the review committee with regard to the extent and nature of the work to be performed. In all cases, the extent of land and land cover disturbance shall be the minimum necessary to accommodate the proposed development and shall conform to any restrictions imposed by an approved forest conservation plan.
- (b) *Soils.* For all subdivisions and site development plans the developer will be required to submit a copy of the U.S.D.A. Soils Map showing the boundary of the proposed development at the same scale as the plan submitted.
- (c) *Sediment Control:*
- (1) The developer shall plan for practical and effective sediment control on the site to prevent off-site damages due to erosion and sedimentation processes which are accelerated by changing vegetation and grades.
 - (2) Acceptable plans shall include:
 - (i) Temporary structural and vegetative measures to be used during construction; and
 - (ii) Permanent structural and vegetative measures, including reforestation and afforestation measures, which will remain on the site upon the completion of final grading and construction activities.
 - (3) Plans for erosion and sediment control measures shall be prepared in accordance with the requirements of the Howard Soil Conservation District and shall be approved by the Department of Planning and Zoning in consultation with the Soil Conservation District, the Department of Inspections, Licenses and Permits and the Department of Public Works as a part of all development, grading, road construction, utility and site development plans required pursuant to this subtitle.

(C.B. 121, 1992; C.B. 52, 2001, § 2)

Sec. 16.124. - Landscaping.

- (a) *In General:*
- (1) *Intent.* The requirements for landscaping and screening are intended to:
 - (i) Enhance the physical appearance of County development.
 - (ii) Buffer potentially incompatible land uses.
 - (iii) Screen undesirable views.
 - (iv) Improve the environmental performance of new development by reducing stormwater runoff, air pollution, glare, and noise.
 - (v) Promote energy conservation.
 - (vi) Prevent damage to and unnecessary removal of vegetation.

- (vii) Conserve the value of property and neighborhoods.
 - (2) *Standards; Landscape Manual.*
 - (i) *Standards.* Landscaping shall be provided in accordance with the requirements of this subtitle, the zoning regulations, the Howard County Forest Conservation Manual and the Howard County Landscape Manual.
 - (ii) *Landscape manual.* The Howard County Landscape Manual is the technical manual used to establish performance standards and guidelines for preparing landscape plans. The Manual is prepared by the Department of Planning and Zoning and adopted by resolution of the County Council. The Manual shall address, but is not limited to the amount of landscaping materials required, suitable landscaping materials, and alternative means of compliance.
 - (3) *Landscape plan submissions.* A design to fulfill landscaping requirements shall be presented in a landscape plan which shall include sufficient information for the County to determine whether the proposed landscape improvements are in conformance with the requirements of this section and the Manual.
 - (i) The preliminary or preliminary equivalent sketch plan submissions shall identify schematically:
 - a. Required landscape edges and the type of landscape planting for each edge; and
 - b. Intended methods of fulfilling obligations (i.e., retention of existing vegetation, planting or other alternative solutions).
 - (ii) Final plan submissions (except for resubdivision and correction plats which do not increase the number of units) shall include the final landscape plan in the road construction drawings or for minor subdivisions, the supplemental information sheets. Plans shall specify:
 - a. Whether the developer and/or builder will be responsible for installation of specific elements of the overall landscape plan; and
 - b. Which landscaping will be provided as part of the final plan.
 - (iii) Site development plans shall include a landscape plan unless landscaping requirements were met and surety was posted during subdivision.
 - (4) *Preparation of landscape plans.* All landscape plans shall be prepared and sealed by a registered landscape architect or other qualified professional as defined in the Landscape Manual.
- (b) *Types of Landscape Planting Requirements:*
- (1) *General:*
 - (i) The type and amount of landscaping required shall be based on the compatibility of the proposed land use with adjacent land uses, including public and private rights-of-way, parking lots, loading areas and residential or nonresidential properties.
 - (ii) Landscaping requirements shall be met by providing planting as specified in the Landscape Manual. Optional landscape treatments as defined in the Landscape Manual may be substituted in full or in part for the required planting. Optional treatments include preservation of existing forests and trees, use of berms or other land forms, and provision of fences and walls.
 - (iii) Landscaping requirements may not be met within easements for public water, sewer or stormdrains.
 - (2) *Perimeter landscape edges:*

- (i) Landscape edges, pursuant to the requirements of the Landscape Manual, shall be provided in all districts adjacent to public roads and to abutting properties. Required landscaping shall be shown on the final plan or on the site development plan as specified in the Landscape Manual.
 - (ii) Expansion of existing development that does not currently meet perimeter landscaping requirements shall provide perimeter landscaping in equal proportion to the percentage of the site impacted by the expansion. The area impacted by expansion includes the square foot area of new or expanded buildings and the area of any parking, loading, driveways, or infrastructure necessary to support the additional building area.
- (3) *Parking lot and loading area landscaping:*
- (i) Landscaping within new parking lots is required in accordance with the Landscape Manual. Landscaped areas shall divide the parking spaces to relieve the monotony of large expanses of paving and contribute to efficient circulation of traffic. Loading areas shall be screened from adjacent roads and properties.
 - (ii) Expansions of existing parking lots that do not currently meet landscaping requirements shall provide landscaping in equal proportion to the percentage of the site impacted by the expansion. The area impacted by expansion includes the square foot area of new or expanded buildings and the area of any parking, loading, driveways or infrastructure necessary to support the additional building area.
 - (iii) Parking lot and loading area landscaping shall be shown on the site development plan.
- (4) *Single-family attached, apartment and mobile home developments:*
- Internal landscaping within new single-family attached, apartment, and mobile home projects is required in accordance with the Landscape Manual.
- (5) *Stormwater management facilities.* Landscaping of the entire perimeter of stormwater management ponds is required in all zoning districts, excluding M-1 and M-2 parcels that are not adjacent to residential zoning districts or public roads, in accordance with the Landscape Manual.
- (c) *Alternative compliance.* The Department of Planning and Zoning may approve an alternative to the landscaping requirements of this title and the Landscape Manual upon determining that the proposal meets the intent of this subtitle and meets or exceeds the standard requirements. Alternative plans may be approved when unusual topographic constraints, sight restrictions, siting requirements, preservation of existing stands of trees, preservation of specimen trees or when similar conditions prevent strict compliance with the landscape standards.
- (d) *Reforestation and Afforestation:*
- (1) Certain forms of landscaping may be used to meet the reforestation or afforestation requirements of the forest conservation plan upon approval of the Department of Planning and Zoning.
 - (2) The amount of the landscaped area to be credited for forest conservation obligations shall be in accordance with title 16, subtitle 12 of the Howard County Code and the standards for landscaping substitutions cited in the Howard County Forest Conservation Manual.
 - (3) Landscaping used to fulfill forest conservation requirements shall be included in the required construction and post-construction protection and management agreements and shall be in open space, or in areas protected by binding, long-term protective agreements under the same terms that apply to other reforestation or afforestation areas as described in subtitle 12 of this title.
- (e) *Street Trees and Right-of-Way Plantings:*
- (1) Street trees with a minimum of at least two and one-half-inch caliper shall be required in all districts. Street tree plantings shall be provided on new internal roads and on existing roads

involving road improvements as described in the Landscape Manual. Existing trees to be preserved in or adjacent to the right-of-way may be approved and may be granted up to 100 percent credit towards meeting this requirement.

- (2) Street trees shall not be counted towards reforestation or afforestation requirements of the Forest Conservation Program. Street trees shall not be counted towards the landscape requirements of subsection (b) of this section.
 - (3) Street trees requirements shall be shown on the final plan or the site development plan if required by the State Highway Administration.
- (f) *Landscape Installation:*
- (1) Required landscaping shall be included in the developer's agreement for the subdivision or development; additional surety is required.
 - (2) When there is no developer's agreement required for a subdivision or site development plan with landscaping, the grading permit application and surety shall be modified to incorporate landscaping requirements.
 - (3) All landscaping shown on the approved final plan or site development plan shall be completed in accordance with the approved landscape plan before a release of surety. Prior to such release, the developer shall submit to the County evidence that a one-year guarantee has been executed.
- (g) *Maintenance:*
- (1) The owner, tenant, and their respective agents, if any, shall jointly and severally be responsible for the maintenance of the required landscaping. All required plantings shall be maintained in good growing condition and, whenever necessary, replaced with comparable new plant materials to ensure continued compliance with applicable regulations.
 - (2) No plant material shall be allowed to encroach on road rights-of-way so that sight distance is impeded.
 - (3) Required berms, fences and walls shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

(C.B. 121, 1992; C.B. 20, 1996; C.B. 52, 2001, § 2)

Sec. 16.125. - Protection of scenic roads.

- (a) *Application of Regulations.* The Subdivision and Land Development Regulations, Zoning Regulations, Forest Conservation ordinance and Landscape Manual shall be applied to development along a scenic road in a manner which helps to preserve the scenic character of the landscape viewed from these roads and the features of the road right-of-way that contribute to the road's scenic character.
- (b) *Guidelines for Development of Land Abutting a Scenic Road.* Because scenic landscapes vary greatly, design solutions for development will vary. The following guidelines provide direction for the development of land abutting a scenic road. They are to be applied as appropriate, given the constraints of the particular site and the relative priority of other County policies and requirements such as public safety, farmland preservation, forest conservation, protection of sensitive environmental features and the need to construct public facilities.
 - (1) *General.*
 - (i) Use the cluster subdivision provisions of the zoning regulations to site buildings and roads in locations that minimize the impact of the subdivision on views from the scenic road. Generally structures and uses should be located away from the right-of-way for scenic roads unless screened by topography or vegetation.

- (ii) Minimize tree and vegetation removal. In addition to requirements for protection of forests, steep slopes, streams and wetlands, emphasize the protection of vegetation adjacent to the scenic road, as well as mature trees and hedgerows visible from the road.
 - (iii) Minimize grading; retain existing slopes along the scenic road frontage.
 - (iv) Orient lots so that houses do not back up to a scenic road. If this cannot be avoided, houses should be sited as far as possible from the road and well screened.
 - (v) Locate and design utilities, stormwater management facilities, drainage structures, bridges, lighting, fences and walls to be unobtrusive and to harmonize with the surroundings to maintain existing view corridors. Subdivision entrance features should be low, open, and in keeping with the scenic character of the area in accordance with section 128 of the zoning regulations.
 - (vi) Locate parking lots, loading areas and storage areas so that these uses are screened from the scenic road.
 - (vii) Use vegetation commonly found on the site or in the area for landscaping.
 - (viii) For density receiving subdivisions in the RC and RR zoning districts, achieving the maximum possible density is not sufficient justification to allow impacts on scenic roads.
- (2) *Forested or wooded areas.* Any new developments located along scenic roads must maintain at least a 35-foot buffer of existing forest or wooded area between the road and the new development. The buffer shall be wide enough to maintain the road's visual character with a minimum width of at least 35 feet from the road right-of-way.
- (3) *Areas with open views.*
- (i) Cluster development to retain as much as possible of the open character of the site and to minimize interference with panoramic views from the road.
 - (ii) Where possible, site new buildings behind natural screening or cluster development in or along the edges of forests, at the edges of fields and hedgerows, or near existing buildings.
 - (iii) Preserve the foreground meadow, pasture or cropland and place development in the background as viewed from the road.
 - (iv) Avoid placing structures on the tops of prominent ridges.
 - (v) If new construction cannot be made unobtrusive through siting or the use of natural screening, use landscaping, including berms, to buffer development from the scenic road.
- (4) *Administrative waivers.*
- (i) A developer seeking an administrative waiver from the scenic road requirements shall give written notice within one week of the filing date of the waiver petition, via first-class mail to:
 - a. All adjoining property owners identified in the records of the State Department of Assessments and Taxation; and
 - b. All attendees of record of the presubmission community meeting; and
 - c. All interested parties on file with the Department of Planning and Zoning.
 - (ii) The Department shall not approve any petition for a scenic road requirement waiver within 30 days of meeting the written notice requirement to allow for public comment.

(C.B. 51, 1994; C.B. 52, 2001, § 2; C.B. 14, 2006, § 1; C.B. 37, 2006, § 1)

Sec. 16.126. - Protection of agricultural land and rural character.

- (a) *Sewage Disposal.* Potential conflicts between prime agricultural soils and the location of lots and sewage disposal system easements shall be minimized by:
 - (1) Requiring that all subdivisions in the RC and RR zoning districts be submitted as a preliminary equivalent sketch plan in accordance with the requirements of section 16.145 of this subtitle; and
 - (2) Encouraging the use of shared sewage disposal systems in accordance with subsection 16.131(c)(3)(ii) of this subtitle.
- (b) *Well Setbacks.* Wells located on residential lots must be located at least 50 feet from existing off-site agricultural land preservation easements and other farms and have a complete soil conservation and water quality plan approved by the Howard County Soil Conservation District.
- (c) *Landscape Buffers.* In the RC and RR zoning districts, landscaping required for rural cluster and density receiving subdivisions shall be calculated in accordance with section 16.124 of this subtitle and the Landscape Manual, but shall be located to optimize the landscape buffer between cluster lots and developed noncluster lots, designated scenic roads or agricultural preservation easements, depending on the surrounding context.

(C.B. 52, 2001, § 2)

Sec. 16.127. - Residential infill development.

- (a) *Purpose:*
 - (1) Accommodate growth within the context of existing communities in areas that already have infrastructure and public facilities;
 - (2) Ensure development occurs in a manner that protects the environment, achieves high quality design and strengthens existing communities; and
 - (3) Encourage investment in older established communities.
- (b) *Presubmission Community Meeting.* A presubmission community meeting is required prior to the initial submittal of plans for new residential infill developments submitted after November 15, 2001, according to the procedures established in section 16.128 of this title.
- (c) *Design of Infill Development:*
 - (1) The design of a residential infill development shall be compatible with an existing adjacent residential neighborhood as determined by DPZ by:
 - (i) Consisting of the same unit types (e.g., detached single family homes, attached single family homes, apartments) as the surrounding residential neighborhood; or
 - (ii) Enhancing perimeter landscaping adjacent to existing homes using either Type B landscaping within a 20-foot setback or Type C landscaping within a ten-foot setback.
 - (2) The design of a residential infill development shall, if practical, be integrated with the surrounding residential development by:
 - (i) Interconnecting proposed on-site streets, sidewalks, paths, protected environmental lands, and other open space, with those located off-site; and
 - (ii) Incorporating and preserving significant site features, such as historic structures, unique topographic features, specimen trees, or other existing, healthy landscaping.
 - (3) Lots, buildings, and site improvements shall be configured to maximize privacy by:
 - (i) Positioning structures in accordance with subsection 16.120(b)(6)(v) of these regulations; and

- (ii) Increasing landscaping in combination with berms, fences or walls, to screen views of rear yards and decks from proposed and existing residences and from roads.
- (4) The following compatibility standards shall apply to residential infill developments in or adjoining existing R-20 and R-12 zoned subdivisions:
 - (i) Limit on adjoining driveway entrances: A shared use-in-common driveway must be provided in accordance with the Design Manual within a minimum 24-foot-wide access easement for all proposed residential infill development lots. Any existing driveway entrances onto the public road right-of-way must be connected to a single use-in-common driveway or abandoned;
 - (ii) Front Yard Setbacks: The required front yard setback shall be established as the average of the existing front yard setbacks of the block face area or the area within 500 feet in either direction of the subject property, whichever is less. The block face area consists of the area between the subject property and the intersection of any two streets measured along the side of the street that the subject property is located.

Where there is a vacant lot in the block face area, the required front yard setback for the zoning district shall be used for that lot in calculating the average front yard setback. If the setback established in this section conflicts with the setback established in the zoning regulations, then the more restrictive setback shall apply;
 - (iii) Drainage: The Environmental Concept Plan shall address potential adverse drainage impacts on adjacent properties. Impacts shall be evaluated based on requirements in Design Manual Volume I, Chapter 4, Drainage Swales and Surface Drainage Easements. After exhausting all alternatives to address the impact with the affected neighbor(s), impacts may be mitigated by quantitative management based on the appropriate design year storm for the geographical area and proposed conveyance system; and
 - (iv) Stormwater Management: Stormwater practices shall be based on the most current guidelines accepted by the Maryland Department of the Environment (MDE). Nonstructural practices shall be implemented to the maximum extent practicable. Stormwater compliance for environment site design shall only be received for the design and construction of micro-scale practices, alternative surfaces, or other practices accepted by MDE that retain or infiltrate runoff based on a quantitative measurement.

(C.B. 52, 2001, § 2; C.B. 45, 2003, § 1; C.B. 29, 2005, § 1; C.B. 15, 2016, § 1)

Sec. 16.128. - Presubmission community meetings; exceptions.

Presubmission community meeting. The following procedures are required for a presubmission community meeting:

- (a) *Definitions.* The initial plan submittal shall be as defined in section 16.108 of this subtitle.
- (b) *Purpose.* The presubmission community meeting is for the developer/petitioner to provide information to the community regarding the proposed initial plan submittal and to allow community residents to ask questions and make comments before the initial plan submittal for the subject property. While the developer/petitioner is encouraged to work with the community to achieve a mutually acceptable solution to any concerns, unless a change is required by this subtitle or the zoning regulations, the developer/petitioner is not required to change the proposed development in response to comments made at the presubmission community meeting.
- (c) *Meeting locations, dates and times.* The meeting shall be:
 - (1) Held at a location within the community of the proposed development, in a public or institutional building located within approximately five miles of the subject property; and

- (2) Scheduled to start between 6:00 p.m. and 8:00 p.m. on a weekday evening, or to be held between 9:00 a.m. and 5:00 p.m. on a Saturday, excluding all official county holidays, Rosh Hashanah, Yom Kippur, Eid Ul Fitr, Eid Ul Adha, and Chinese New Year.
- (d) *Types of notice; timing of notice; who must be notified.*
- (1) Notice shall be sent, three weeks prior to the presubmission community meeting, by first class mail to:
 - (A) All adjoining property owners identified in the records of the State Department of Assessments and Taxation;
 - (B) Any community association that represents either the geographic area of the subject property or any adjoining properties; and
 - (C) The "principals" and "parent teacher association presidents" through a mailing to each school with an attendance area that includes the subject property.
 - (2) Notice shall be sent, three weeks prior to the presubmission community meeting, electronically to:
 - (A) Any community association, person, or organization registered with the county to be notified about projects in a certain area;
 - (B) The Howard County Council; and
 - (C) The Department of Planning and Zoning, which shall place the meeting notice prominently on the Department's web site.
 - (3) *Posting.* In accordance with the content requirements listed in subsection (e) of this section, the property shall be posted for at least three weeks immediately before the meeting. The Department of Planning and Zoning shall determine the number of posters required and their location and the petitioner shall bear the expense of posting.

The posters shall be erected in a prominent location that is visible to the general public and that is as close as possible and perpendicular to the road which serves or will serve as the mailing address of the subject property. If the property is adjoining parkland, a community center, or other County-owned buildings that are frequently visited by citizens to obtain services including, without limitation, County offices, schools, or libraries, the Department of Planning and Zoning may require an additional poster that it is visible to the general public in the closest useable portion of the park, community center, or facility. The Department of Planning and Zoning shall supply the posters. The petitioner shall properly erect and maintain the posters for at least three weeks following the initial presubmission community meeting.

- (e) *Content of notice.* The developer/petitioner shall provide three weeks advance notice regarding the date, time, and location of the presubmission community meeting to be held for an initial plan submittal. Each notice shall contain the following:
- (1) First class mail and mail sent electronically shall contain:
 - (i) Time, date and place of initial presubmission community meeting;
 - (ii) Address and a map of the location of the subject property;
 - (iii) Type of initial plan submittal;
 - (iv) Type and amount of development, including number of residential units proposed, if applicable;
 - (v) Website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching all projects assigned a three-digit alphanumeric code; and
 - (vi) Information about how to sign-up to receive minutes and subsequent correspondence if unable to attend the pre-submission community meeting.

- (2) The poster shall:
 - (i) Be double-sided and at least 30 inches by 36 inches in size;
 - (ii) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster; and
 - (iii) Contain:
 - (A) Time, date and place of initial presubmission community meeting;
 - (B) Address of the subject property, if available;
 - (C) Type of initial plan submittal;
 - (D) Type and amount of development, including number of residential units proposed, if applicable; and
 - (E) Website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching all projects assigned a three-digit alphanumeric code.
- (f) *Procedure during and following the presubmission community meeting:*
 - (1) The developer/petitioner shall distribute at the presubmission community meeting a summary of the county's subdivision and development review process, zoning or conditional use process, if applicable, prepared by the Department of Planning and Zoning.
 - (2) Developers/petitioners shall:
 - (i) Send a representative who is knowledgeable of the project;
 - (ii) Maintain a record of the names, addresses and electronic mail addresses, if available, for all attendees to the presubmission community meetings and anyone unable to attend the meeting who contacts the developer/petitioner requesting to be added to the list;
 - (iii) Compile comprehensive minutes of these meetings which include a written response to all questions not verbally answered at the meeting;
 - (iv) Send the minutes to all meeting attendees within 30 days of the meeting either electronically or by first class mail. Upon submission of the plan, this list must be included; and
 - (v) Within 7 days after filing the initial plan submittal for the project with the Department of Planning and Zoning, send notice of the submittal to each person who attended the project's presubmission community meeting, and to any other person who has requested that the developer/petitioner provide such notice. The notice shall be sent to each address and electronic mail address submitted at the project's presubmission community meeting, and shall include instructions on how to be notified when future submissions for the project are filed or when the Department of Planning and Zoning acts on any submittal for the project.
 - (3) Certification by the developer/petitioner that the meeting notices and minutes, which include written responses to questions not answered verbally at the meeting, were sent, together with attendees' contact information, shall be transmitted to the Department of Planning and Zoning when initial plans are filed and shall become part of the official record.
 - (4) Citizens may request a meeting with a staff member of the Department of Planning and Zoning to review the initial plan submittal after the initial plan has been formally submitted to the Department.
 - (5) Additional presubmission meetings: another presubmission community meeting may be required, at the discretion of the Director of the Department of Planning and Zoning, if the

developer/petitioner fails to comply with the requirements in subsections (2) and (3) above, or if plans are submitted that are significantly different from what was presented at the presubmission community meeting, unless the changes are in response to community input. If an additional presubmission meeting is held, the notification sign shall be marked by the developer with a contrasting colored "updated" attachment or overlay sticker provided by the Department of Planning and Zoning to inform the public that a subsequent meeting is being held on an altered proposal.

- (6) If the developer/petitioner does not submit plans to the Department of Planning and Zoning within one year of the presubmission community meeting, another presubmission community meeting and notification in accordance with this section shall be required.

(C.B. 29, 2005, § 1; C.B. 58, 2005, § 1; C.B. 8, 2006, § 1; C.B. 57, 2006; C.B. 4, 2007, § 1; C.B. 5, 2007, § 1; C.B. 6, 2007, § 1; C.B. 16, 2007, § 1; C.B. 36, 2009, § 1; C.B. 39, 2009, § 2; C.B. 6, 2011, § 1; C.B. 33, 2014, § 1; C.B. 69, 2018, § 1)

Sec. 16.129. - Golf course redevelopment.

- (a) *Definitions.* In this section, the following terms have the meanings indicated.
 - (1) *Golf course* means the portion of property:
 - (i) Used, at any time, as a tee box, fairway, or green;
 - (ii) Where a maintenance building was located, at any time, for the storage of chemicals, equipment, vehicles, or fuel for use on the golf course or where equipment for use on the golf course was maintained; or
 - (iii) Adjoining any maintenance buildings used to maintain the property.
 - (2) *Redevelopment* means a change in use to a nongolf course use for the portion of property that is being used or was used at any time as a golf course.
- (b) *Condition of Grading Permit.* An applicant for a grading permit submitted or approved on or after December 15, 2007 for the redevelopment of a golf course shall comply with this section prior to approval of the application.
- (c) *Required Testing.* Unless the applicant complies with subsection (e) of this section, the developer of a golf course redevelopment shall:
 - (1) Provide certification to the Director of Planning and Zoning and the Director of Inspections, Licenses and Permits that the developer will test in accordance with this subsection and the certification shall be provided:
 - (i) Prior to an initial application for a site development plan, sketch plan, preliminary plan, or final subdivision plan submitted on or after December 15, 2007; or
 - (ii) Prior to plan approval for an application for a site development plan, sketch plan, preliminary plan, or final subdivision plan submitted before December 15, 2007;
 - (2) Perform a phase I environmental site assessment for the redevelopment that is or will be included in the application for a grading permit:
 - (i) In accordance with Standard E 1527-05, or the most recently adopted standard for phase I assessments of the American Society for Testing and Materials; and
 - (ii) That shall also include legal boundaries; the location of tees, fairways and greens; any prior development plans approved by the County and the specific types and strength of chemicals used or stored for each area of the golf course;
 - (3) To the extent required by the guidance, practices and procedures of the voluntary cleanup program of the Maryland Department of the Environment;

- (i) Perform a phase II environmental site assessment in accordance with Standard E 1903-97(2002), or the most recently adopted standard for phase II assessments of the American Society for Testing and Materials;
 - (ii) Perform testing of environmental media in accordance with the Maryland Department of the Environment's policies and regulations; and
 - (iii) Prior to application for a grading permit, forward a copy of the summary reports completed pursuant to this section to the Health Officer.
- (d) *Laboratory Requirements.* A laboratory performing a test under subsection (c) of this section shall follow the requirements of ISO Guide 17025 "General Requirements for the Competence of Calibration and Testing Laboratories" and:
- (1) Be certified in the State to perform the test in accordance with this section; or
 - (2) Be accredited by the National Environmental Laboratory Accreditation Conference.
- (e) *Voluntary Cleanup Program.* If the redevelopment that is or will be included in the application for a grading permit is in, or is the subject of an application for, the voluntary cleanup program of the Maryland Department of the Environment, the developer shall:
- (1) Provide certification to the Director of Planning and Zoning that a complete application to enter the voluntary cleanup program was filed and the certification shall be provided:
 - (i) Prior to an initial application for a site development plan, sketch plan, preliminary plan, or final subdivision plan submitted on or after December 15, 2007; or
 - (ii) Prior to plan approval for an application for a site development plan, sketch plan, preliminary plan, or final subdivision plan submitted before December 15, 2007;
 - (2) At the time of application for a grading permit, provide to the Health Officer, the Director of Inspections, Licenses and Permits, and the Director of Planning and Zoning, a copy of:
 - (i) The certificate of completion issued under section 7-513 of the Environment Article of the Annotated Code of Maryland;
 - (ii) Notice from the Maryland Department of the Environment of no further requirements related to the investigation of controlled hazardous substances at the site; or
 - (iii) A response action plan approved by the Maryland Department of the Environment that includes the grading proposed in the application for a grading permit; and
 - (3) If a response action plan was approved by the Maryland Department of the Environment:
 - (i) Certify that work covered by the grading permit will complete the remediation required by the Maryland Department of the Environment as part of the response action plan; and
 - (ii) Within 60 days after completion of the grading, submit a certificate of completion from the Maryland Department of the Environment showing that the response action plan has been completed.
- (f) *Final Comments.* After testing in accordance with subsection (c) of this section, the developer shall obtain, and provide to the Director of Planning and Zoning and to the Director of Inspections, Licenses and Permits, comments from the Health Officer regarding compliance with this section before approval of an application for a grading permit made on or after December 15, 2007.

(C.B. 60, 2007, § 2)

ARTICLE III. - REQUIRED IMPROVEMENTS

Sec. 16.130. - General.

- (a) *Construction Pursuant to Design Manual.* Sections 16.131—16.139 of this subtitle set forth the minimum improvements required for subdivision and site development plan approval. Construction of these required improvements shall be pursuant to the requirements of the Design Manual.
- (b) *Financial Responsibility; Developer's Agreement.* The developer, at the developer's expense, shall be responsible for the installation of public improvements or private stormwater management facilities required by this subtitle. Developers shall execute appropriate developer's agreements pursuant to that responsibility. After final plat approval and prior to the submission of the original final plat, the developer shall post all necessary monies and pay all required fees. A waiver to this requirement may not be granted, but modification of the timing of final plat submission may be granted under subsection 16.147(e) of this subtitle.
- (c) *Inspection; Release of Surety:*
 - (1) Upon installation of the required improvements, as provided in the developer agreement, the developer may request the County to inspect the improvements prior to the release of surety.
 - (2) The Department of Public Works shall inspect the improvements.
 - (3) The developer's agreement regarding the installation of improvements may provide that the developer may be partially released from the surety requirements of the agreement upon partial completion of the work in accordance with criteria established by the Department of Public Works.

(C.B. 121, 1992; C.B. 15, 1998; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1)

Sec. 16.131. - Sewage disposal and water supply.

- (a) *Definitions:*
 - (1) *Adequate* means having unused capacity available for allocation.
 - (2) *Community sewer system* means the public sewerage system owned and operated by Howard County for the purpose of collecting and treating sewage, excluding shared sewage disposal systems.
 - (3) *Community water system* means the public water system owned and operated by Howard County for the purpose of distributing water.
 - (4) *Metropolitan district* means that part of the planned service area which is required to pay ad valorem charges for water and sewer.
 - (5) *No planned service area* means an area designated in the Howard County master plan for water and sewerage as not being planned to be served:
 - (i) By a community sewer system; and/or
 - (ii) With a community water system.
 - (6) *Planned service area* means an area designated in the Howard County master plan for water and sewerage as being planned to be served:
 - (i) By a community sewer system; and/or
 - (ii) With a community water system.
- (b) *Sewage Disposal and Water Supply Required Pursuant to Regulations.* Subdivision and site development plans shall provide for sewage disposal and for an appropriate supply of potable water in accord with the provisions of the Howard County master plan for water and sewerage, the regulations of the Maryland Department of Environment and the regulations of the Howard County Health Department. Community water systems and community sewer systems may be constructed and operated only in the metropolitan district. No waiver may be granted to these requirements. Provision shall be made for an adequate supply of water for fire protection.

(c) *Disposal of Sewage:*

(1) *Requirements regarding on-site sewage disposal systems:*

- (i) The lot size for an on-site sewage disposal system shall be at least the minimum size, based on percolation test rates or other criteria specified by the regulations of the Maryland Department of Environment and the Howard County Health Department.
- (ii) Preliminary soil tests may be performed and submitted to the Howard County Health Department to determine preliminary lot areas prior to final testing. At the option of the Howard County Health Department, a hydrogeological study of the proposed development may be required.

(2) *Required sewer improvements for lots in the "planned service area".* A proposed subdivision shall be approved for sewage disposal if one of the following provisions is made:

- (i) Where an adequate community sewer system is currently available or where contracts have been let to make an adequate community sewer system available:
 - a. Each lot shall connect to the community sewer system.
 - b. The developer shall install sanitary sewers to serve all lots, including a sewer connection for each lot.
- (ii) Where an adequate community sewer system will be available within two years:
 - a. The final subdivision plat shall include a statement that interim individual on-site sewage disposal systems may be utilized in the subdivision for a maximum of one year after an adequate community sewer system becomes available.
 - b. The developer shall install capped sanitary sewers to serve all lots, including a connection for each lot.
 - c. The developer shall install an interim individual on-site sewage disposal system on each lot when improved. The interim system shall be located so as to allow future connection to the community sewer system in the most economical and convenient manner.
- (iii) Where an adequate community sewer system will be available within three to five years:
 - a. The final subdivision plat shall include a statement that interim individual on-site sewage disposal systems may be utilized in the subdivision for a maximum of one year after an adequate community sewer system becomes available.
 - b. The developer shall install an interim individual on-site sewage disposal system on each lot when improved. The interim system shall be located so as to allow future connection to the community sewer system in the most economical and convenient manner.
- (iv) In a planned service area for sewer, but where an adequate community sewer system will not be available within five years:
 - a. The developer shall install a permanent individual on-site sewage disposal system on each lot when improved.
 - b. When an adequate community sewer system becomes available, the lots may be connected to the community system.
- (v) In the planned service area for sewer, regardless of when adequate community sewer system will be available, if the minimum lot size is three acres a developer may utilize permanent on-site sewage disposal systems. These shall be installed on each lot when improved.

(3) *Required sewer improvements for lots in the "no planned service area":*

- (i) The developer shall install a permanent individual on-site sewage disposal system on each lot when improved.
 - (ii) Shared sewage disposal systems serving more than one lot may be permitted pursuant to the provisions of the zoning regulations, the master plan for water and sewerage, and subtitle 12, "Shared Sewage Disposal Systems," of title 18, "Public Works," of the Howard County Code. Concurrent review by the Maryland Department of the Environment, the Howard County Health Department and the Department of Public Works is required. For shared sewage disposal systems, early consultation on design with the approving agencies is encouraged.
- (d) *Water Supply:*
- (1) *Required water supply for lots in the "planned service area".* A proposed subdivision or site development plan shall be approved for water supply if one of the following provisions is made:
 - (i) Where an adequate community water system is currently available or where contracts have been let to make an adequate community water system available:
 - a. Each lot shall connect to the community water system.
 - b. The developer shall install a water distribution main to serve all lots, including a water connection for each lot.
 - c. And for appropriately spaced fire hydrants.
 - (ii) Where an adequate community water system will be available within two years:
 - a. The final subdivision plat shall include a statement that interim individual on-site water wells may be utilized in the subdivision for a maximum of one year after an adequate community water system becomes available.
 - b. The developer shall install capped water mains to serve all lots, including a connection for each lot and appropriately spaced fire hydrants.
 - c. The developer shall install an interim individual on-site water well on each lot when improved. Whenever possible the interim water well shall be located so as to allow future connection to the community water system in the most economical and convenient manner.
 - (iii) Where an adequate community water system will be available within three to five years:
 - a. The final subdivision plat shall include a statement that interim individual water wells may be utilized in the subdivision for a maximum of one year after an adequate community sewer system becomes available.
 - b. The developer shall install an interim individual water well on each lot when improved. Whenever possible the interim water well shall be located so as to allow future connection to the community water system in the most economical and convenient manner.
 - (iv) In a planned service area for water, but where an adequate community water system will not be available within five years:
 - a. The developer shall install a permanent water well on each lot when improved.
 - b. When an adequate community water system becomes available, the lots may be connected to the community system.
 - (v) In the planned service area for water, regardless of when an adequate community water system will be available, if the minimum lot size is three acres, a developer may utilize permanent water wells. A well shall be installed on each lot when improved.
 - (2) *Required water supply for lots in the "no planned service area".* In the "no planned service area" the developer shall install a permanent water well on each lot when improved.

- (3) *Fire protection.* Where a community water system is not currently available, provisions for a fire protection water supply may be required for nonresidential development.

(C.B. 121, 1992; C.B. 80, 1993; C.B. 20, 1996)

Sec. 16.132. - Road construction.

(a) *Road Construction:*

(1) *Responsibility for road construction:*

- (i) *County roads.* The developer shall construct or provide for the construction of roads fronting or within a proposed subdivision, including required connections to adjacent properties unless the adjacent properties are precluded from development by law or agreement. The construction of roads shall be in accordance with paragraphs (2) through (6) of this subsection and in accordance with the Design Manual.
- (ii) *State roads.* The developer shall construct or provide for construction along existing State roads fronting on and providing access to a proposed subdivision in accordance with paragraphs (3) and (6) of this subsection and in accordance with the requirements of the State Highway Administration.
- (iii) *Agriculture preservation subdivisions and minor subdivisions:*
 - a. Road improvements are not required in agriculture preservation subdivisions or minor subdivisions where zoning regulations prohibit further subdivision of the lot or parcel, unless the proposed minor subdivision creates a sight distance or other traffic safety problem or if construction of a sidewalk is required under subsection 16.134(a)(1) of this subtitle.
 - b. If the road serving a minor subdivision is deficient and lies within a capital project in the County's approved capital budget or capital improvement program, road improvements will be required or funds will be contributed to the County in accordance with paragraph (2) of this subsection.
- (iv) *Subdivision of property which was part of a previous minor subdivision.* Where a major subdivision occurs within the original tract or parcel of land upon which a minor subdivision has been recorded, the developer of the major subdivision shall provide road improvements or contribute funds in accordance with paragraphs (2) through (6) of this subsection which would normally have been required for the original road frontage of the parcel of land existing prior to the recordation of the minor subdivision plat.
- (v) *Private roads in multifamily development.* Internal roads serving multifamily development may be private rather than public but must be designed and constructed in accordance with the Design Manual. Private roads shall be maintained by the owners.

(2) *Local or minor collector roads:*

- (i) *Owner owns land on only one side of road.* Where the property owner owns land on only one side of a local or minor collector road, the owner shall:
 - a. Construct one side of the road up to one-half of the full designated pavement width; or (at the County's sole option)
 - b. Contribute to the County the funds necessary to do such construction.
- (ii) *Owner owns land on both sides of road.* Where the property owner owns land on both sides of local or minor collector road, the owner shall:
 - a. Construct the entire length of the road within the subdivision to the full designated pavement width; or (at the County's sole option).

b. Contribute to the County the funds necessary to do such construction.

(3) *Major collector and minor or intermediate arterial roads:*

(i) *Benefits to the subdivision.* Notwithstanding the requirements of paragraph (1) of this subsection, no construction of a major collector road or a minor or intermediate arterial road shall be required of a property owner pursuant to this section, unless one or more of the following benefits to the subdivision shall be deemed to presently exist or may reasonably be expected to exist upon development of the proposed subdivision:

- a. The road serves the proposed subdivision;
- b. The use of the subdivision gives rise to traffic or other conditions reasonably related to the need for the road construction; or
- c. The road construction would otherwise benefit the subdivision and is reasonably related to the protection of the health, safety and general welfare of the residents in the subdivision.

(ii) *Requirement to construct minimum usable width:*

a. *Applicability.* Paragraph (3) of this subsection applies where a subdivision is either divided by or adjacent to:

1. A major collector road; or
2. A minor or intermediate arterial road which performs a regional function and therefore carries traffic requiring a greater pavement width than that required by the subdivision traffic upon the completion of the subdivision.

b. *Design standards.* County roads shall be improved in accordance with the Design Manual. State roads shall be improved in accordance with the requirements of the State Highway Administration.

c. *Owner owns land on only one side of road.* Where the property owner owns land on only one side of the road, the owner shall, at the County's or State's sole option:

1. Construct one side of the road improvements up to one-half of the minimum usable pavement width for the subdivision road which would have been applicable if the road were not a major collector road or a minor or intermediate arterial road;
2. Contribute to the County or State the funds necessary to do such construction; or
3. Enter into an agreement with the County or the State whereby the owner shall construct the entire full width of the road. The County or State shall pay for that portion in excess of the amount required of the property owner by paragraph (1) of this subsection.

d. *Owner owns land on both sides of road.* Where the property owner owns land on both sides of the road, the owner shall, at the County's or State's sole option:

1. Construct the entire length of the road within the subdivision to the minimum usable pavement width for the subdivision road which would have been applicable if the road were not a major collector road or a minor or intermediate arterial road;
2. Contribute to the County or State the funds necessary to do such construction; or
3. Enter into an agreement with the County or the State whereby the owner shall construct the entire full width of the road. The County or State shall pay for that portion in excess of the amount required of the property owner by paragraph (1) of this subsection.

- (4) *County maintained scenic roads.* Notwithstanding paragraphs (1) through (3) of this subsection, the property owner shall not be required to construct or provide for the construction of improvements to County maintained scenic roads fronting a proposed subdivision, except as required by this paragraph.
- (i) Improvements to scenic roads shall be in accordance with the scenic road standards of the Design Manual and designed to minimize alterations to scenic features of the road right-of-way such as roadside vegetation and topography.
 - (ii) For a scenic road with current traffic volumes of less than 6,000 average daily trips (ADT), the following improvements may be required.
 - a. Access improvements such as sight distance improvements, acceleration and deceleration lanes or turn lanes at the intersection of subdivision streets with the scenic road. Turn lanes should be provided by restriping existing pavement when possible.
 - b. Improvements to correct safety problems at locations where there is a documented accident history, via signage, lighting, clearing vegetation, grading within the right-of-way, or, if other improvements will not be effective, changes in road alignment.
 - c. Road widening to provide a minimum 18-foot pavement width.
 - (iii) For a scenic road with current traffic volumes of 6,000 ADT or higher, the following improvements may be required:
 - a. The improvements listed under subparagraph (ii) of this paragraph.
 - b. Other frontage improvements, including construction of the road to full Design Manual standards, when such improvements are deemed necessary because of deficient roadway capacity or will implement planned road improvements included in the County's approved capital budget or capital improvement program.
 - (iv) At the County's sole option, the property owner may construct the road improvements required by this subsection or contribute to the County the funds necessary to do the construction.
- (5) *Continuation to nearest public road intersection.* At the County's sole option, a developer may be required to extend the road improvement up to 250 feet beyond the proposed development to the nearest public road intersection or pay the cost of such construction if:
- (i) The necessary rights-of-way exist or have been acquired by the developer or the County;
 - (ii) The continuation of the improvements is necessary to make the required improvements functional or to provide for safe traffic movements; and
 - (iii) The Director of Planning and Zoning, after consultation with the Director of Public Works, has determined that the nearest public road is in close proximity to the proposed subdivision.
- (6) *Responsibility for off-site road construction.* The property owner shall construct or provide for the construction of improvements to off-site road facilities required as mitigation pursuant to subtitle 11 "Adequate Public Facilities," of this title and in accordance with an approved traffic study. Off-site intersection improvements involving a scenic road shall be designed with consideration for the scenic features of the road right-of-way.
- (b) *Acceptance.* The approval of a final subdivision plat shall not be deemed to constitute or imply the County's acceptance of any street shown on the approved plat. Acceptance of streets shall be pursuant to Title 18 of this Code.

(C.B. 121, 1992; C.B. 51, 1994; C.B. 16, 1995; C.B. 20, 1996; C.B. 15, 1998; C.B. 52, 2001, § 2; C.B. 15, 2006)

Sec. 16.133. - Storm drainage.

- (a) *Requirement to Construct Storm Drainage.* Where deemed necessary by the Director of Planning and Zoning, after consultation with the Director of Public Works:
 - (1) The developer shall construct storm drains to handle on-site runoff; and
 - (2) The developer shall provide on-site drainage easements; however, these may not encroach on required perimeter landscaping unless approved by the Department of Planning and Zoning; and
 - (3) The developer shall provide off-site drainage easements; and
 - (4) The developer shall provide for the handling of off-site runoff to an acceptable outlet in the same watershed pursuant to subsection (c) below.
- (b) *Watersheds:* For the purposes of this subtitle, there are 4 major outlets: the Patapsco Watershed, the Middle Patuxent Watershed, the Main Patuxent Watershed, and the Little Patuxent Watershed.
- (c) *Options for Handling Off-site Runoff:* Developers shall do one of the following for all subdivisions:
 - (1) Provide for the construction of all necessary drainage structures through and between the developer's subdivision and an acceptable outlet in the same watershed; or
 - (2) If all or part of the necessary drainage structures between the developer's subdivision and an acceptable outlet in the same watershed has been provided by another developer, the developer of the proposed subdivision shall pay the County an off-site drainage fee prior to recordation of the plat; or
 - (3) Pay the County an off-site drainage fee prior to recordation of the plat.
- (d) *Restriction on Construction in 100-Year Floodplain.* Construction on land within the 100-year floodplain shall be subject to the restrictions of section 16.115, "Floodplain Preservation."
- (e) *Use of the Off-site Drainage Fees.* The County may expend off-site drainage fees paid by the developers of subdivisions in a given watershed only for the construction of drainage facilities in that watershed.
- (f) *Deleted.*

(C.B. 121, 1992; C.B. 16, 1995; C.B. 52, 2001, § 1)

Sec. 16.134. - Sidewalks and walkways.

- (a) *Sidewalks Required.* The developer shall provide for the construction of sidewalks pursuant to this section and the Design Manual.
 - (1) *Residential development.* In residential subdivisions and site developments the developer shall construct sidewalks on both sides of all streets in the project and along the project frontage except that:
 - (i) Sidewalks are required on only one side of cul-de-sacs and local streets of single-family detached subdivisions.
 - (ii) No sidewalks are required on cul-de-sacs or private streets of any development with ten or fewer dwelling units except along the portion of the development that fronts on a County or State road. For minor subdivisions, if a developer chooses not to construct sidewalks along the portion of the development that fronts on a County or State road, the developer shall pay a fee-in-lieu of sidewalk construction. The fee-in-lieu shall be based on the unit prices for the cost to construct the sidewalk, including the associated curb and gutter, and shall be spent on sidewalks in the same general plan planning area as the development.

The Department of Planning and Zoning may accept a fee-in lieu from developers for developments of five to ten dwelling units located on local roads if there are:

1. No existing adjacent sidewalks; or
2. No institutional, school, public or retail facilities, within 1,000 feet.

Any residential sidewalk requirement that was satisfied by paying a fee-in-lieu may be subsequently constructed by the County through the capital budget process.

- (iii) No sidewalks are required in the RC or RR zoning district.
 - (iv) Sidewalks on State roads may not be required if the State Highway Administration determines that sidewalks are not appropriate in a specific location.
- (2) *Nonresidential developments.* In nonresidential subdivisions and site developments the developer shall construct sidewalks on one or both sides of the street, if the Department of Planning and Zoning deems it necessary to serve anticipated internal pedestrian traffic, to provide access to transit stops, or to make connections to surrounding land uses.
- (b) *No Sidewalks Required.* The Department of Planning and Zoning may eliminate all or part of the sidewalk requirement where:
- (1) One side of a street adjoins a landscaped parking island, park, golf course or other type of use which does not require a sidewalk and where continuity is not essential.
 - (2) Adjacent development (recorded plat) has been substantially completed without sidewalks, pursuant to prior approvals, and there is no need for sidewalks to serve commercial or institutional uses, schools, parks, or other public facilities, or make connections to nearby streets or transit service.
 - (3) Sidewalks would be detrimental to the character of a scenic road and are not needed to serve school, shopping or active recreation areas.
 - (4) Sidewalks on State roads may not be required if the State Highway Administration determines that sidewalks are not appropriate in a specific location.
- (c) *Sidewalks beyond Subdivision.* At the County's sole option, a developer may be required to extend the sidewalk construction up to 250 feet beyond the proposed development to the nearest public sidewalk or pathway or pay the cost of such construction if:
- (1) The continuation of the sidewalk is necessary to provide safe pedestrian travel or to complete a sidewalk or pathway system;
 - (2) The Director of Planning and Zoning has determined that the nearest public sidewalk or pathway is in close proximity to the proposed subdivision; and
 - (3) The necessary rights-of-way exist or have been acquired by the developer or the County.
- (d) *Walkways:*
- (1) *Residential development.* If the Department of Planning and Zoning determines that construction of sidewalks is infeasible or insufficient, an on-site pedestrian walkway to provide access to commercial or institutional uses, schools, or other public facilities such as parks, nearby streets or connections to transit service may be required.
 - (2) *Nonresidential development.* The design of site development plans for nonresidential development shall incorporate on-site pedestrian circulation.

(C.B. 121, 1992; C.B. 51, 1994; C.B. 15, 1998; C.B. 52, 2001, § 2; C.B. 15, 2006, § 1; C.B. 69, 2007, § 1)

Sec. 16.135. - Street lighting.

Unless the Department of Planning and Zoning, after consultation with the Director of Public Works, determines that adequate street lighting already exists, the developer of subdivisions and site developments shall provide street lighting in accordance with the Design Manual and in locations approved by the Director of Planning and Zoning, after consultation with the Director of Public Works. Street lighting is not required in RC, RR and BR zoning districts.

(C.B. 121, 1992; C.B. 51, 1994; C.B. 16, 1995)

Sec. 16.136. - Street trees and landscaping requirements.

The developer shall provide street trees and landscaping in accordance with section 16.124 and the Landscape Manual.

(C.B. 121, 1992; C.B. 20, 1996)

Sec. 16.137. - Street name signs and traffic-control devices.

The developer shall erect street name signs and traffic-control devices at each street intersection. These signs and devices shall be consistent with this Code and the Design Manual and shall be approved by the Department of Planning and Zoning, after consultation with the Director of Public Works.

(C.B. 121, 1992; C.B. 16, 1995)

Sec. 16.138. - Gas, electric, and communication facilities.

- (a) *Requirement to Extend Underground Utilities.* The developer shall provide for underground extensions of gas, electric, and communication utilities, including service provided by the cable television franchise holder(s) to serve the subdivision or development in accordance with applicable Howard County and Public Service Commission underground extension rules.
- (b) *Agreements with Utilities.* Prior to submission of the final plat or site development plan to the Department of Planning and Zoning for signature approval, the developer shall execute agreements for underground telephone and electric services for the development with the public service companies in whose service territory the development is located. These agreements shall provide that the developer is responsible for all Public Service Commission rules and company service tariffs, even though building lots of the subdivision may be sold, developed or improved by third parties.
- (c) *Electric vehicle charging stations.* Communal parking areas for residential units shall include electric vehicle charging stations in accordance with section 3.105(c) of the Howard County Code.

(C.B. 121, 1992; C.B. 76, 2018, § 1)

Sec. 16.139. - Monuments and markers.

(a) *Monuments Required:*

- (1) The developer shall construct and place a monument at each street intersection. Monumentation shall be in accordance with the requirements of COMAR.
- (2) Monuments shall be set so that the top is level with the surface of the surrounding ground at final finished grade.

- (3) Monuments shall be concrete, four inches by four inches top, six inches by six inches bottom, three feet long and strengthened by a three-eighths inch or greater steel reinforcing rod, at least 30 inches long, through their centers.
- (b) *Markers Required.* The developer shall construct and place a marker on all points of curvature and points of tangency along the street line and at all angle breaks. Markers shall be steel bars or iron pipes at least three-eighths of an inch in diameter and 30 inches long.
- (c) *Setting of Monuments and Markers.* Monuments and markers shall have been installed at the time the developer applies to the County for inspection and acceptance of the streets in his subdivision. Monuments and markers shall each have an identifying cap bearing the Maryland registration number of the licensed professional land surveyor, property line surveyor, corporation, or partnership responsible for setting the monuments and markers in accordance with the Annotated Code of Maryland. Markers and monuments shall be identified as described in the Annotated Code of Maryland, title 9, subtitle 13, chapter 3, section 3.
- (d) *Geodetic Control Survey Stations.* The developer shall mark and protect all County geodetic control survey stations on the site, including those located in the public right-of-way, for the duration of construction activity. Control stations disturbed or damaged during the construction period shall be reset by the Department of Public Works at the developer's expense. Geodetic control survey stations on the site that require relocation shall be relocated by the Department of Public Works prior to issuance of a building permit.

(C.B. 121, 1992; C.B. 16, 1995; C.B. 52, 2001, § 2)

Secs. 16.140—16.143. - Reserved.

ARTICLE IV. - PROCEDURES FOR FILING AND PROCESSING SUBDIVISION APPLICATIONS

Sec. 16.144. - General procedures regarding the subdivision process.

Except as provided in section 16.102 of this subtitle, all proposals to subdivide land shall be processed in accordance with the following procedures:

- (a) *Presubmission Community Meeting.* A presubmission community meeting is required prior to the initial submission of residential sketch plans or preliminary equivalent sketch plans in accordance with section 16.128 of this article.
- (b) *Submission of Sketch Plan or Preliminary Equivalent Sketch Plan.* The subdivision process begins when the developer of land submits to the Department of Planning and Zoning a sketch plan or preliminary equivalent sketch plan which shall be in accordance with the requirements of section 16.145, "Sketch Plan; Preliminary Equivalent Sketch Plan," of this subtitle.
- (c) *Review Process.* The Department of Planning and Zoning shall transmit the sketch plan or preliminary equivalent sketch plan for review and recommendation to the Review Committee and such other agencies of the County and State as the Department deems appropriate. The Department of Planning and Zoning may schedule a meeting of the Review Committee to review the plan.
- (d) *Report of Review Committee; Additional Information:*
 - (1) Within 60 days of active processing time from submission of the sketch plan or preliminary equivalent sketch plan the Department of Planning and Zoning shall provide the developer with a written report of the findings of the review committee, including the comments of the Review Committee and its recommendations.
 - (2) If the Department of Planning and Zoning or the Review Committee indicates that additional information is needed in order to decide whether to approve the plan, the developer shall provide the information within 45 days of receiving such indication.

- (e) *Approval/Denial of Sketch Plan or Preliminary Equivalent Sketch Plan:*
- (1) Within 60 days of active processing time from submission of the sketch plan or preliminary equivalent sketch plan or if additional information was requested, within 45 days of receiving the information, the Department of Planning and Zoning shall indicate to the developer in writing whether the sketch plan or preliminary equivalent sketch plan is approved, approved with modifications or denied.
 - (2) If the sketch plan is approved or approved with modifications, this notice shall serve as authority to proceed to submission of the preliminary plan, except for subdivisions which require Planning Board approval. If the preliminary equivalent sketch plan is approved or approved with modifications, this notice shall serve as authority to proceed to submission of the final plan, except for subdivisions which require Planning Board approval.
- (f) *Planning Board Approval:*
- (1) If the subdivision requires Planning Board approval, the Department of Planning and Zoning shall advise the developer of the location, time and date of the Planning Board meeting after the Department notifies the developer that the sketch plan or preliminary equivalent sketch plan has been approved or approved with modifications by the Department.
 - (2) The Planning Board shall indicate to the developer in writing whether the sketch plan or preliminary equivalent sketch plan is approved, approved with modifications or denied.
- (g) *Submission of Preliminary Plan.* If the sketch plan is approved or approved with modifications, the developer shall submit to the Department of Planning and Zoning a preliminary plan which shall be:
- (1) In accordance with the approved sketch plan;
 - (2) In accordance with the requirements of section 16.146, "Preliminary Plan," of this subtitle; and
 - (3) Within the following milestones:
 - (i) Four months of sketch plan approval (subdivisions of 50 or fewer housing units);
 - (ii) Six months of sketch plan approval (subdivisions of 51—100 housing units);
 - (iii) Nine months of sketch plan approval (subdivision of 101 or more housing units);
 - (iv) Nine months of sketch plan approval for nonresidential subdivisions.
- (h) *Review Process.* The Department of Planning and Zoning shall transmit the preliminary plan for review and recommendation to the review committee and such other agencies of the County and State as the Department deems appropriate. The Department of Planning and Zoning may schedule a meeting of the review committee to review the preliminary plan.
- (i) *Report of Review Committee; Additional Information:*
- (1) Within 60 days of active processing time from submission of the preliminary plan, the Department of Planning and Zoning shall provide the developer with a written report of the findings of the review committee, including the comments of the review committee and its recommendations.
 - (2) If the Department of Planning and Zoning or the review committee indicates that additional information is needed in order to decide whether to approve the preliminary plan, the developer shall provide the information within 45 days of receiving such indication.
- (j) *Approval/Denial of Preliminary Plan:*
- (1) Within 60 days of active processing time from submission of the preliminary plan, or if additional information was requested, within 45 days of receiving the information, the Department of Planning and Zoning shall indicate to the developer in writing whether the preliminary plan is approved, approved with modifications or denied.

- (2) If the preliminary plan is approved or approved with modifications, this notice shall serve as authority to proceed to submission of the final plan.
- (k) *Submission of Final Plan.* If the preliminary plan or preliminary equivalent sketch plan is approved or approved with modifications, the developer shall submit to the Department of Planning and Zoning a final plan which shall be:
- (1) In accordance with the approved preliminary plan or preliminary equivalent sketch plan;
 - (2) In accordance with the requirement of section 16.147, "Final Subdivision Plan and Final Plat," of this subtitle;
 - (3) Within the following milestones:
 - (i) Four months of preliminary plan approval or preliminary equivalent sketch plan approval (subdivisions of 50 or fewer housing units);
 - (ii) Six months of preliminary plan approval or preliminary equivalent sketch plan approval (subdivisions of 51—100 housing units);
 - (iii) Nine months of preliminary plan approval or preliminary equivalent sketch plan approval (subdivisions of 101 or more housing units);
 - (iv) Nine months of preliminary plan approval or preliminary equivalent sketch plan approval for nonresidential subdivisions.
- (l) *Review Process.* The Department of Planning and Zoning shall transmit the final plan for review and recommendation to the review committee. The Department of Planning and Zoning may schedule a meeting of the review committee to review the final plan.
- (m) *Report of Review Committee; Additional Information.* The Department of Planning and Zoning shall provide the developer with a written report of the findings of the review committee, including the comments of the review committee and its recommendations. If the Department of Planning and Zoning or the review committee indicates that additional information is needed in order to decide whether to approve the final plan, the developer shall provide the information within 45 days of receiving such indication.
- (n) *Approval/Denial of Final Plan:*
- (1) Within 60 days of active processing time from submission of the final plan, or if additional information was requested, within 45 days of receiving the information, the Department of Planning and Zoning shall indicate to the developer in writing whether the final plan is approved, approved with modifications or denied.
 - (2) If the final plan is approved or approved with modifications, this notice shall serve as authority to proceed to submission of final construction drawing originals, payment of fees, developer agreement, etc., preparatory to recordation.
- (o) *Submission of Final Construction Drawings.* Within 60 days of receiving approval of the final plan the developer shall submit the final construction drawing originals to the Department of Planning and Zoning for signature. If a subdivision has a forest conservation obligation, the final forest conservation plan shall be submitted within 60 days.
- (p) *Payment of Fees; Posting of Financial Obligations.* Within 120 days of receiving approval of the final plan the developer shall:
- (1) Pay all required fees to the County; and
 - (2) If subject to a developer agreement or major facility agreement, shall post all monies and file appropriate surety covering the developer's financial obligations for the required public or private improvements.
- (q) *Final Subdivision Plat.* Within 180 days of final plan approval, the developer shall submit the final subdivision plat to the Department of Planning and Zoning for signatures and recordation.

- (r) *Status of Plans Which Do Not Meet Deadlines, or Which Fail to Provide Information in a Timely Manner:*
- (1) *Milestones:*
- (i) *Miss the milestone for preliminary plan submission.* Except where delay is caused by government action, a project which misses the deadline for preliminary plan submission shall be voided and the application for plan approval shall be considered withdrawn. The developer may resubmit the subdivision plan for sketch plan approval.
 - (ii) *Miss the deadline for final plan submission.* Except for a conditionally exempt project which is the subject of subparagraph (iii) of this paragraph, or where delay is caused by government action, a project which misses the deadline for final plan submission shall be voided and the application for plan approval shall be considered withdrawn. If there has been no change in the requirements of the subdivision regulations since the project's sketch plan approval, the subdivision plan may be resubmitted for approval at the preliminary plan stage. Otherwise, it may be resubmitted for approval at the sketch plan or preliminary equivalent sketch plan stage.
 - (iii) *Projects with conditional exemptions from tests for adequate public facilities.* A project with conditional exemption from the test for adequate public facilities pursuant to subtitle 11, "Adequate Public Facilities," of this title which has preliminary plan approval and misses the milestone for submission of a final plan shall be voided and the application for approval of the plan shall be considered withdrawn unless the plan has approval for adequate facilities and housing unit allocations while the preliminary plan approval is still valid pursuant to the subdivision regulations in effect at the time the preliminary plan was approved. The plan may be resubmitted for approval at the sketch plan or preliminary equivalent sketch plan stage.
- (2) *Submission of final plan.* A project with preliminary plan approval prior to March 12, 1993 which fails to submit a final plan while the preliminary plan approval is still valid pursuant to the subdivision regulations in effect at the time the preliminary plan was approved shall be voided and the application for plan approval shall be considered withdrawn.
- (3) *Providing additional information.* If additional information needed for plan approval is not provided within 45 days of request, the plan shall be denied.
- (4) *Failure to submit final construction or forest conservation drawings.* Except where delay is caused by government action, failure to submit final construction drawing originals or any required forest conservation plan originals within 60 days of final plan approval shall void previous approvals and the application shall be considered withdrawn.
- (5) *Failure to pay fees, sign developer's agreement, provide surety.* Except where delay is caused by government action, failure to pay fees, post monies, sign developer agreements and major facilities agreement, and provide appropriate surety within 180 days of final plan approval shall void previous approvals and the application shall be considered withdrawn.
- (6) *Failure to submit final plat.* Except where delay is caused by government action, failure to submit the final plat within 180 days of final plan approval shall void previous approvals and the application shall be considered withdrawn.
- (s) *Processing Subsequent Sections of Subdivisions in Default.* If any section of a subdivision is ruled in default on the developer's agreement or major facilities agreement, the County may:
- (1) Stop the active processing of subsequent sections of the subdivision or physically related projects owned by the developer in default until all requirements to remove the default are accomplished; or
 - (2) Deny subsequent sections of a subdivision in default or physically related projects owned by the developer in default.
- (t) *Subdivision Name, Street Name, and Property Numbers:*

- (1) *Subdivision name.* The subdivision name approved and recorded by the Department of Planning and Zoning shall constitute the subdivision's official name. No other name may be used for advertising or sales purpose unless an approved and amended plat is recorded bearing the revised name. Where a subdivision name has been changed, all subsequent plans submitted for processing shall reference the original subdivision name, and the Department of Planning and Zoning file numbers.
- (2) *Street name.* Street names shall be approved by the Department of Planning and Zoning. Such names shall not duplicate those used elsewhere in Howard County, or adjacent jurisdictions and they shall be approved before the submission of any final plats. Changes in existing street names shall be in accordance with section 16.400 of the Howard County Code.
- (3) *Property numbers.* Property numbers shall be assigned:
 - (i) On the final plat to all lots or parcels within a subdivision of single-family dwellings.
 - (ii) On the site development plan to all buildings or entrances within an apartment development or nonresidential development.
- (u) *Compliance with Green Neighborhood Allocation.* An applicant who receives a green neighborhood allocation under section 16.1102 of this subtitle shall comply with the standards adopted by resolution of the County Council. The initial plan submission shall be a preliminary equivalent sketch plan for major subdivisions, final plan for minor subdivisions, or site development plan, whichever is applicable.

(C.B. 121, 1992; C.B. 52, 2001, § 2; C.B. 29, 2005, §§ 1, 2; C.B. 48, 2007, § 2; C.B. 36, 2009, § 1; C.B. 39, 2009, § 2)

Sec. 16.145. - Sketch plan; preliminary equivalent sketch plan.

- (a) *Purpose.* The purpose of the sketch plan or preliminary equivalent sketch plan is to indicate to the County the intent, scope and timing of the subdivision and to familiarize the developer with County and State plans which may affect the subdivision. The subdivision will also be tested at this stage for the adequacy of public facilities in accordance with the provisions of subtitle 11, "Adequate Public Facilities," of this title. Preliminary equivalent sketch plans, which proceed directly from preliminary equivalent sketch plan approval to final plan submission, also provide the information required with preliminary plans. A preliminary equivalent sketch plan is required for all major subdivisions in the RC, RR and R-ED zoning districts.
- (b) *Procedures:*
 - (1) *Informational meeting prior to plan submission.* The developer, especially the developer of a large or complex project, is encouraged to contact the Department of Planning and Zoning to schedule an informational meeting with the Department and other appropriate agencies prior to submitting the sketch plan or preliminary equivalent sketch plan so that requirements for adequate public facilities testing, the general plan, the capital improvement program and other information can be provided prior to formal submission of the plan application.
 - (2) *Presubmission community meeting.* If the initial plan submittal for a residential subdivision is a sketch plan or preliminary equivalent sketch plan, the developer of the subdivision is required to hold a presubmission community meeting in accordance with section 16.128 of this subtitle.
 - (3) *Design Advisory Panel review:*
 - (i) *Review.* If required by subparagraphs (ii), (iii), and (iv) of this paragraph, a developer shall submit a project for review by the Design Advisory Panel and the Director of the Department of Planning and Zoning may consider recommendations made by the Design Advisory Panel in accordance with section 16.1504 of this subtitle as a condition of plan approval for projects located on property subject to Design Advisory Panel review as set forth in section 16.1501 of this subtitle.

- (ii) *Sketch plans submitted on or after November 3, 2008.* For sketch plans submitted on or after November 3, 2008. A developer shall submit the project for Design Advisory Panel review prior to submission of the sketch plan.
 - (iii) *Sketch plans submitted before November 3, 2008.* For sketch plans submitted before November 3, 2008, a developer shall submit the project for Design Advisory Panel review prior to a determination that the plan is technically complete.
 - (iv) *Sketch plans technically complete before November 3, 2008.* For sketch plans that are technically complete before November 3, 2008, a developer shall submit the project for Design Advisory Panel review as a condition of approval of subsequent preliminary and site development plan approval.
- (4) *Submit application, pay fees.* A developer applies for approval of a sketch plan or preliminary equivalent sketch plan by submitting the following items to the Department of Planning and Zoning for the entire parcel being subdivided:
- (i) An application form and checklist;
 - (ii) The required number of copies of the plan, which shall be:
 - (a) In accordance with the provisions of subsection (c), "Required Information for Sketch Plan," of this section; or
 - (b) If this is a preliminary equivalent sketch plan, in accordance with subsection (c), "Required Information for Preliminary Plan," of Section 16.146, "Preliminary Plan," of this subtitle; and
 - (iii) The appropriate application fee.
- (5) *Notice of new residential developments:*
- (i) *Requirement to give public notice.* If the sketch or preliminary equivalent sketch plan is the initial plan submittal for new residential development and is submitted after November 15, 2001, within three working days the developer shall post public notice on the property.
 - (ii) *Location.* The posters provided by the Department of Planning and Zoning shall be posted at the site of the proposed roadway entrances so that local residents may reasonably be expected to see them.
 - (iii) *Duration.* The notice shall remain in place at least 30 days.
 - (iv) *Content.* The notice shall:
 - a. State that a new residential development is proposed to be constructed at the site.
 - b. Give the sketch or preliminary equivalent sketch plan number.
 - c. Indicate that the sketch or preliminary equivalent sketch plan is available for inspection at the Department of Planning and Zoning.
 - (v) *Notification to persons who comment.* Any person commenting on a sketch plan or preliminary equivalent sketch plan within 14 days of plan submission shall be notified by the Department of Planning and Zoning that changes have occurred to the proposed plans at any stage of the review process.
 - (vi) *No delay.* The notification requirements of this subsection shall not be construed to delay the normal processing of the sketch or preliminary equivalent sketch plan.
- (6) *Processing of application.* Processing of the application for approval of the sketch or preliminary equivalent sketch plan will follow the general procedures outlined in section 16.144 "General Procedures Regarding the Subdivision Process," of this subtitle.

- (7) A developer who is proposing the redevelopment of a golf course shall comply with section 16.129 of this subtitle, and, for purposes of this section, the terms "redevelopment" and "golf course" shall have the meaning set forth in section 16.129 of this subtitle.
- (8) *Approval binding on County:*
- (i) Approval of a sketch plan is binding on the County for seven years provided that the subdivision is processed in accordance with the schedule included in the approved plan and:
- a. A preliminary plan is submitted within:
 1. Four months of sketch plan approval (subdivisions of 50 or fewer housing units);
 2. Six months of sketch plan approval (subdivisions of 51—100 housing units);
 3. Nine months of sketch plan approval (subdivisions of 101 or more housing units);
 4. Nine months of sketch plan approval for nonresidential subdivisions; and
 - b. A final plan is submitted within:
 1. Four months of preliminary plan approval (subdivisions of 50 or fewer housing units);
 2. Six months of preliminary plan approval (subdivisions of 51—100 housing units);
 3. Nine months of preliminary plan approval (subdivisions of 101 or more housing units);
 4. Nine months of preliminary plan approval for nonresidential subdivisions.
- (ii) Approval of a preliminary equivalent sketch plan is binding on the County for seven years provided that the subdivision is processed in accordance with the schedule included in the approved plan and a final plan is submitted within:
- a. Four months of preliminary equivalent sketch plan approval (subdivisions of 50 or fewer housing units);
 - b. Six months of preliminary equivalent sketch plan approval (subdivisions of 51—100 housing units);
 - c. Nine months of preliminary equivalent sketch plan approval (subdivisions of 101 or more housing units);
 - d. Nine months of preliminary equivalent sketch plan approval for nonresidential subdivisions.
- (9) *File original tracings of approved plan.* The developer shall file original tracings of the approved sketch or preliminary equivalent sketch plan with the Department of Planning and Zoning prior to the submission of the next plan stage. The original tracing shall be on a durable, reproducible of Mylar or comparable material approved by the Department of Planning and Zoning.
- (c) *Required Information.* A checklist specifying the required information format for sketch plan submission is to be provided by the Department of Planning and Zoning. For all types of subdivisions, except for apartments, the sketch plan, drawn on 24-inch by 36-inch sheets to scale one inch equals 200 feet, or as approved by the Department of Planning and Zoning shall be submitted on a topographic map, accompanied by an application form, checklist, and fee and the following items. Apartment developments shall be drawn at a scale of one inch equals 100 feet or one inch equals 50 feet and shall also provide the information required in paragraph (16) of this subsection. The Department of Planning and Zoning will provide a separate submission checklist for a preliminary equivalent sketch plan that incorporates appropriate requirements from the checklists for both sketch and preliminary plans.
- (1) Name and address of developer, owner, engineer, and/or surveyor.

- (2) Adjoining property owners, deed references and recorded subdivision names, recording references and adjoining property structures within 200 feet of the proposed property line. Provide information regarding any adjoining undeveloped parcel that is landlocked or has insufficient frontage which may need access through the proposed subdivision.
- (3) Development data, including land characteristics, availability of public utilities, existing and proposed individual wells, individual septic systems, and shared sewage disposal facilities, existing and proposed recreation, park and conservation areas, existing and proposed street systems, scenic roads, existing and proposed stormwater management systems, preliminary lot layout, approximate 100-year floodplain limits, wetlands and streambanks, wetland and stream buffers or steep slopes, if any.
- (4) Vicinity map.
- (5) North arrow.
- (6) The title block shall be in the lower right-hand corner and include:
 - (i) Proposed subdivision name which shall not be a duplicate of any other subdivision or development name in the Baltimore Metropolitan Area;
 - (ii) Scale of plan;
 - (iii) Location by election districts, County, and State;
 - (iv) Tax map, parcel number; and
 - (v) Date.
- (7) List of street names which, if approved by the Department of Planning and Zoning, will be reserved for that subdivision.
- (8) Existing zoning, number of acres and proposed lots.
- (9) Soils map at the scale of the subdivision plan with the boundary plotted and the mapping symbols indicated within the mapping boundaries.
- (10) Forest stand delineation as described in subtitle 12 of this title.
- (11) Whenever the sketch plan covers only a part of an applicant's contiguous holdings, the applicant shall submit, at the same scale as above, a sketch of the proposed subdivision area, with its proposed street system and an indication of the probable future street and drainage system of the remaining portion of the tract.
- (12) The location and approximate age of any burial grounds or existing structures and whether structures are to be retained or removed. A cemetery boundary documentation and accommodation plan shall be submitted, if applicable pursuant to the requirements of subtitle 13, "Cemetery Preservation," of this title.
- (13) The phasing schedule, if the subdivision is to be phased.
- (14) A traffic study pursuant to the requirements of subtitle 11, "Adequate Public Facilities," of this title.
- (15) Additional information which may be required by the review committee to evaluate the plan.
- (16) For apartment developments, the sketch plan shall be submitted for the entire acreage of contiguous ownership in accordance with paragraphs (1) through (15) of this subsection and shall include the following additional items:
 - (i) Approximate location of each building, setbacks from all streets (public or private), property lines, and distances between buildings.
 - (ii) Number of apartment units in each building.

- (iii) Number of parking spaces in each off-street parking area, and total number of parking spaces.
- (iv) Interior road or street access, whether public or private, and total area of each.
- (17) For development of a site abutting a scenic road, the following are required:
 - (i) Location of views and viewsheds as seen along the entire frontage of the scenic road, indicated on the plan.
 - (ii) Photographs, perspective sketches or elevations of the property as necessary to adequately portray the visual character of the scenic road right-of-way and the site as viewed from the scenic road.
 - (iii) Perspective sketches, elevations or cross-sections of the proposed development as viewed from the scenic road, showing the relationship of development to the scenic character of the landscape as viewed from the road.
- (18) Location of overhead utility line maintenance easements that would conflict with proposed landscaping or forest buffers, if any.
- (19) For cluster and density receiving subdivisions in the RC or RR zoning districts, a written explanation of how the proposed design meets the objectives set forth in sections 104.F.2, 105.F.2, or 106.F.3 of the zoning regulations.
- (20) For residential developments required to hold presubmission community meetings in accordance with section 16.128 of this subtitle, a certification that meeting notices were mailed and a summary of the comments made at the meeting.
- (21) For residential development projects requesting green neighborhood allocations, the preliminary equivalent sketch plan shall demonstrate how the project will comply with the green neighborhood site portion of the green neighborhood checklist.
- (22) A developer who is proposing the redevelopment of a golf course shall comply with section 16.129 of this subtitle, and, for purposes of this section, the terms "redevelopment" and "golf course" shall have the meaning set forth in section 16.129 of this subtitle.

(C.B. 121, 1992; C.B. 13, 1993; C.B. 80, 1993; C.B. 51, 1994; C.B. 20, 1996; C.B. 52, 2001, §§ 1, 2; C.B. 45, 2003, § 1; C.B. 29, 2005, § 1; C.B. 48, 2007, § 2; C.B. 60, 2007, § 3; C.B. 24, 2008, § 3)

Sec. 16.146. - Preliminary plan.

(a) *In General:*

- (1) *Purpose.* The purpose of the preliminary plan is to present detailed data which will enable the County to determine whether the proposed layout of the subdivision is in accordance with the approved sketch plan, the requirements of this section and the requirements of this subtitle.
 The preliminary plan is not intended to be a record plat, but shall be designed by a qualified technician trained and experienced in the layout of subdivisions and shall be sealed and signed by a registered engineer or other professional person qualified by law and licensed in the State of Maryland to seal and sign such plans.
- (2) *Preliminary equivalent sketch plan.* The preliminary plan stage may be omitted if the developer indicates intent to do so at the sketch plan stage and submits a preliminary equivalent sketch plan in accordance with the provisions of subsection (c), "Required Information for Preliminary Plan," of this section.
- (3) *Phased subdivisions.* Typically, a preliminary plan will cover only a portion of a phased subdivision and will provide more detailed data for the particular phase. The extent of a

subdivision included in each preliminary plan shall be consistent with the phasing schedule included in the approved sketch plan.

(b) *Procedures:*

- (1) *Submit application; pay fees.* A developer may apply for approval of a preliminary plan by submitting to the Department of Planning and Zoning:
 - (i) An application form;
 - (ii) The required number of copies of the preliminary plan, which shall be in accordance with the provisions of subsection (c), "required information for preliminary plan," of this section; and
 - (iii) The appropriate application fee.
- (2) *Processing of application.* Processing of the application for approval of the preliminary plan will follow the general procedures outlined in section 16.144, "General Procedures Regarding the Subdivision Process," of this subtitle.
- (3) *Design Advisory Panel review:*
 - (i) *Applicability.* This paragraph shall apply:
 - a. If the Department of Planning and Zoning determines that a preliminary plan is not consistent with an approved sketch plan; or
 - b. If a sketch plan is technically complete before November 3, 2008.
 - (ii) If applicable, a developer shall submit a project for review by the Design Advisory Panel and the Director of the Department of Planning and Zoning may consider recommendations made by the Design Advisory Panel in accordance with section 16.1504 of this subtitle as a condition of plan approval for projects located on property subject to design advisory panel review as set forth in section 16.1501 of this subtitle.
- (4) *Approval binding on County:*
 - (i) *Applicability.* This paragraph applies only to:
 - a. Subdivisions which:
 1. Are conditionally exempt from the requirement for testing of adequate public facilities pursuant to subtitle 11. "Adequate Public Facilities," of this title; and
 2. Had sketch plan approval prior to March, 1993; and
 3. Met the milestone for submission of the preliminary plan.
 - b. Subdivisions which missed the milestone for submission of the final plan and have been resubmitted for approval at the last plan stage which had been approved before the milestone was missed.
 - (ii) *Binding for seven years.* The preliminary plan is binding on the County for seven years provided that the subdivision is processed in accordance with the schedule included in the approved plan and a final plan is submitted within:
 - a. Four months of preliminary plan approval (subdivisions of 50 or fewer housing units);
 - b. Six months of preliminary plan approval (subdivisions of 51—100 housing units);
 - c. Nine months of preliminary plan approval (subdivisions of 101 or more housing units);
 - d. Nine months of preliminary plan approval for nonresidential subdivisions.
- (5) *File original tracings of approved preliminary plan.* The developer shall file original tracings of the approved preliminary plan with the Department of Planning and Zoning prior to the

submission of the final plan. The original tracing shall be on a durable, reproducible of Mylar or comparable material approved by the Department of Planning and Zoning.

- (c) *Required Information for Preliminary Plan.* A checklist specifying the format for preliminary plan submission shall be provided by the Department of Planning and Zoning. The following information shall be required for all preliminary plans:
- (1) The preliminary plan shall be submitted at a scale of one inch equals 100 feet, one inch equals 50 feet or as approved by the Department of Planning and Zoning and shall be clear and legible. The size of a sheet shall be 24 inches by 36 inches. When more than one sheet is required, an index sheet of the same size shall be submitted showing the entire subdivision drawn to scale.
 - (2) Vicinity map indicating the location of the property with respect to surrounding property and streets to an accurate scale.
 - (3) The names, liber, and folio of all adjoining unsubdivided property. If a recorded subdivision adjoins the land to be developed, the subdivision name, lot number, block number, and recording number shall be indicated with dashed lines.
 - (4) Title block shall be in the lower right-hand corner and include:
 - (i) Proposed subdivision name, which shall not be a duplicate of any subdivision or development name in the Baltimore Metropolitan Area;
 - (ii) Section number;
 - (iii) Scale of plan;
 - (iv) Location by election district, County, and State;
 - (v) Date; and
 - (vi) Tax map and parcel number.
 - (5) Name and address of the owner and/or developer and registered engineer or other professional person licensed in the State of Maryland responsible for the preparation of the plan; signature, and seal of engineer, or other professional person qualified by law and licensed in the State of Maryland to sign and seal the preliminary plan and corporation (if corporate developer) is required.
 - (6) North arrow.
 - (7) Boundary of proposed subdivision clearly indicated by a heavy line with bearings and distances.
 - (8) All existing pertinent features, either natural or manmade, on-site or within 200 feet of the project property line that may influence the design of the subdivision, including streambanks, wetlands, floodplains, required buffers, soil characteristics, forests or important trees, utility rights-of-way including maintenance easements, individual well and septic systems and shared sewage disposal systems, or existing buildings, structures, and burial grounds. Indicate the approximate age of any structure and whether it is to be retained or removed. A cemetery boundary documentation and accommodation plan shall be submitted, if applicable pursuant to the requirements of subtitle 13, "Cemetery Preservation," of this title.
 - (9) Existing topography at two-foot contour intervals. Contour lines shall be indicated 200 feet beyond subdivision boundary.
 - (10) Location, widths, and names of all streets or alleys on or adjoining the subdivision. Existing easements and streets which have been preliminarily approved or recorded but remain unimproved shall be indicated with dashed lines.
 - (11) The layout of all proposed streets, including widths of rights-of-way and pavements, widths and locations of sidewalks or paths, and general location of street trees.

- (12) Location of existing and proposed utilities on or adjoining the tract, indicating approximate pipe sizes and directions of slopes. Include electric and telephone poles, street lights, and fire hydrants. If no hydrants, indicate provisions for fire protection.
- (13) The layout of all proposed and existing lots with appropriate dimensions and minimum area in square feet (acres if lot size is greater than 60,000 square feet), section number and area number, and required front, side, and rear setbacks except in the New Town district.
- (14) All subdivisions shall be tied to the Maryland Coordinate System if control points and information are within one mile of proposed subdivision. Coordinate values needed on all points on the boundary of the preliminary plan shall be presented in tabular form. Original monument references may be obtained from the Department of Public Works.
- (15) Lot numbers in numerical order throughout the entire subdivision for single-family lots. Apartment, condominium, commercial, industrial and bulk parcels will be designated by letters in alphabetical order.
- (16) The approximate location, dimensions, and area of all property proposed to be reserved or temporarily reserved for public use, or reserved for the use of all property owners in the subdivision and the location, dimensions, and purposes of any proposed easements.
- (17) Zoning district classification governing the subject tract and adjoining properties.
- (18) Proposed drainage and stormwater management systems including the type of structures, drainage easements, proposed changes in topography, the 100-year floodplain, and any deviations from standards. Justification shall be provided for rejecting preferred stormwater management measures in favor of less preferred methods unless predetermined by the Department of Planning and Zoning, after consultation with the Director of Public Works, and in accordance with the Design Manual.
- (19) If a private sewage or water supply system or shared sewage disposal system is to be used, location and results of soil percolation tests and locations of water wells are to be indicated in accordance with the specifications of the Maryland State Department of Environment. Signature block for County Health officer should be provided on the percolation plan or the plan sheets showing required well and septic information. No other sheets require signature by the Health Officer.
- (20) Total number of lots, area of lots, and parcels, area of public roadway and open space dedications, and total area of subdivision should be listed.
- (21) Locations and extent of proposed erosion and sediment control measures, as required, by the Howard County Soil Conservation District shall be shown.
- (22) Soil map at the scale of the subdivision plan, with the boundary plotted and the mapping symbols indicated within the mapping boundaries.
- (23) Preliminary forest conservation plan as described in subtitle 12 of this title.
- (24) The following information shall accompany the submission of the preliminary plan in accordance with requirements contained in the design manual:
 - (i) Tentative profiles of each street center line and typical cross section of each type of street.
 - (ii) Preliminary drainage area map and preliminary storm drainage study for the entire area covered by the preliminary subdivision plan. The storm drainage study shall include an evaluation of drainage structures and/or drainage systems, both upstream and downstream, affected by the drainage from the area covered by the preliminary plan as required by section 16.133 of this subtitle.
 - (iii) Preliminary grading plan showing limits of disturbance, grading for subdivision improvements and mass grading, if proposed. Schematic grading, for residential lots smaller than 20,000 square feet in area shall be shown to demonstrate that units can be

accommodated without adverse drainage impacts or disturbance of floodplains, wetland and stream buffers, or proposed forest conservation easements.

- (25) A traffic study shall accompany all preliminary plans for subdivisions which are required to pass the test for adequate road facilities pursuant to subtitle 11, "Adequate Public Facilities," of this title and have not yet been tested or have to be tested because of failure to meet a milestone.
- (26) Preliminary landscape plan as described in subsection 16.124(a)(3)(i) of this title.
- (27) In addition, preliminary plans for apartments shall include:
 - (i) Approximate location of each building, setbacks from all streets (public or private), property lines, and distances between buildings.
 - (ii) Number of apartment units in each building.
 - (iii) Number of parking spaces in each off-street parking area, and total number of parking spaces.
 - (iv) Interior road or street access, whether public or private, and total area of each.
- (28) A developer who is proposing the redevelopment of a golf course shall comply with section 16.129 of this subtitle, and, for purposes of this section, the terms "redevelopment" and "golf course" shall have the meaning set forth in section 16.129 of this subtitle.

(C.B. 121, 1992; C.B. 13, 1993; C.B. 80, 1993; C.B. 16, 1995; C.B. 20, 1996; C.B. 52, 2001, § 2; C.B. 3, 2005, § 3; C.B. 60, 2007, § 3; C.B. 24, 2008, § 3)

Sec. 16.147. - Final subdivision plan and final plat.

- (a) *Purpose.* The final subdivision plan is the culmination of the subdivision process and shall include all information necessary to comply with subsection (c), "required information for final plat"; (d) "construction drawings, documents and specifications"; (e), "developer's agreement"; and (f), "major facilities agreement," of this section. The final plat becomes the official record of the division of land, and no lot within the subdivision may be sold legally until a final plat has been approved and recorded by the Department of Planning and Zoning. The extent of a phased subdivision included in each final subdivision plan shall be consistent with the phasing schedule included in the approved sketch plan.
- (b) *Procedures:*
 - (1) *Presubmission community meeting for minor subdivisions.* If the initial plan submittal for a residential subdivision is a final plan located in the planned service area for water and sewer, the developer of the subdivision is required to hold a presubmission community meeting in accordance with section 16.128 of this subtitle.
 - (2) *Design Advisory Panel review.* In the Department of Planning and Zoning determines that a final plan is not consistent with an approved sketch or preliminary plan, a developer shall submit the project for review by the Design Advisory Panel and the Director of the Department of Planning and Zoning may consider recommendations made by the Design Advisory Panel in accordance with section 16.1504 of this subtitle as a condition of plan approval for projects located on property subject to Design Advisory Panel review as set forth in section 16.1501 of this subtitle.
 - (3) *Submit application pay fees.* A developer applies for approval of a final plan by submitting the following items to the Department of Planning and Zoning for the entire parcel or for phased subdivisions, the phase being subdivided:
 - (i) An application form;

- (ii) The required number of copies of the final plan, which shall be in accordance with the provisions of this section; and
 - (iii) The appropriate application fee.
- (4) *Notice of new residential minor subdivisions and resubdivisions:*
- (i) *Requirement to give public notice.* If the final plan submission is the initial plan submittal for new residential development and is submitted after November 15, 2001, within three working days of the plan's submission the developer shall post public notice on the property.
 - (ii) *Location.* The poster provided by the Department of Planning and Zoning shall be posted at the site of the proposed development entrance so that community residents may reasonably be expected to see it.
 - (iii) *Duration.* The notice shall remain in place at least 30 days.
 - (iv) *Content.* The notice shall:
 - a. State that a new residential development is proposed to be constructed at the site, including number of residential units proposed.
 - b. Give the final plan number.
 - c. Be double-sided and at least 30 inches by 36 inches in size.
 - d. Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
 - e. Give the address of the subject property, if available.
 - f. Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.
 - (v) *No delay.* The notification requirements of this subsection shall not be construed to delay the normal processing of the plan.
- (5) *Processing of application.* Processing of the application for approval of the final plan will follow the general procedures outlined in section 16.144, "General procedures regarding the subdivision process," of this subtitle.
- (6) A developer who is proposing the redevelopment of a golf course shall comply with section 16.129 of this subtitle, and, for purposes of this section, the terms "redevelopment" and "golf course" shall have the meaning set forth in section 16.129 of this subtitle.
- (7) *Fee simple dedication of open space.* If dedication of open space to the County or a homeowners' association is proposed, the developer shall submit an original deed to the County prior to recordation of the final plat, granting good and sufficient fee simple title to all open space required to be dedicated.
- (8) *Dedication of Easements.* If dedication of easements for water, sewer, storm drainage, public stormwater management facilities, shared septic facilities, other public utilities, forest conservation, floodplains or preservation parcels is proposed, the developer shall submit original deeds (or declaration of covenants in the case of shared septic facilities) to the County prior to the recordation of the final plat, granting the required easements.
- (9) *Recordation.* The Department of Planning and Zoning shall record the final plat in the land records of Howard County and shall notify the developer by mail of the date of recording and the plat number. For resubdivisions and correction plats, the Department of Planning and

Zoning shall also record a notation in the form of a resolution that references the revised plat to be affixed to the previously recorded lot or lots.

(c) *Required Information for Final Plat.* A checklist specifying the required format for final plat submission shall be provided by the Department of Planning and Zoning. The final plat shall be clearly and legibly drawn in black waterproof ink on a reproducible linen of good quality or comparable material approved by the Howard County Department of Planning and Zoning and shall conform to the plat requirements of the Annotated Code of Maryland, as amended. The size of the plat shall be 18 inches by 24 inches, including a one and one-half-inch margin for binding along the left-hand edge and one-half-inch margins on all other sides. Scale shall be one inch equals 100 feet, one inch equals 50 feet, one inch equals 30 feet, or as approved by the Department of Planning and Zoning. Where necessary, the final plat may be on several sheets accompanied by an index sheet showing the entire subdivision submitted. Information to be shown on the final plat shall include:

- (1) The title block shall appear in the lower right-hand corner and include:
 - (i) Name of the subdivision. The name approved by the Department of Planning and Zoning and recorded in the land records shall constitute the subdivision's official and only name. No other name may be used for advertising or sales purpose unless an approved and amended plat is recorded bearing the revised name.
 - (ii) Section, area (if any), and lot numbers.
 - (iii) Scale and date of application.
 - (iv) Location by election district, County, State, tax map reference.
 - (v) Current zoning and previous Department of Planning and Zoning subdivision file numbers.
- (2) An approval block in the form required by the Department of Planning and Zoning shall be provided in the lower left-hand corner of the plat for signature of County Agencies.
- (3) Tabulation of final plat (above approval block) showing the following:
 - (i) Total number of lots and/or parcels to be recorded;
 - (ii) Total area of lots and/or parcels;
 - (iii) Total area of roadways to be recorded including widening strips; and
 - (iv) Total area of subdivision to be recorded.
- (4) A heavy line indicating the boundary of the final plat with lengths of courses to hundredths of a foot and bearings relating to the Maryland State Plane Coordinate System to a minimum accuracy of 15 seconds, if Howard County geodetic survey control points and information are within one mile of proposed subdivision. A note shall be placed on the plat indicating the source of the Maryland State Plane Coordinate System.
- (5) Coordinate information for all property lines, streets, public right-of-way lines, outside boundary of plat and all other locations as required by the Department of Planning and Zoning and shall be in tabular form.

The lengths of all arcs, radii, points of curvature, and cord and tangent bearings and distances in table form.
- (6) Howard County geodetic control survey stations located on the site shall be accurately located. Any geodetic control stations that need relocation shall be identified.
- (7) Exact locations, widths, bearings, and names of all streets and widths of all alleys and pedestrian ways within the subdivision or adjoining subdivision abutting on the outline of the subdivision.
- (8) All rights-of-way, easements, and reservations, including:

- (i) Easements to fulfill the requirements of the final forest conservation plan as required by subtitle 12 of this title; as well as
 - (ii) Preservation parcel easements for cluster subdivisions in the RC or RR zoning districts and, where a shared sewage disposal facility is to be used, access and maintenance easements for all components of the facility, including easements for septic tanks and piping on private lots and easements for a subsurface wastewater disposal area. All existing and proposed easements shall be shaded and indicated with recording references if existing.
 - (iii) Easements for water, sewer, storm drainage, public stormwater management facilities, other public utilities, floodplains, and maintenance of use-in-common driveways.
 - (iv) All existing and proposed easements shall be shaded and indicated with recording references if existing.
- (9) All lot lines with dimensions in feet and hundredths, and with bearings to a minimum accuracy of 15 seconds.
 - (10) Minimum area of each lot in square feet or in acres if lot size is greater than 60,000 square feet. Steep slopes shall be calculated using existing topography.
 - (11) Lot numbers in numerical order throughout the entire subdivision. For a resubdivision, resubdivided lots shall be numbered numerically, beginning with number following the highest original lot number with the original lot lines shown dashed and original lot number dotted. Apartment, condominium, nonresidential and bulk parcels will be lettered in alphabetical order. For a resubdivision of any parcel, the letter will be retained with a number to follow the letter (example "A-1"); the original parcel lines shown dashed; and original parcel letter dotted.
 - (12) Front, rear, and side building setback or restriction lines shown graphically with dimensions for each lot except in the New Town district.
 - (13) Vicinity map, indicating the location of the property with respect to surrounding property and streets and the location of nearby survey monuments of the Howard County geodetic control.
 - (14) The names, liber, and folio of all adjoining unsubdivided property. Where a recorded division adjoins the land to be developed, the subdivision name, lot number, and recording reference of the recorded division should be indicated with dashed line.
 - (15) North arrow drawn through one of the property corners of the subdivision.
 - (16) Accurate outlines of any open space to be dedicated to the County or reserved for common use by occupants of the subdivision with ownership noted.
 - (17) The location of floodplains, wetlands, wetland buffers, stream buffers and proposed wetlands creation, if any. Floodplain and wetlands delineations are not required for agricultural preservation subdivisions or rural cluster subdivisions if the owner submits a certification by an authorized professional that lots and driveways will not impact wetlands, wetland buffers, or floodplains. A cemetery boundary documentation and accommodation plan shall be submitted, if applicable pursuant to the requirements of subtitle 13, "Cemetery Preservation," of this title.
 - (18) The location and approximate age of any burial grounds or existing structures and whether structures are to be retained or removed.
 - (19) If a private sewage system or a shared sewage disposal facility is to be used, locations of soil percolation tests are to be indicated in accordance with the specifications of the Maryland State Department of the Environment. A cross-hatched area will be noted on the final plat to indicate the private sewage easement area along with the following statement:

"This area designates a private sewage easement of at least 10,000 square feet (or 10,000 square feet per lot for shared drain fields associated with a shared sewage disposal facility) as required by the Maryland State Department of the Environment Subdivision Regulations (COMAR 26.04.03). Improvements of any nature in this area are restricted unless public

sewage becomes available. These easements shall become null and void upon connection to a public sewage system. The County Health Officer shall have the authority to grant variances for encroachments into the private sewage easement. Recordation of a modified sewage easement shall not be necessary."

- (20) A certification that the developer is the owner or equitable owner of the land proposed to be subdivided shall be noted on the final plat as follows:

SURVEYOR'S CERTIFICATE

"I hereby certify that the final plat shown hereon is correct; that it is a subdivision of part of/all of the lands conveyed. By (previous owner) to (present owner) by deed dated (date) and recorded in the land records of Howard County in liber , folio , and that all monuments are in place or will be in place prior to the acceptance of the streets in the subdivision by Howard County as shown, in accordance with the Annotated Code of Maryland, as amended.

<u> </u> Date	<u> </u> Registered Land Surveyor/Property Line Surveyor"
---------------------	---

- (21) A certification by the owner or owners of property to the effect that the subdivision as shown on the final plat is made with his consent and that it is the owner(s) desire to record the same and shall be noted on the final plat as follows:

DEDICATION FOR INDIVIDUALS

"We , and owners, of the property shown and described hereon, hereby adopt this plan of subdivision, and in consideration of the approval of this final plat by the Department of Planning and Zoning, establish the minimum building restriction lines and grant unto Howard County, Maryland, its successors and assigns:

- (1) The right to lay, construct and maintain sewers, drains, water pipes and other municipal utilities and services, in and under all roads and street rights-of-way and the specific easement areas shown hereon;
- (2) The right to require dedication for public use the beds of the streets and/or roads and floodplains and open space where applicable, and for good and other valuable consideration, hereby grant the right and option to Howard County to acquire the fee simple title to the beds of the streets and/or roads and floodplains, storm drainage facilities and open space where applicable;
- (3) The right to require dedication of waterways and drainage easements for the specific purpose of their construction, repair and maintenance; and
- (4) That no building or similar structure of any kind shall be erected on or over the said easements and right-of-ways.

"Witness my/our hands this day of , 19 ."

DEDICATION FOR CORPORATIONS

" (Name of corporation) , a (name and State) corporation by _____ authorized agent _____, secretary, owner of the property _____ shown and described hereon, hereby adopted this plan of subdivision, and in consideration of the approval of this final plat by the Department of Planning and Zoning, establish the minimum building restriction lines and grant unto Howard County, Maryland, its successors and assigns:

- (1) The right to lay, construct and maintain sewers, drains, water pipes and other municipal utilities and services, in and under all roads and street rights-of-way and the specific easement shown hereon;
- (2) The right to require dedication for public use the beds of the streets and/or roads, and floodplains and open space where applicable and for good and other valuable consideration, hereby grant the right and option to Howard County to acquire the fee simple title to the beds of the street and/or roads and floodplains, storm drainage facilities and open space where applicable; and
- (3) The right to require dedication of waterways and drainage easements for the specific purpose of their construction, repair and maintenance; and
- (4) That no building or similar structure of any kind shall be erected on or over the said easements and right-of-ways.

"Witness my/our hands this _____ day of _____, 19____.

	_____ (Name of corporation)
(Corporate seal) By:	_____ (Authorized agent)
Attest:	_____ (Secretary)"

(Note: Names shall be located on plat so that the seal can be affixed.)

- (22) When a division of land is a minor subdivision or resubdivision and there are no public dedications involved, the following owners' certification may be noted on the plat as follows:

ALTERNATE DEDICATION
CERTIFICATE

"We, _____ and _____, owners of the property shown and described hereon, hereby adopt this plan of subdivision; and in consideration of the approval of this plat by the Department of Planning and Zoning establish the minimum building restriction lines. All easements of [or] rights-of-way affecting the property are included in this plan of subdivision.

"Witness my/our hand/s this _____ day of _____, 19____."

- (23) References for protective covenants, including covenants governing the maintenance of undedicated public spaces, reservations, or forest conservation areas.

- (24) Where appropriate, open space dedication to a homeowner's association shall be noted on the final plat in accordance with subsection 16.121(c) as follows:

OPEN SPACE DEDICATION

"The open space shown hereon is hereby dedicated to a property owners association for the residents of this subdivision and recording references of the Articles of Incorporation and restrictions are shown hereon."

- (25) For cluster subdivisions in the RC or RR zoning districts, reference the protective covenants governing the use of preservation parcels.
- (26) For a density exchange or a cluster exchange subdivision in the RC or RR zoning districts, provide:
- (i) References on the receiving subdivision plat for the sending parcel subdivision(s).
 - (ii) References on the sending subdivision plat(s) to the receiving subdivision plat(s), the number of lots exchanged and whether any density remains on the sending plat.
 - (iii) The following certification on the sending parcel easement plat:

SURVEYOR'S CERTIFICATE FOR DEO SENDING PARCEL

I hereby certify that the final easement plat shown hereon is correct; that it defines a preservation parcel easement of _____ acres on (all/part) of the land conveyed by (previous owner) to (present owner) by deed dated (date) and recorded in the land records of Howard County in liber _____, folio _____. All monuments are in place.

_____	_____
Date	Registered Land Surveyor/ Property Line Surveyor

- (27) If a subdivision consisting of lots smaller than three acres each is in a planned service area for sewer as specified in the Howard County Master Plan for Water and Sewerage, and individual on-site sewage disposal systems are used but an adequate community sewer system will be available within a five-year period, the following statement shall appear on the final plat:

"Interim individual on-site sewage disposal systems may be utilized in the subdivision for a maximum of one year after an adequate community sewer system becomes available."

- (28) If a subdivision consisting of lots smaller than three acres each is in a planned service area for water as specified in the Howard County Master Plan for Sewerage, and individual interim water wells are used, but an adequate community water system will be available within a five-year period, the following statement shall appear on the final plat:

"Interim individual water wells may be utilized in the subdivision for a maximum of one year after an adequate community water system becomes available."

- (29) A certification by the developer that there are no burial grounds on the property being subdivided, or if there are burial grounds on the property being subdivided, a certification that the burial grounds have not and will not be disturbed except as permitted by State law.
- (30) Certification by a qualified professional that:
- (i) There are no wetlands on-site that will be disturbed and require 401 and 404 wetlands permits from the State of Maryland; or
 - (ii) Reference the numbers of 401 and 404 wetlands permits that have been approved and any wetlands mitigation requirements.
- If mitigation is required indicate the type, amount and proposed location.
- (31) Parcel and right-of-way boundaries in a digital format that meets County standards to be submitted with the final plat original Mylar.
- (32) For residential developments required to hold a presubmission community meeting in accordance with section 16.128 of this title, a certification that meeting notices were mailed and a summary of the comments made at the meeting.
- (33) For residential development projects requesting green neighborhood allocations. The final plan shall demonstrate how the project will comply with the green neighborhood site portion of the green neighborhood checklist. The final plat shall indicate that the development has obtained green neighborhood allocations and shall indicate that during the building permit process all buildings within the residential development project shall comply with the green neighborhood home portion of the green neighborhood checklist.
- (34) A developer who is proposing the redevelopment of a golf course shall comply with section 16.129 of this subtitle, and, for purposes of this section, the terms "redevelopment" and "golf course" shall have the meaning set forth in section 16.129 of this subtitle.
- (d) *Construction Drawings, Documents and Specifications.* The developer shall file concurrent with the submission of the final plat all of the construction drawings and documents to complete construction of streets, storm drains, and stormwater management facilities, together with all necessary appurtenances thereto in accordance with procedures and criteria contained in the Design Manual. The developer shall prepare and submit copies as required to the Department of Planning and Zoning:
- (1) A forest conservation plan, including the locations and specifications for forest retention, reforestation or afforestation.
 - (2) A landscape plan, including locations and specifications for required landscape planting and street trees.
 - (3) A final drainage area map.
 - (4) A final storm drainage plan.
 - (5) A final stormwater management plan.
 - (6) A final grading plan, showing grading for all subdivision improvements, and, where applicable, mass grading and the location of sewage disposal easements within 25 feet of the limits of disturbance.
 - (7) A final sediment control plan for the entire project area to be recorded and for any adjacent area affected by the area to be recorded, including:
 - (i) The location of forest protection measures, temporary and permanent sediment control measures and vegetative stabilization.
 - (ii) The construction sequence for providing forest protection measures and adequate sediment control measures to prevent off-site damage.

- (iii) Specifications for seeding or sodding and fertilizing, a schedule for grading, seeding or sodding and planting, and applicable structural measures, such as ponds.
 - (8) Wetlands mitigation plan and specifications, if required.
 - (9) Complete project specifications when they differ from Howard County standards.
 - (10) The developer shall furnish any design data and computations as required and in the form and procedures established by the Department of Planning and Zoning and the Howard Soil Conservation District.
 - (11) A tabulated estimate of all quantities and costs, including contingent items related to the construction of all required public improvements.
 - (12) A traffic study shall accompany all final plans for subdivisions which are required to pass the test for adequate road facilities pursuant to subtitle 11, "Adequate Public Facilities," of this title and have not yet been tested or have to be tested because of failure to meet a milestone.
 - (13) A final shared sewage disposal facility plan, where shared sewage disposal facility is to be used for cluster subdivisions in the RR and RC districts.
 - (14) For developments where the required open space will be owned and managed by a home owner's association, articles of incorporation and covenants for the home owner's association are required, as well as the deed granting fee simple ownership of the open space to the home owner's association.
- (e) *Developer Agreements.* After final plan approval and signature approval of all construction drawings and prior to the submission of the original final plat, the developer shall post with the County all necessary monies and file a developer's agreement and if required, a major facilities agreement and/or a shared sewage disposal facility developer agreement. The developer's agreement(s) shall cover financial obligations with appropriate security guaranteeing installation of all required improvements, including APFO improvements, installation and warranty of a shared sewage disposal facility on a cluster subdivision in the RR or RC zoning district, and fulfillment of the protection and management requirements of the approved forest conservation plan. The agreement may provide that the developer may be partially released from the surety requirements of the agreement upon partial completion of the work in accordance with criteria established by the Department of Public Works. The agreement shall provide when either the onsite or offsite road improvements that are the responsibility of the developer to build are required to be started in the sequence of construction. The sequence of construction, as set forth in the approved plans and specifications, shall be incorporated into the agreement by reference. Failure to construct road improvements in accordance with the developer agreement, and incorporated approved plans and specifications, may result in default in accordance with the agreement and building permits shall not be issued. The Director of the Department of Planning and Zoning may authorize submission of the original final plat if the developer agreement is not complete, but is in process and can be fully executed in a timely manner.
- (f) *Major Facilities Agreement.* After final plat approval and prior to the submission of the original final plat, the developer shall post with the County all necessary monies and file a major facilities agreement covering the installation of all public improvements included as mitigation to road facilities pursuant to subtitle 11, "Adequate Public Facilities" of this title.

(C.B. 121, 1992; C.B. 13, 1993; C.B. 80, 1993; C.B. 16, 1995; C.B. 20, 1996; C.B. 15, 1998; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1; C.B. 29, 2005, § 1; C.B. 48, 2007, § 2; C.B. 60, 2007, § 3; C.B. 24, 2008, § 3; C.B. 1, 2018, § 1; C.B. 69, 2018, § 1)

Secs. 16.148—16.153. - Reserved.

ARTICLE V. - PROCEDURES FOR FILING AND PROCESSING SITE DEVELOPMENT PLAN APPLICATIONS

Sec. 16.154. - Purpose.

The purpose of the site development plan is to indicate the location and construction specifications for buildings, structures, paved areas, grading, drainage, on-site utilities, sidewalks, trails, required forest conservation area, landscaping and other improvements within a site proposed for development.

(C.B. 121, 1992)

Sec. 16.155. - Applicability.

- (a) A site development plan, approved by the Department of Planning and Zoning, is required for:
- (1) *Nonresidential*:
 - (i) New or expanded nonresidential development, including commercial, industrial, institutional and utility development, plus public buildings, schools and other public facilities, but excluding road, water, sewer or drainage improvements and development associated with a use permit approved by the Department in accordance with section 128 of the zoning regulations.
 - (ii) Any establishment of a use or change in use, unless the Department of Planning and Zoning determines that the establishment or change in use will cause less than 5,000 square feet of site disturbance, that no significant alteration to access, parking, circulation, drainage, landscaping, structures, or other site features is required, and that the proposed use does not qualify as redevelopment that requires stormwater management in accordance with the design manual.
 - (2) *Residential*. New residential development as follows:
 - (i) Single-family attached, apartment, and mobile home residential development;
 - (ii) Development of single-family detached residential lots and deeded parcels within the planned service area for both public water and sewer, except that lots in recorded subdivisions created before February 7, 1976 are exempt from site development plan requirements unless more than 5,000 square feet of disturbance is proposed and the lots have not been reconfigured or merged through the recordation of a plat recorded on or after February 7, 1976; and
 - (iii) Residential lots with new town zoning, not meeting the requirements of subparagraphs (i) or (ii) of this paragraph, where the final development plan criteria require submission of a site development plan.
 - (3) *Conditional use*. All conditional uses in commercial or industrial districts. In other districts, the Department of Planning and Zoning may require a site development plan for conditional uses which require exterior site improvements.
- (b) For residential development not listed in subsection (a) above, a plot plan shall be submitted in conjunction with the building permit application and in accordance with the requirements of the Department of Inspections, Licenses and Permits.

(C.B. 121, 1992; C.B. 20, 1996; C.B. 29, 2001, § 1; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1)

Sec. 16.156. - Procedures.

- (a) *Presubmission Community Meetings, Required*. Presubmission community meetings in accordance with section 16.128 of this subtitle are required for the following site plan submittals:
- (1) If the initial plan submittal for a residential development is a site development plan; or
 - (2) If the site development plan submittal is for:

- a. A new nonresidential development except that a presubmission community meeting is not required for County Capital Projects for which a community outreach meeting has been held by the County or the Howard County Public School System; or
 - b. An existing nonresidential development proposed for a floor area expansion of more than 25 percent except that a presubmission community meeting is not required for County Capital Projects for which a community outreach meeting has been held by the County or the Howard County Public School System.
- (b) *Design Advisory Panel:*
- (1) *Review.* If required by paragraphs (2), (3), and (4) of this subsection, a developer shall submit a project for review by the Design Advisory Panel and the Director of the Department of Planning and Zoning may consider recommendations made by the Design Advisory Panel in accordance with section 16.1504 of this subtitle as a condition of plan approval for projects located on property subject to design advisory panel review as set forth in section 16.1501 of this subtitle.
 - (2) *Site development plans submitted on or after November 3, 2008.* For site development plans submitted on or after November 3, 2008, a developer shall submit the project for Design Advisory Panel review prior to submission of the site development plan.
 - (3) *Sketch plans technically complete before November 3, 2008.* For sketch plans that are technically complete before November 3, 2008, a developer shall submit the project for Design Advisory Panel review as a condition of approval of the site development plan.
 - (4) *Further review required.* If the Director of Planning and Zoning determines that a site development plan is not consistent with the plan initially reviewed by the panel, the Director of Planning and Zoning may require additional review by the panel prior to plan approval.
- (c) *Application.* The applicant for a site development plan shall submit the following to the Department of Planning and Zoning:
- (1) Completed application form.
 - (2) The required number of copies of the site development plan, in accordance with the information requirements of section 16.157.
 - (3) For commercial or industrial plans:
 - (4) Compliance with green buildings law. A site development plan application for a project that is required to comply with the Howard County Green Buildings Law, set forth in title 3, subtitle 10 of this Code, shall comply with subsection 3.1005(a) of this Code prior to approval of the plan.
 - (i) Completed wastewater questionnaire.
 - (ii) At the specific request of the Department of Public Works, additional information regarding proposed industrial processes and wastewater characteristics.
 - (iii) A statement signed by the applicant agreeing to abide by the requirements of section 18.122A, "Regulation of Discharges to the Public Sewerage System" of this Code.
- (d) *Fees.* The applicant for a site development plan shall pay an appropriate fee pursuant to the fee schedule adopted by resolution of the County Council.
- (e) *Notice of New Residential Developments:*
- (1) *Requirement to give public notice.* If the site development plan is the initial plan submittal for a new residential development and is submitted after November 15, 2001, within three working days of the plan's submission the developer shall post public notice on the property.
 - (2) *Location.* Posters provided by the Department of Planning and Zoning shall be posted at the site of the proposed roadway entrances so that local residents may reasonably be expected to see them.

- (3) *Duration.* The notice shall remain in place at least 30 days.
- (4) *Content.* The notice shall:
 - (i) State that a roadway entrance is proposed to be constructed at the site.
 - (ii) Give the site development plan number.
 - (iii) Be double-sided and at least 30 inches by 36 inches in size.
 - (iv) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
 - (v) Give the address of the subject property, if available.
 - (vi) Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.
- (f) *Notice to Nonconforming Residential Properties.* Whenever a site plan is submitted for nonresidential development which adjoins nonconforming residential properties, the owner of the nonconforming residential properties shall be notified within 14 working days by the Department of Planning and Zoning, by registered mail, that the proposed site plan is available for inspection at the Department of Planning and Zoning. The notification letter shall state that owner of adjoining nonconforming residential properties may appeal the decision of the Department of Planning and Zoning on the site plan to the Board of Appeals of Howard County within 30 days.
- (g) *Report of Review Committee; Additional Information:*
 - (1) Within 60 days of active processing time from submission of the site development plan, the Department of Planning and Zoning shall provide the developer with a written report of the findings of the Review Committee including the comments of the Review Committee and its recommendations.
 - (2) If the Department of Planning and Zoning or the Review Committee indicates that additional information is needed in order to decide whether to approve the plan, the developer shall provide the information within 45 days of receiving such indication.
- (h) *Golf Course Redevelopment.* A developer who is proposing the redevelopment of a golf course shall comply with section 16.129 of this subtitle, and, for purposes of this section, the terms *redevelopment* and *golf course* shall have the meaning set forth in section 16.129 of this subtitle.
- (i) *Approval/Denial of Site Development Plan:*
 - (1) Within 60 days of active processing time from submission of the site development plan or, if additional information was requested, within 45 days of receiving the information, the Department of Planning and Zoning shall indicate to the developer in writing whether the site development plan is approved, approved with modifications or denied.
 - (2) If the site development plan is approved or approved with modifications, this notice shall serve as authority to proceed to submission of the site development plan originals, except for projects which require Planning Board approval.
- (j) *Planning Board Approval:*
 - (1) When the site development plan also requires Planning Board Approval, the Department of Planning and Zoning shall advise the developer of the location, time and date of the Planning Board meeting when it notifies the developer that the site development plan has been approved or approved with modifications by the Department.
 - (2) The Planning Board shall indicate to the developer in writing whether the site development plan is approved, approved with modifications or denied.

- (k) *Developer Agreements; Major Facilities Agreements.* Concurrent with the approval of the site development plan, the developer shall execute the developer agreement(s) and major facilities agreement, if any, for required improvements, including APFO improvements, and, where applicable, for fulfillment of the protection and management requirements of the approved forest conservation plan. The agreement may provide that the developer may be partially released from the surety requirements upon partial completion of the work in accordance with criteria established by the Department of Public Works. The agreement shall provide when either the onsite or offsite road improvements that are the responsibility of the developer to build are required to be started in the sequence of construction. The sequence of construction, as set forth in the approved plans and specifications, shall be incorporated into the agreement by reference. Failure to construct road improvements in accordance with the developer agreement, and incorporated approved plans and specifications, may result in default in accordance with the agreement and building permits shall not be issued.
- (l) *Payment of Fees; Posting of Financial Obligations.* Within 180 days of receiving approval of the site development plan the developer shall:
- (1) Pay all required fees to the County; and
 - (2) If subject to a developer agreement or major facility agreement. Post all monies and/or file appropriate surety covering the developer's financial obligations for the required improvements.
- (m) *Submission of Originals for Signature.* Within 180 days of approval of the site development plan, the developer shall submit the original Mylar plans corrected to meet the requirements of the various State and County agencies and the Planning Board (if required by the zoning regulations). The Department of Planning and Zoning shall coordinate the signature process associated with approval of the site development plan. If the corrected originals are not submitted within 180 days of approval of the site development plan, the approval will expire and a new site development plan submission will be required.
- (n) *Retention of Originals.* Once signed, the site development plan originals will be retained in the files of the Department of Public Works.
- (o) *Building Permits:*
- (1) *Application time limits:*
 - (i) Within one year of signature approval of the site development plan original, the developer shall apply to the Department of Inspections, Licenses and Permits for building permits to initiate construction on the site.
 - (ii) For single-family attached, apartment and nonresidential developments involving multiple buildings or staged construction, the developer shall apply for building permits for all construction authorized by the approved site development plan within two years of signature approval.
 - (iii) For single-family detached site development plans involving multiple lots, the developer shall apply for building permits for all construction authorized by the approved site development plan within five years of approval.
 - (2) *Expiration of plan approval.* If the developer does not apply for building permits as required by paragraph (1) of this subsection, the site development plan shall expire and a new site development plan submission will be required.
 - (3) *Prerequisites for building permit.* No building permit shall be issued unless:
 - (i) Signature approval of the site development plan original is complete.
 - (ii) The permit is in accordance with the approved site development plan.
 - (iii) The proposed uses and the related site improvements as shown on the site development plan do not create a violation of the Howard County Zoning Regulations.

- (p) *Certificate of Use and Occupancy.* Where grading has occurred which requires a grading permit, the Department of Inspections, Licenses and Permits shall not issue a certificate of use and occupancy unless a certification from a registered land surveyor has been submitted which certifies that the site has been graded and the drainage courses have been developed in accordance with the approved site development plan or, if none, the approved grading plan and sediment control plan.
- (q) *Signs.* Approval of a site development plan does not constitute approval of the erection of any signs shown on the plan.

(C.B. 121, 1992; C.B. 15, 1998; C.B. 52, 2001, §§ 1, 2; C.B. 45, 2003, § 1; C.B. 29, 2005 § 1; C.B. 47, 2007, § 2; C.B. 60, 2007, § 4; C.B. 24, 2008, §§ 4, 5; C.B. 36, 2009, § 1; C.B. 39, 2009, § 2; C.B. 1, 2018, § 1; C.B. 40, 2018, § 1; C.B. 69, 2018, § 1)

Sec. 16.157. - Required information for site development plans.

Applications for site development plans shall conform to a checklist prepared by the Department of Planning and Zoning which shall indicate the format of the plan, the information to be provided, etc. The site development plan shall show the existing information and proposed improvements with sufficient detail for agency review and approval and subsequent construction. A checklist may include, but shall not be limited to, the following requirements:

- (a) *General:*
 - (1) Plan shall be prepared on base sheets 24 feet by 36 feet of a material approved by the Department of Planning and Zoning.
 - (2) The scale of the drawings shall be from one inch equals ten feet to one inch equals 50 feet, or as approved by the Department of Planning and Zoning.
 - (3) There shall be a title block including:
 - (i) Tax map number and lot or parcel numbers;
 - (ii) Plat, parcel, or property name;
 - (iii) Section and area, if appropriate;
 - (iv) Election district;
 - (v) Owner's name, address, and telephone number;
 - (vi) Scale; and
 - (vii) Date.
 - (4) Howard County approval signature blocks on all sheets.
 - (5) Seal and original signature of authorized registered professional designing the plans.
 - (6) Name, address and telephone number of the plan designer.
- (b) *Information about Existing Conditions:*
 - (1) Vicinity map showing property location in relation to access roads with scale and north arrow;
 - (2) Existing topography two-foot contour intervals for proposed parcel and adjacent properties;
 - (3) Coordinate grids and ticks;
 - (4) One-hundred-year floodplains;
 - (5) Wooded areas and major trees, including a forest stand delineation, if required;
 - (6) Buildings and structures, including sewage pretreatment structures;
 - (7) Utilities and fire hydrants;

- (8) Existing roads and/or rights-of-way and other paving, scenic roads, trails, and proposed State or County rights-of-way;
- (9) Existing and proposed County parks, schools, or other public facilities;
- (10) Easements of record with recording reference;
- (11) Ponds, wetlands, wetlands buffers, streams and stream buffers;
- (12) Howard County survey control stations shall be plotted accurately, identifying any that require relocation;
- (13) Accurately plotted lot or parcel showing property lines with bearings and distances;
- (14) North arrow;
- (15) Identification and zoning of adjacent properties;
- (16) The location and approximate age of any existing structure and whether the structure is to be retained or removed;
- (17) The boundaries of burial grounds with a certification by the developer that the burial grounds have not and will not be disturbed except as permitted by law, or a certification that there are no burial grounds on the property being developed; a cemetery boundary documentation and accommodation plan shall be submitted, if applicable pursuant to the requirements of subtitle 13, "Cemetery Preservation," of this title;
- (18) Legend; and
- (19) General information, to include:
 - (i) Existing zoning;
 - (ii) Subdivision or final development plan reference, if appropriate;
 - (iii) Total area of submission;
 - (iv) Approved street names and numbers; and
 - (v) Other specific information as may be required by the zoning ordinance, including structure and use setbacks.
- (20) A developer who is proposing the redevelopment of a golf course shall comply with section 16.129 of this subtitle, and, for purposes of this section, the terms *redevelopment* and *golf course* shall have the meaning set forth in section 16.129 of this subtitle.

(c) *Information Concerning Proposed Improvements:*

- (1) Locations, size, and height of all proposed buildings and structures, including sewage pretreatment structures. Indicate if buildings will have an automatic fire protection sprinkler system.
- (2) Location and type of all proposed paving, parking, driveways, roads, trails and walkways.
- (3) Location and size of all proposed utilities, including fire hydrants or provisions for a static fire protection system, if required.
- (4) Proposed easements including utility or use-in-common driveway maintenance easements and State or County rights-of-way.
- (5) Proposed County parks, schools, or other public facilities.
- (6) Proposed grading with all pertinent elevations, proposed contours, drainage areas, stormwater management measures, drainage arrows, and wetlands creation if any.
- (7) Sediment and erosion control measures.
- (8) Existing topographic features to be retained.

- (9) Forest conservation plan, if required, and all proposed landscaping.
- (10) Construction details for proposed improvements or reference to approved standard construction details.
- (11) Howard County reference numbers to information from other approved plans, such as water and sewer contracts or road construction plans.
- (12) Additional notes, computations, dimensions in compliance with laws and regulations.
- (13) A traffic study for all site development plans which are required to pass the test for adequate road facilities pursuant to subtitle 11, "Adequate Public Facilities," of this title.
- (14) For development of a site abutting a scenic road, perspective sketches, elevations or cross sections of the proposed development as viewed from the scenic road, showing the relationship of development to the scenic character of the landscape as viewed from the road, unless this information was submitted during the subdivision process.
- (15) For developments required to hold a presubmission community meeting in accordance with section 16.128 and subsection 16.156(a) of this subtitle, a certification that meeting notices were mailed and a summary of the comments made at the meeting.
- (16) For residential development projects requesting green neighborhood allocations, the site development plan shall demonstrate how the project will comply with the green neighborhood site portion of the green neighborhood checklist. The site development plan shall indicate that the development has obtained green neighborhood allocations and shall indicate that during the building permit process all buildings within the residential development project shall comply with the green neighborhood home portion of the green neighborhood checklist.

(C.B. 121, 1992; C.B. 13, 1993; C.B. 51, 1994; C.B. 20, 1996; C.B. 15, 1998; C.B. 52, 2001, § 2; C.B. 45, 2003, § 1; C.B. 29, 2005, § 1; C.B. 48, 2007, § 3; C.B. 60, 2007, § 4)

SUBTITLE 2. - ZONING³

Footnotes:

---- (3) ----

Note— Zoning Regulation, County of Howard, Maryland, §§ 100—134, is published under separate cover.

Sec. 16.200. - Zoning authority; definitions; short title.

- (a) *Zoning Authority.* This subtitle provides that the Zoning Authority of Howard County for comprehensive zoning and for amendments to the text of the Howard County regulations shall be the County Council of Howard County and the Zoning Authority of Howard County for piecemeal zoning map amendments and decisions on development plans shall be the Howard County Zoning Board. The Howard County Council, acting as a legislative body, reserves unto itself the authority to grant variances from the strict application of the zoning regulations with regard to governmental uses of land. This authority shall be exercised by passage of a resolution after a public hearing and a finding that the action is in the public interest.
- (b) *Definitions.* For the purposes of this subtitle, the following definitions apply:
 - (1) *Adjoining* means land which is touching or would be touching in the absence of an intervening utility or road right-of-way, other than a principal arterial highway.

- (2) *Comprehensive zoning* means zoning:
 - (i) Involving both maps and regulations;
 - (ii) Which is legislative in nature;
 - (iii) Which concerns legislative facts;
 - (iv) Which is adopted after extensive study;
 - (v) Which covers a substantial area of the County; and
 - (vi) Which has an impact on the general welfare of the County in that it is designed to control and direct the use of land and buildings according to present and planned future conditions so as to accomplish, as far as possible, the most appropriate uses of land consistent with the public interest and the safeguarding of the interests of individual property owners.
- (3) *Department* means the Department of Planning and Zoning.
- (4) *Development plan* means a development plan that, as provided in the zoning regulations, the Zoning Board approves or disapproves.
- (5) *Piecemeal map amendment* means rezoning:
 - (i) Involving only zoning maps;
 - (ii) Which is quasi-judicial in nature;
 - (iii) Which concerns individual applications to change the zoning of particular pieces of property; and
 - (iv) Is based on findings as to administrative facts regarding specific criteria for change in zoning.

(c) *Short Title*. This subtitle may be cited as the "Zoning Enabling Act of Howard County."

(C.B. 3, 1969; C.B. 107, 1994; C.B. 54, 1996; C.B. 72, 2003; C.B. 25, 2012, § 1)

Sec. 16.201. - Authority.

- (a) *Piecemeal Map Amendments and Development Plan Approvals*. It is the intention of the County Council of Howard County, in the enactment of this subtitle, to establish a legislative agency of the County Council which shall be the Zoning Authority of Howard County for piecemeal map amendments and for decisions on development plans. The Zoning Authority so created shall be known as the Howard County Zoning Board and shall consist of the members of the County Council. The Chairperson of the County Council may be the Chairperson of the Zoning Board; the vice Chairperson of the County Council may be the Vice Chairperson of the Zoning Board. The County Council may, at its discretion, designate other members of the County Council to be the Chairperson of the Zoning Board and vice Chairperson of the Zoning Board. This shall be accomplished annually in December. An administrative assistant to the Zoning Board shall be appointed by the Board.
- (b) *Comprehensive Zoning and Zoning Text Matters*. It is also the intent of the County Council to reserve comprehensive zoning and zoning text amendment matters with the County Council of Howard County.

(C.B. 39, 1971; C.B. 61, 1983; C.B. 107, 1994; C.B. 54, 1996; C.B. 25, 2012, § 2)

Editor's note— C.B. 25, 2012, § 2, adopted July 6, 2012, amended § 16.201 title to read as herein set out. Former § 16.201 title pertained to policy.

Sec. 16.202. - Purpose; establishment of zoning districts and regulations.

- (a) *County Council Authority.* For the purpose of promoting the health, safety, morals and general welfare of Howard County, the County Council is hereby empowered to:
- (1) Regulate and restrict the height, number of stories and size of buildings and other structures; the location, construction, alteration and use of buildings and other structures; the percentage of lot area that may be occupied by structures; the size of yards, courts and other open spaces; the density of population; and the location and use of land for trade, industry, government, residence or other purpose;
 - (2) Regulate the construction, alteration, reconstruction, moving and demolition of structures of historic, architectural and archeological value through the establishment of historic districts.
- (b) (1) *Establishment of districts and regulations.* For many or all of the purposes of this subtitle, the County Council may divide the County into zoning districts of a number, shape and area as may be deemed best suited to carry out the purposes of this subtitle. In addition, for many of the purposes of this subtitle and all the purposes of title 16, subtitle 6 of this Code relating to historic preservation and protection of historic structures, the County may establish historic districts as may be deemed best suited to carry out those purposes. The criteria for the County Council's establishment of an historic district in the nature of comprehensive zoning, multiple site historic districts, are as provided in the Howard County Zoning Regulations, and these districts are established by the County Council. The criteria for the Zoning Board's establishment of an historic district on a piecemeal basis, single-site historic districts, are as provided in title 16, subtitle 6 of the Howard County Code, and these districts are established by the Zoning Board.
- (2) *Purpose of districts and regulations.* The zoning district boundaries and regulations shall be made in accordance with a comprehensive zoning plan and shall be designed to:
- (i) Implement the policies and goals of the general plan;
 - (ii) Promote health, safety, and the general welfare;
 - (iii) Provide for the best use of land and the stewardship of our environmental resources;
 - (iv) Lessen congestion in the streets;
 - (v) Secure safety from fire and other dangers;
 - (vi) Provide adequate light and air;
 - (vii) Avoid undue concentration of population; and
 - (viii) Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
- (3) *Suitability and appropriateness.* The zoning district boundaries and zoning regulations shall be made with reasonable consideration to, among other things, the character of the zoning district and its suitability for particular uses and types of development, and with a view to conserving property values and encouraging the most appropriate use and enjoyment of land throughout the County based upon the purposes, policies and goals of the general plan.
- (4) *Uniformity.* The zoning regulations shall be uniform for each class or kind of building or structure or use throughout each district, but the regulations in one district may differ from those in other districts.

(C.B. 1, 1969; C.B. 1, 1974; C.B. 54, 1974; C.B. 11, 1975; C.B. 107, 1994; C.B. 25, 2012, § 3; C.B. 46, 2018, § 1)

Editor's note— C.B. 25, 2012, § 3, adopted July 6, 2012, amended § 16.202 title to read as herein set out. Former § 16.202 title pertained to purpose.

Sec. 16.203. - Comprehensive zoning.

- (a) The County Council, in order to fulfill its zoning purposes under this subtitle, may from time to time, only upon its own petition or that of the Department of Planning and Zoning, exercise the Zoning Authority of Howard County on a comprehensive basis, so as to adopt and enact zoning regulations and district boundaries which shall apply to the entire geographic area of Howard County or to substantial or significant portions thereof.
- (b) *Department of Planning and Zoning and Planning Board Procedures.*
 - (1) The Department of Planning and Zoning or the County Council shall prepare a petition for a comprehensive zoning plan, including zoning maps and zoning regulations. The comprehensive petition may include map proposals from individual property owners.
 - (2) Prior to preparing the petition for the comprehensive zoning plan, the Department shall give at least 60 days' public notice of its intent to compile a comprehensive zoning plan. The public notice shall:
 - (i) Be advertised within two newspapers of general circulation in Howard County;
 - (ii) Be made and appropriately maintained in a prominent manner on the County's website;
 - (iii) Be sent electronically to all Individuals and Organizations who registered with the Department;
 - (iv) Specify the deadline by which requests for zoning map and zoning regulation amendments must be submitted; and
 - (v) State that requests not submitted by the deadline will not be considered in the preparation of the Department's comprehensive zoning plan.
 - (3) Within 45 days of the comprehensive zoning petition submittal, the Department shall submit to the Planning Board for its consideration:
 - (i) The petition with its recommended zoning maps and zoning regulations;
 - (ii) A technical staff report detailing the significant issues of the proposed comprehensive zoning plan; and
 - (iii) A list of zoning map proposals received from individual property owners that the Department does not support, along with an explanation of why each is not supported.
 - (4) For each zoning map proposal the Department shall, at least 30 days before the Planning Board hearing:
 - (i) Send written notice of the date, time, and location of the hearing by first class mail to all owners of property that is the subject of a rezoning proposal, or whose property adjoins property that is the subject of a rezoning proposal; and
 - (ii) Post the property with a sign listing the date, time, and location of the hearing, but provided that if multiple, adjoining properties are the subject of zoning map proposals, the Department may post such signs at intervals it deems appropriate.

additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.

- (5) Noncompliance with the notice requirements of paragraph (4) of this subsection does not constitute a basis for setting aside a zoning decision.
- (6) The Planning Board shall:
 - (i) Hold a public hearing on the petition and additional map proposals not included in the petition by the Department, at which interested persons shall have a reasonable opportunity to be heard; and
 - (ii) Give at least 30 days' notice of the time and place of the public hearing on the County's website. Such notice shall advise the general public that the comprehensive zoning plan documents are available for review both in person at the Department's office and online at a specified website;
 - (iii) Consider requests for zoning map and zoning regulation amendments which were received on or before the deadline established by the Department, but shall not consider subsequent requests unless they involve modifications to map or text amendments submitted prior to the deadline or are proposals submitted by the Department; and
 - (iv) Within 60 days of the Planning Board's first public hearing on the comprehensive zoning petition, submit its recommendations to the County Council.
- (c) *County Council Procedures.* When exercising the Zoning Authority of Howard County with respect to the consideration and enactment of a comprehensive zoning plan, the County Council, notwithstanding any other sections, provisions or requirements of this subtitle or of other laws, regulations or rules of procedure, shall proceed in the following manner:
 - (1) After the County Council has received a final report of the Planning Board recommending adoption of a comprehensive zoning plan, the County Council may hold one or more public hearings at which parties in interest and citizens shall have an opportunity to be heard on the comprehensive zoning plan petition submitted by the Department and the Planning Board recommendations. The County Council may not hold meetings which include an opportunity for public testimony on any day listed in section 6.305(b) of this Code.
 - (2) If a zoning map proposal that was not part of the Department's petition is incorporated into the Planning Board's recommendation, the Department shall, at least 30 days before the County Council hearing on the comprehensive zoning plan:
 - (i) Send written notice of the date, time, and location of the hearing by first class mail to all owners of property that is the subject of a rezoning proposal, or whose property adjoins property that is the subject of a rezoning proposal;
 - (ii) Post the property with a sign listing the date, time, and location of the hearing, but provided that if multiple, adjoining properties are the subject of zoning map proposals, the Department may post such signs at intervals it deems appropriate.
 - (a) *Content.* The notice shall:
 - i. Give the address of the subject property, if available.
 - ii. Be double-sided and at least 30 inches by 36 inches in size.
 - iii. Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
 - iv. State that the subject property is proposed to be rezoned and include the existing zoning and proposed rezoning.
 - v. Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for

additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.

- (3) Noncompliance with the notice requirements of paragraph (2) of this subsection does not constitute a basis for setting aside a zoning decision.
- (4) The County Council shall give at least 30 days' notice of the time and place of the public hearing on the County's website. Such notice shall advise the general public that the County Council is to consider a comprehensive zoning plan for Howard County and shall advise the general public of the location or locations at which the entire text and map or maps constituting the proposed comprehensive zoning plan may be reviewed. The notice shall also advise that the comprehensive zoning plan documents are available for review both in person at the Department and online at a specified website.
- (5) The County Council shall establish the specific procedures which shall govern the hearing on the proposed comprehensive zoning plan. In establishing such procedures, the Council may:
 - (i) Place time limitations on presentations to be made;
 - (ii) State the manner in which written materials may be submitted for consideration by the County Council.
- (6) Following any public hearing(s) held by the County Council on the comprehensive zoning petition, the County Council shall introduce a County Council bill proposing the adoption of a comprehensive zoning ordinance which shall include final proposed zoning regulations and maps.
- (7) The County Council shall adopt the comprehensive zoning plan by ordinance according to County Council Legislative procedures.
- (8) Any proposed amendment to the proposed zoning map as part of the adoption of a Comprehensive Zoning Ordinance which was not previously proposed, considered or recommended by the Department of Planning and Zoning or the Planning Board shall only be considered by the County Council upon an affirmative vote of two-thirds of the members of the Council.
- (9) The County Council shall provide for copies of the comprehensive zoning plan to be published and made available at cost to any person.

(C.B. 25, 2012, § 4; C.B. 69, 2018, § 1)

Editor's note— C.B. 25, 2012, § 4, adopted July 6, 2012, repealed former § 16.203, and enacted a new § 16.203 as set out herein. Former § 16.203 pertained to adoption of zoning districts and zoning regulations by comprehensive rezoning. See the Code Comparative Table—Council Bills for complete derivation.

Sec. 16.204. - Piecemeal map amendments and development plan approvals.

- (a) *Zoning Board.* The Zoning Board may exercise the Zoning Authority delegated to it by this subtitle to make decisions on piecemeal map amendments and development plans in pursuance of a petition filed in accordance with section 16.205 of this subtitle and shall establish procedures for doing so.
- (b) *Mediation.* The Zoning Board may refer an applicant and other persons affected by a pending application, other than piecemeal map amendment cases based on the change/mistake rule as established by Maryland Case Law, to the Mediation and Conflict Resolution Center, Inc., of Howard County or a conflict resolution or mediation service which has been deemed acceptable by the Board. The purpose of such referral shall be to resolve conflicts between these parties, but the results thereof shall not bind the Board to any result. Any resolution that is agreed upon by both

parties shall be subject to findings of the Board required by law. Petition approval may not be granted solely on the basis of mediation resolution.

A referral may be made either before or after a public hearing on a pending petition decision, but only after an application is deemed complete. Mediation shall not occur after the Zoning Board votes on a petition. The cost of the mediation service shall be incurred by the petitioner.

If no agreement is reached between the parties within 45 days, or at anytime the mediator deems any further meetings futile, the Board shall continue with its proceedings or deliberations on the matter. If both parties agree, mediation may be extended past 45 days to a period of time as agreed to by the parties.

Nothing in this section shall preclude the parties from meeting on their own at any time, with or without a mediator, in an attempt to resolve their differences. It is the policy of the County to encourage applicants and neighbors to have early discussions on proposed projects so that differences may be resolved prior to the submission of an application.

- (c) *Public Hearing Required.* The Zoning Board shall hold a public hearing on these piecemeal map amendments and development plan petitions at which parties in interest and citizens shall have an opportunity to be heard. The Zoning Board shall be prohibited from holding meetings which include an opportunity for public testimony on any day on which Rosh Hashanah, Yom Kippur, Eid Ul Fitr or Eid Ul Adha is observed. The Zoning Board shall not take final action on piecemeal map amendments or development plan petitions until after the public hearing.
- (d) *Advertising.* At least 30 days prior to the initial public hearing on the piecemeal map amendment or development plan petitions, the petitioner, at its own expense, shall advertise the date, time, place and subject matter of the petition in at least two newspapers of general circulation in Howard County.
- (e) *Posting and Mail Notice:*
 - (1) At least 30 days prior to the initial public hearing on the piecemeal map amendment or development plan petitions, the petitioner shall:
 - (i) Post the property which is the subject of the hearing with the date, time, place and subject matter of the hearing. The sign shall include the address of Department of Planning and Zoning's website. The poster shall be double-sided and at least 30 inches by 36 inches in size. The poster shall include a three digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be posted by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster. The Department of Planning and Zoning shall determine the number of posters required and their location and the petitioner shall bear the expense of posting. The Department of Planning and Zoning shall supply the posters. The petitioner shall properly erect and maintain the posters; and
 - (ii) Send a certified letter to all persons whose property is adjoining to the property which is the subject of the petition, according to the most recent State taxation and assessment records, notifying those persons of the date, time, place and subject matter of the hearing in accordance with subsection 16.203(c)(7) and of this subtitle.
 - (2) Noncompliance with the mailing requirements of paragraph (1) of this subsection does not constitute a basis for appeal or the setting aside of piecemeal zoning or development plan decisions.
- (f) *Report of the Planning Board.* Petitions for piecemeal map amendments or development plan approvals shall be submitted to the Planning Board. At least 30 days prior to a Planning Board meeting on any piecemeal map amendment or development plan, the petitioner shall send notice of such meeting to the relevant subscribers on the list maintained by the Department of Planning and Zoning in accordance with subsection 16.145(b)(3). The Zoning Board shall consider the report of the Planning Board on such petitions before the Zoning Board takes final action on them.
- (g) *Department of Planning and Zoning's Findings and Recommendations.* The Department of Planning and Zoning shall transmit its findings and recommendations concerning a petition for piecemeal map

amendments or development plans in a technical staff report to the Planning Board at least two weeks prior to the public meeting on a petition.

- (h) *Questioning Departmental Findings.* At any time any individual may submit a question to the staff of the Department of Planning and Zoning or related agencies concerning the findings and recommendations of the Department or related agencies. If a written response is requested, the question should be submitted in writing to the Department or agency. If the written request is submitted at least 30 days prior to the Zoning Board hearing, the Department or agency shall respond to such requests in writing and send a copy of the response to the Zoning Board at least two weeks prior to the Zoning Board hearing. A response from a related agency to a question concerning its findings and recommendations may be considered by the Zoning Board only if the response is in writing, unless a representative of the agency is present at the hearing to answer questions.
- (i) *Presentation of Departmental Findings and Recommendations .* At least 30 days prior to a Zoning Board Hearing, the Board Administrator shall send a written notice to the Director of the Department of Planning and Zoning as to the date, time, and place of the hearing. The Director of the Department of Planning and Zoning, or the Director's Designee, shall attend a Zoning Board public hearing concerning a petition for piecemeal map amendment or development plan and, under oath and subject to cross-examination, summarize the Department's findings, explain the development process, and answer any related questions.
- (j) *Findings.* Before the Zoning Board makes a decision on any piecemeal map amendment or development plan petition it shall make those findings of fact and conclusions of law required by law.
- (k) *Documentation.*
 - (1) A petition for a piecemeal amendment of the zoning map may include documentation describing the proposed development and use of the property under petition. The zoning regulations and Zoning Board's rules of procedure shall govern the nature of the documentation and its review.
 - (2) A piecemeal map amendment shall be based on findings required by law. A piecemeal map amendment petition may not be granted solely on the basis of documentation relating to proposed development and use of the property.
 - (3) If the petition for a piecemeal map amendment includes documentation describing the proposed development and use of the property under petition and the petition is granted:
 - (i) The property may be developed and used only in accordance with the documentation, notwithstanding any provision requiring uniformity of zoning requirements; and
 - (ii) Unless the comprehensive zoning plan changes the zoning district of the property, subsequent adoption of a comprehensive zoning plan shall not affect the requirement that the property be used in accordance with the documentation.

(C.B. 3, 1969; C.B. 61, 1983; C.B. 68, 1988; C.B. 83, 1993; C.B. 107, 1994; C.B. 54, 1996; C.B. 52, 2002, §§ 1, 2; C.B. 72, 2004; C.B. 81, 2004; C.B. 56, 2006, § 1; C.B. 58, 2006, § 1; C.B. 59, 2006; C.B. 16, 2007; C.B. 16, 2018, § 1)

Sec. 16.205. - Procedure.

- (a) Any person owning an interest in the property affected may petition the Zoning Board for approval of a development plan, and a person owning an interest in the property affected, the Director of the Department of Planning and Zoning or members of the Zoning Board may petition the Zoning Board for piecemeal map amendment. The form and number of copies of the petition shall be as prescribed by law or by the Zoning Board's rules of procedure.
- (b) *Presubmission Community Meeting.* Prior to the initial submittal of a petition, the petitioner shall hold a presubmission community meeting that provides information to the community regarding the

petition and allows community residents to ask questions and discuss any issues. The meeting must be held in accordance with the procedures in section 16.128.

- (c) The petition shall be filed with the Department of Planning and Zoning, which shall check the same for form, check that notice has been provided, as required by law or by the Zoning Board's rules of procedure, collect the proper fees, and refer the petition to the Planning Board for its report.
- (d) Citizens may request a meeting with a staff member of the Department of Planning and Zoning to review the development proposal after the petition has been formally submitted to the Department.
- (e) No later than two days following the release of the report of the Planning Board on the petition, the Department of Planning and Zoning shall submit the petition with all of its supporting documents to the administrative assistant to the Zoning Board, who shall set a hearing date. The Zoning Board shall be prohibited from holding meetings which include an opportunity for public testimony on any County holiday, Rosh Hashanah, Yom Kippur, Eid Ul Fitr, Eid Ul Adha, and Chinese New Year is observed.
- (f) Notice of the place, time and date of the beginning of the hearing shall be published as required by law or the Zoning Board's rules of procedure.

(C.B. 3, 1969; C.B. 105, 1980; C.B. 61, 1983; C.B. 107, 1994; C.B. 54, 1996; C.B. 52, 2002, § 3; C.B. 72, 2004; C.B. 81, 2004; C.B. 45, 2005; C.B. 57, 2006; C.B. 31, 2007, § 1; C.B. 33, 2014, § 1)

Sec. 16.206. - Conduct of hearings.

All public hearings on piecemeal map amendment or development plan petitions shall be conducted in accordance with the rules of procedure adopted by the Zoning Board insofar as they do not conflict with the Howard County Administrative Procedure Act. The Board shall prepare an official record of its proceedings in each case, which shall include testimony and exhibits; but it shall not be necessary to transcribe the testimony unless requested for court review. Every decision and final order in a piecemeal map amendment or development plan case shall be in writing, signed by a majority of the entire board, attested by the administrative assistant to the Board, and shall be accompanied by findings of fact and conclusions of law and shall be made a part of the record of proceedings. The final order of the Zoning Board denying or granting the petition for a piecemeal map amendment, or approving or disapproving a development plan, shall be filed with the Department of Planning and Zoning, which shall maintain it as part of the official records of the County.

(C.B. 3, 1969; C.B. 98, 1980; C.B. 105, 1980; C.B. 61, 1983; C.B. 107, 1994; C.B. 54, 1996)

Sec. 16.207. - Judicial review.

- (a) Within 30 days after any final decision and order of the Zoning Board is entered on a piecemeal map amendment or development plan petition, any person, Officer, Department, Board or Bureau of the County or State, jointly or severally aggrieved by any such decision and order, and a party to the proceeding below, may appeal to the Circuit Court for Howard County, in accordance with the Maryland Rules of Procedure providing for appeals from administrative agencies. The Zoning Board shall be a party to all appeals and shall be represented on appeal by the Office of Law.
- (b) The review of the record of proceedings made before the Zoning Board shall be conducted by the court without a jury. In cases of alleged irregularities in procedure before the Zoning Board amounting to a denial of due process, not shown on the record, testimony thereon may be taken in the court. The court shall, upon request, hear oral argument and receive written briefs. Upon the hearing of such appeal, the action of the Zoning Board shall be presumed by the court to be proper and to best serve the public interest. The court may affirm the decision of the Zoning Board or remand the case for further proceedings, or it may reverse or modify the decision if the substantial

rights of the appellants to a fair hearing before the Board and a fair decision by the Board may have been prejudiced because the Zoning Board's findings, inferences, conclusions or decisions were or are:

- (1) In violation of constitutional or Charter provisions; or
- (2) Beyond the statutory authority or jurisdiction of the Board; or
- (3) Made upon unlawful procedure; or
- (4) Fraudulent; or
- (5) So grossly erroneous as to imply bad faith; or
- (6) Unsupported by competent, material and substantial evidence in view of the entire record as submitted; or
- (7) Arbitrary or capricious; or
- (8) Affected by other error of law.

(C.B. 3, 1969; C.B. 39, 1975; C.B. 67, 1991; C.B. 107, 1994; C.B. 54, 1996)

Sec. 16.208. - Zoning regulation text amendments.

- (a) *Petition.* Any person, the Director of the Department of Planning and Zoning, the members of the County Council or any duly appointed county board may petition the County Council for an amendment, repeal, or change to the text of the zoning regulations.
- (b) *Copy of petition to Department of Planning and Zoning and Planning Board; Recommendations.* The County Council shall deliver a copy of the proposed zoning regulation text amendment to the Department of Planning and Zoning and to the Planning Board. The Department of Planning and Zoning shall prepare and submit a technical staff report and recommendation to the County Council on the proposed text amendment petition. The Planning Board shall also prepare and submit a recommendation to the County Council on the proposed text amendment petition.
- (c) *Consideration of proposed text amendment.* When exercising the Zoning Authority of Howard County with respect to the consideration of and decision on a proposed zoning regulation text amendment, the County Council shall proceed in the following manner:
 - (1) The County Council shall introduce a bill proposing the adoption of the text amendment as submitted by the petitioner or as amended pursuant to recommendations of the Department of Planning and Zoning, the Planning Board or the County Council.
 - (2) A bill proposing the adoption of the text amendment shall not be added to the Council's legislative agenda until the County Council has received:
 - (i) A final technical staff report and recommendation from the Department of Planning and Zoning; and
 - (ii) A recommendation and report from the Planning Board.
 - (3) The County Council shall vote on the proposed bill according to County Council bill procedures.

(C.B. 107, 1994; C.B. 26, 2008, §§ 1, 2; C.B. 73, 2017, § 1)

Sec. 16.209. - Enforcement.

The Director of Planning and Zoning or the Director's duly authorized representative may enter upon open land where the violation allegedly exists or has occurred. Any violation of the rules, regulations and restrictions adopted pursuant to this subtitle shall be a misdemeanor punishable by a fine not to exceed

\$100.00. Alternatively or in addition to and concurrent with all other remedies, the Department of Planning and Zoning may enforce the provisions of this subtitle with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of this Code and subtitle 16 of this title. A violation shall be a Class B offense under title 24 of this Code or an offense subject to a fine in the amount set forth in section 16.1608 of this title.

(C.B. 3, 1969; C.B. 38, 1973; C.B. 105, 1980; C.B. 32, 1985; C.B. 107, 1994; C.B. 3, 2008, § 3)

Sec. 16.210. - Severability.

If any clause, sentence, part or parts of this subtitle, or of any section thereof, shall be held unconstitutional or invalid such unconstitutionality or invalidity shall not affect the validity of the remaining parts of this subtitle or of any section thereof. The County Council hereby declares that it would have passed the remaining parts of this subtitle or any section thereof if it had known such clause, sentence, part or parts or any section thereof should be declared invalid or unconstitutional.

(C.B. 3, 1969; C.B. 107, 1994)

Sec. 16.211. - Councilmanic election years.

In any year in which members of the County Council are elected, the incumbent Councilmembers, shall not take final action on any zoning application after the date of the primary election as set by law and until the newly elected County Councilmembers have qualified and taken office. The enactment of this section shall not in any way prevent the Zoning Board or the County Council from acting on zoning matters which are considered, in the discretion of the Council or the Board, to be emergency matters that could be injurious to the County or any of its citizens.

(C.B. 23, 1970; C.B. 107, 1994)

Sec. 16.212. - Fees.

The County Council shall establish a fee schedule for petitions for piecemeal map amendments and zoning regulation text amendments. The amount of the fees shall be sufficient to cover the costs of handling these petitions.

(C.B. 107, 1994)

SUBTITLE 3. - BOARD OF APPEALS⁴⁴

Footnotes:

--- (4) ---

Editor's note— C.B. 94, 1989 amended subtitle 3 to read as set out in §§ 16.300—16.303. The subtitle formerly consisted of §§ 16.300—16.306 and was derived from C.B.'s 1, 1969; 38, 1973; 3, 1974; 105, 1980; 72, 1981; 4, 1986; 18, 1987; 34, 1987; 67, 1988; 69, 1988. C.B. 49, 2001, § 1, amended § 16.301, and amended and renumbered §§ 16.302 and 16.303, specifically renumbered as §§ 16.307 and 16.308 to accommodate new §§ 16.302—16.306.

Cross reference— Forest conservation, appeals, § 16.1214.

State Law reference— Board of appeals, Ann. Code of Md. art. 25A, § 5(U).

Sec. 16.300. - Compensation.

Members of the Howard County Board of Appeals shall be paid \$5,000.00 per year plus \$110.00 per official public session, up to a maximum cumulative total payment of \$16,125.00 per year. Members of the Board shall receive reasonable and necessary expenses, as may be provided in the budget.

(C.B. 94, 1989; C.B. 9, 2000; C.B. 8, 2014, § 1)

Editor's note— Pursuant to § 2 of Council Bill No. 8-2014, the compensation adjustments in this Act shall take effect beginning on July 1, 2014.

Sec. 16.301. - Powers.

The Howard County Board of Appeals shall have the following zoning powers:

- (a) To authorize a variance from the terms of the zoning regulations as is necessary to avoid arbitrariness and to obtain substantial justice within the spirit of the zoning regulations. However, the County Council, by passage of a resolution after public hearing, shall be the sole authority to grant these variances for governmental uses of land.
- (b) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by any administrative official in the application, interpretation, or enforcement of this title or of any regulations adopted pursuant to it.
- (c) To authorize uses provided by the zoning regulations. However, the County Council, by passage of a resolution after public hearing, shall be the sole authority to issue special use variances for governmental uses of land.
- (d) To hear and decide citations issued, under subtitle 16 of this title, for a violation of the subdivision and land development regulations set forth in subtitle 1 of this title or the Howard County Zoning Regulations.

(C.B. 94, 1989; C.B. 72, 1993; C.B. 107, 1994; C.B. 49, 2001, § 1; C.B. 3, 2008, § 4)

Sec. 16.302. - Jurisdiction of Hearing Examiner.

- (a) Except as provided in subsections (b) and (c), wherever in this Code or the zoning regulations a matter is authorized to be heard and decided by the Board of Appeals, the matter will first be heard and decided by a Hearing Examiner.
- (b) Wherever in this Code or the zoning regulations a person is authorized to appeal a decision made by an administrative agency after an opportunity for a contested case hearing, the appeal will be heard and decided by the Board.
- (c) The Board will hear and decide a case if the Hearing Examiner position is vacant or the Board determines that the Hearing Examiner is unable to hear the case because of a conflict of interest or other disqualification.
- (d) If the Board hears a petition for a conditional use, nonresidential variance, or extension, enlargement or alteration of a nonconforming use under the conditions of subsection (c), then the Board will not make a final decision on the case until it has considered the report of the Planning Board.

(C.B. 49, 2001, § 1)

Sec. 16.303. - Hearing examiner procedures.

- (a) Except for a citation issued under subtitle 16 of this title, a hearing conducted by a Hearing Examiner will comply with the notice and advertising requirements of section 2.203 of this Code, as amended.
- (b) A hearing conducted by a Hearing Examiner will be held at such place and time as determined by the Hearing Examiner. The Hearing Examiner shall be prohibited from holding meetings which include an opportunity for public testimony on any day on which Rosh Hashanah, Yom Kippur, Eid Ul Fitr or Eid Ul Adha is observed.
- (c) The County Solicitor will provide legal advice and assistance to the Hearing Examiner as requested.
- (d) The Hearing Examiner will have the power to issue subpoenas to compel the attendance of witnesses and the production of documents and to administer oaths to witnesses.
- (e) Unless otherwise provided by law, the burden of proof in a case heard by a Hearing Examiner will be:
 - (1) The burden of proof set forth in subsection 2.209(c) of the Code, as amended, except as provided in paragraph (2).
 - (2) For any case coming before the Hearing Examiner as an appeal of an administrative decision, the burden of proof set forth in subsection 2.210(a)(4) of the Code, as amended.
- (f) The Hearing Examiner will adopt rules of procedure to govern the conduct of hearings. Such rules will be effective upon approval by resolution of the County Council.

(C.B. 49, 2001, § 1; C.B. 72, 2004; C.B. 81, 2004; C.B. 3, 2008, § 4)

Sec. 16.304. - Appeal to Board of Appeals.

- (a) A person aggrieved by a decision of a Hearing Examiner may, within 30 days of the issuance of the decision, appeal the decision to the Board of Appeals. Unless the appeal is of a citation issued under subtitle 16 of this title, the Board will hear the appeal de novo in accordance with section 2.209 or subsection 2.210(a) of the Code, as amended, as applicable. The Board will hear the appeal of a citation issued under subtitle 16 of this title on the record in accordance with section 2.210(b) of this Code.
- (b) On filing of the appeal, the Hearing Examiner will promptly transmit the entire record or a certified copy of the record to the Board of Appeals and notify the parties of this action.
- (c) The person filing the appeal will bear the expense of providing notice of and advertising the hearing.

(C.B. 49, 2001, § 1; C.B. 3, 2008, § 4)

Sec. 16.305. - Terms of service.

- (a) The budget for the Hearing Examiner shall be included in the Board of Appeals budget.
- (b) While holding the position of Hearing Examiner, the Hearing Examiner may not represent any client involving land use in Howard County.

(C.B. 49, 2001, § 1)

Sec. 16.306. - Termination of service.

- (a) An examiner may be removed from office by vote of two-thirds of the members of the County Council. The Board of Appeals may recommend removal of an examiner for cause.

- (b) An examiner may not represent any client before the Hearing Examiner, Board of Appeals, or Zoning Board for one year after leaving the Office of the Hearing Examiner.

(C.B. 49, 2001, § 1)

Sec. 16.307. - Enforcement.

In addition to any other remedies provided by law, the Department of Planning and Zoning may institute any appropriate action or proceedings to compel compliance with a decision of the Board of Appeals or a Hearing Examiner in any zoning matter. Alternatively or in addition to and concurrent with all other remedies, the Department of Planning and Zoning may enforce a decision of the Board of Appeals or a Hearing Examiner with civil penalties, as provided in title 24, "Civil Penalties," of the Howard County Code. A violation shall be a Class B offense.

(C.B. 94, 1989; C.B. 49, 2001, § 1)

Sec. 16.308. - Severability.

If any clause, sentence, part or parts of this subtitle, or of any section thereof, shall be held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining parts of this title or of any section thereof.

(C.B. 94, 1989; C.B. 49, 2001, § 1)

SUBTITLE 4. - STREET NAMES AND HOUSE NUMBERS

Sec. 16.400. - Street names and house numbers.

- (a) *Authority of the Planning Board.* The Planning Board may:

- (1) Name streets and highways;
- (2) Rename streets and highways pursuant to the provisions of this section;
- (3) Adopt a workable plan for assigning street numbers to houses and buildings;
- (4) Make reasonable rules and regulations to implement the naming and renaming of streets and the assigning of street numbers.

- (b) *Changes in Street Names at Request of Residents.* The Planning Board may rename a street or highway on request of one or more residents of the street or highway provided that:

- (1) The change does not cause a duplication of street names; and
- (2) Ninety percent of the residents of the street or highway agree in writing to the change; and
- (3) The Office of Planning and Zoning notifies the residents and property owners of the change pursuant to subsection (d), "notification of change in street name," of this section.

- (c) *Changes in Street Names at Request of Department of Planning and Zoning.* The Planning Board may rename a street or highway on the request of the Department of Planning and Zoning provided that:

- (1) The request is made for a valid governmental purpose such as:
 - (i) Construction of new streets or highways;
 - (ii) Realignment of streets or highways;

- (iii) Discontinuities in existing streets;
- (iv) Elimination of duplicate street names; and
- (2) The Planning Board holds a public hearing on the proposed change of name; and
- (3) The Department of Planning and Zoning gives notice of the public hearing by:
 - (i) Notifying each property owner along the street or highway by certified mail at least 30 days before the hearing; and
 - (ii) Advertising the time, date and place of the hearing in at least two newspapers of general circulation in the County; and
- (4) The Department of Planning and Zoning notifies the residents and property owners of the change pursuant to subsection (d), "notification of change in street name," of this section.
- (d) *Notification of Change in Street Name.* The affirmative vote of at least three members of the Planning Board is required in order to change the name of a street or highway. Within 15 days of the vote of the Planning Board, the Department of Planning and Zoning shall send a notice of the change in name and effective date of change by certified mail, return receipt requested, to all property owners and residents living along the street or highway.
- (e) *Street Numbers.* The Department of Planning and Zoning may assign or reassign street numbers to houses and buildings according to a workable plan for street numbers adopted by the Planning Board. Whenever the Department of Planning and Zoning wishes to assign new street numbers, it shall give the property owner and any resident of the property written notice of the proposed change by certified mail, return receipt requested, at least 30 days before the change in the street numbers occurs.
- (f) *Notification to Government Agencies.* The Department of Planning and Zoning shall notify all agencies of the County Government of any change in street name or house number 30 days prior to the effective date of change.
- (g) The Department of Planning and Zoning may require signs to be placed indicating the names of streets and highways or indicating the street numbers of houses and buildings.
- (h) The Board may adopt a workable plan of street names and/or numbering of houses and businesses, as a whole by a single resolution, or may, by successive resolutions, adopt successive parts of the plan, said parts corresponding with major geographical sections or divisions of the County or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereon or addition thereto. Before the adoption of the plan or any such part, amendment, extension or addition, the Board shall hold at least five public hearings thereon. Notice of the time and place of each hearing shall be given by publication in at least two newspapers of general circulation in the County. The adoption of the plan or of any such part or amendment or extension or addition shall be by resolution of the Board, carried by the affirmative votes of not less than four members of the Board. The resolution shall refer expressly to the maps and descriptive and other matter intended by the Board to form the whole or part of the plan, and the action taken shall be recorded on the map and plan descriptive matter by the identifying signature of the chairman of the Board. An attested copy of the plan or part thereof shall be certified by the Clerk of the Circuit Court for Howard County for record.
- (i) Before any rules or regulations are adopted by the Planning Board, a public hearing shall be held thereon. Notice of such hearing shall be given to the general public by proper and customary advertisements in at least two newspapers of general circulation in Howard County. When such regulations are adopted by the Planning Board, a copy thereof shall be certified by said board to the Clerk of the Circuit Court for Howard County, for record.

(C.B. 10, 1 969; C.B. 16, 1985)

Sec. 16.401. - Enforcement.

In addition to other remedies provided by law, the Department of Planning and Zoning may institute any appropriate action or proceedings to compel compliance with a decision of the Planning Board or the Department of Planning and Zoning pursuant to section 16.400, "Street Names and House Numbers," of this subtitle, including the use of civil penalties. Pursuant to title 24, "Civil Penalties," of the Howard County Code, a violation of this subtitle shall be a Class C offense.

(C.B. 16, 1985; C.B. 32, 1985)

SUBTITLE 5. - MOBILE HOME DEVELOPMENT^[5]

Footnotes:

--- (5) ---

Editor's note— Subtitle 5, of title 16, relating to mobile home park developments, was substantially revised by C.B. 34, 1978; formerly, this subtitle consisted of §§ 16.500—16.516 and was derived from C.B. 10, 1970.

State Law reference— Mobile home parks—landlord and tenant, Ann. Code of Md., Real Property article, § 8A-101 et seq.; local mobile home parks landlord and tenant regulations, Ann. Code of Md. Real Property article, § 8A-1801 et seq.

Sec. 16.500. - Definitions.

- (a) *Licensee* means any person or group of persons licensed to maintain and operate a mobile home park under the provisions of this subtitle.
- (b) *Licensing authority* means the Howard County Department of Inspections, Licenses and Permits.
- (c) *Person* means any individual, firm, trust, partnership, association or corporation.
- (d) *Owner* means one or more persons, jointly or severally, in whom is vested all or part of the legal title to property, part or all of the beneficial ownership, and a right to present use and enjoyment of the property.
- (e) *Operator* means one or more persons who exercise, or are authorized to exercise, any aspect of management or control of a mobile home park.
- (f) *Unit* means any mobile home used as a dwelling.
- (g) *Mobile home development* means any parcel or tract of land, zoned as a residential mobile home district, together with required open spaces, used, designed, maintained or held out to accommodate mobile homes, whether by rental or ownership, and all buildings and structures intended as accessory uses.
- (h) *Site* means a plot of ground within a mobile home park designated for the placement of one mobile home.
- (i) *Mobile home* means a structure:
 - (1) Transportable in one or more sections;
 - (2) Eight or more body feet in width and 30 or more body feet in length;
 - (3) Built on a permanent chassis; or consisting of two or more separately towable or portable component parts certified by the Maryland Department of Economic and Community Development and designed and constructed to be joined into one integral housing unit and located within a mobile home subdivision as defined in subsection 16.500(p); and

- (4) Designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities.

Mobile home includes the plumbing, heating, air conditioning and electrical systems contained in the structure.

- (j) *Existing mobile home park* is any mobile home park which is in existence on the date of the enactment of this subtitle.
- (k) *Resident* means the lessee of a mobile home site, to include the lessee of either the site only or of both the site and the mobile home unit.
- (l) *Rule* means any written rule established by the owner which is properly disseminated pursuant to this subtitle.
- (m) *Occupant* means each individual residing in a mobile home unit, with the exception of any individual specifically exempted as a result of qualifying as an invited guest.
- (n) *Invited guest* means a person whose stay, at the request of a mobile home park resident, does not exceed five consecutive days nor 30 days in any 12-month period.
- (o) *Mobile home park* means a mobile home development under a single ownership which is divided into individual sites, all of which are to be operated exclusively as a rental project.
- (p) *Mobile home subdivision* means a mobile home development which is subdivided into individual lots wherein each such lot shall be recorded in the land records of Howard County and held by individual owners.

(C.B. 34, 1978; C.B. 21, 1979; C.B. 71, 1983; C.B. 62, 1988)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 16.501. - Licenses generally.

- (a) It shall be unlawful for any person to maintain or operate within the limits of Howard County, Maryland, any mobile home park, unless such person shall first obtain from the licensing authority a license therefor. Such license shall not be issued without inspection and approval by the County Health Department for conformance to applicable Department of Health and Mental Hygiene regulations. The Howard County Health Officer and the County licensing authority shall jointly sign the annual license.
- (b) All such parks in existence on or before January 10, 1971, shall obtain such license, and in all other respects comply fully with the requirements of this subtitle, except that the licensing authority may, upon written application of the park operator, waive such requirements that require prohibitive reconstruction costs, if such waiver does not adversely affect the sanitation requirements of the Health Department or create or permit to continue any hazard to the welfare and health of the community and the occupants of the park.
- (c) After 30 days' notice to the licensee of any complaint filed with the licensing authority by any Law Enforcement Officer, Health Officer, Building Inspector, Fire Inspector, Consumer Protection Investigator, or any person, the Board of Appeals may, after a public hearing and upon a finding of a violation of any provision of this subtitle or of the provisions of any health, zoning or building laws or regulations, revoke or suspend any license granted pursuant to this subtitle; or the Board may, after such notice, hearing and appropriate finding, in its lawful discretion, place such restrictions and conditions upon the continued operation of the licensee as may be in the public interest. Any party to this proceeding aggrieved by the decision of the Board shall have the right to appeal the finding, decision and order of the Board to the Circuit Court of Howard County within 30 days in accordance with the Maryland rules of procedure for appeals from administrative agencies.

- (d) Additionally or in the alternative, the licensing authority may bring an action in the circuit court requiring the licensee to conform to the provisions of this subtitle and may petition the court for the appointment of a trustee for the licensee to receive the rents, apply the same to correcting the deficiency complained of, and make a full accounting thereof to the court.
- (e) As provided in section 13.102 of the Howard County Code, any individual lot owner in a mobile home subdivision shall obtain from the Department of Inspections, Licenses and Permits a rental housing license and pay the required fee, prior to any rental of the lot and/or mobile home.

(C.B. 34, 1978; C.B. 21, 1979; C.B. 62, 1988; C.B. 12, 2016, § 1)

Editor's note— Section 101 of C.B. 62, 1988, declared the bill effective July 1, 1989.

Sec. 16.502. - License fees.

- (a) The licensing authority shall collect from the licensee an annual license fee in an amount to be determined from time to time by County Council resolution.
- (b) The licensing authority shall collect a fee for each transfer of a license in an amount to be determined from time to time by County Council resolution.

(C.B. 34, 1978)

Sec. 16.503. - Application for license.

- (a) Prior to application for a license for a proposed mobile home park or for an addition to an existing mobile home park, the applicant must obtain an approved site development plan from the Department of Planning and Zoning.
- (b) The initial application for a license for a proposed mobile home park or for an addition to an existing mobile home park shall be filed with the licensing authority by a person owning an interest in the land sought to be used as a mobile home park. The application shall be in writing, filed in quadruplicate, signed by the applicant, and shall include the following:
 - (1) The name and address of the applicant;
 - (2) The location, legal description and ownership of the mobile home park, to include a complete listing of all partners, corporate officers and other persons having at least a ten percent financial interest in the mobile home park;
 - (3) An approved site development plan in conformity with the requirements of subsection 16.145(d) of title 16 of the Howard County Code;
 - (4) Plans, layout and specifications of all buildings, improvements and the facilities constructed or to be constructed within the mobile home park;
 - (5) Such further information as may be requested by the licensing authority to enable it to determine if the proposed park will comply with all legal requirements.
- (c) The licensing authority shall inspect the application and the approved site development plan and specifications and obtain the approval of the Health Department. If the applicant has met the requirements of this subtitle and the proposed mobile home park will be in compliance with all the provisions of this subtitle and other applicable provisions of the law, the licensing authority shall approve the application. Upon completion of the park according to the site development plan and specification, including the development of the recreation areas as referred to in subsection 16.504(b)(1), the licensing authority shall issue the license.
- (d) Each licensee shall annually, within 30 days prior to May 1, apply in writing for a renewal of the license, said renewal to include information as required in subsections 16.503(b)(1) and (2). Upon

payment of the annual license fee and after such inspection as the licensing authority may require, the license shall be renewed for another year, if the licensee is not in violation of any of the provisions of this subtitle or any zoning, health or building laws or regulations. Such license shall not be renewed without inspection and approval of the County Health Department for conformance to applicable Department of Health and Mental Hygiene regulations.

- (e) Upon application in writing for a transfer of license and payment of the transfer fee, the licensing authority shall issue a transfer, if the transferee meets the requirements of applicable law governing mobile home parks and of this subtitle and if taxes due and license fees due are not in arrears. Prior to issuance of a transfer, the transferee shall provide to the licensing authority information as required in subsections 16.503(b)(1) and (2).
- (f) The license certificate shall be conspicuously posted in the on-site office of or on the premises of the mobile home park at all times.

(C.B. 34, 1978; C.B. 46, 1996)

Sec. 16.504. - Site development plan.

- (a) The site development plan for a mobile home development shall conform to the applicable requirements set forth in the Howard County zoning and subdivision regulations.
- (b) In addition, the following requirements shall apply for mobile home parks:
 - (1) Within the open space area required by Howard County zoning regulations, adequate areas must be designated and designed for active adult recreation and child play areas, such as swimming pools, tennis courts, basketball courts and baseball fields.
 - (2) An appropriate location shall be designated on each mobile home site for the placement of a storage shed by the mobile home resident.
 - (3) The above requirements shall be reviewed and approved by the Department of Planning and Zoning as part of its site development plan process.

(C.B. 34, 1978; C.B. 21, 1979)

Sec. 16.505. - Service buildings.

- (a) Service buildings, if provided, housing sanitation facilities shall be permanent structures complying with all applicable regulations and statutes regulating buildings, electrical installations and plumbing and sanitation systems.
- (b) The service buildings shall be well lighted at all times of the day and night, shall be well ventilated with screened openings, shall be constructed of such moisture proof material as shall permit repeated cleaning and washing. The floors of the service building shall be of water impervious material.
- (c) All service buildings and the grounds of the park shall be maintained in a clean, attractive condition and kept free of any condition which may menace the health of any occupant or create a public nuisance.

(C.B. 34, 1978)

Sec. 16.506. - Refuse removal.

A refuse removal scheme must be provided as part of the site development plan and will be reviewed periodically by the licensing authority.

(C.B. 34, 1978)

Sec. 16.507. - Fire protection.

Service buildings, if provided, shall be equipped with fire extinguishers, and the development shall be equipped with water hydrants of such type, size and number and so located within the development as to satisfy all applicable regulations of the Fire Department, all National Fire Protection Association requirements and the State fire code for mobile home parks. No open fires shall be permitted.

Approaches to all sites shall be kept clear for fire fighting. The rules and regulations of each mobile home park shall contain a fire-fighting plan with which all occupants shall be familiar. Each mobile home located in a mobile home park or mobile home subdivision shall be equipped with an approved smoke detector and an approved class 1A-10BC fire extinguisher mounted inside the mobile home near the exit.

(C.B. 34, 1978; C.B. 21, 1979)

Sec. 16.508. - Responsibility for supervision.

The licensee or duly authorized attendant or caretaker, shall be in charge at all times to keep the mobile home park, its facilities and equipment, in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable with the licensee for the violation of any provision of this subtitle to which the licensee is subject.

(C.B. 34, 1978)

Sec. 16.509. - Management duties and authority to promulgate rules.

(a) It shall be the duty of the licensee to:

- (1) Keep a register containing a record of all occupants of mobile homes within the park, which register shall be available at reasonable times during ordinary working hours for inspection by Federal, State and local officials.
- (2) Maintain the mobile home park in a clean, orderly and sanitary condition at all times.
- (3) Control the presence of dogs or other animals, prevent animal caused hazards and nuisances, and prohibit animals running loose in the park.

(b) A licensee may prescribe by rule:

- (1) The size, quality, or construction standards for any mobile home to be placed in the park; and/or
- (2) The maintenance standards for any mobile home in the park or for the immediate area surrounding the mobile home, in accordance with applicable State and County health laws or regulations.

(C.B. 34, 1978)

Sec. 16.510. - Mobile home site rental taxes.

(a) *Definitions:*

- (1) *Rent* means the amount of money or other consideration charged for the right to use, possess or occupy a mobile home site and does not include late charges or fees, special charges or fees, utility or service charges or fees and installation or hook-up charges or fees.

- (2) *Rental class* means a group of mobile home sites in which an identical rent is charged for each site.
- (b) *Tax established* means there is a tax on the amount of rent charged for the rental of mobile homes sites in mobile home parks. The tax is based on the amount of the annual rent charged for rental of the site. The mobile home site tax shall not apply to mobile homes stored and unoccupied at the mobile home park nor to property in mobile home subdivisions.
- (c) With the exception of subsection (e) of this section as to taxes paid during calendar year 2019, as of July 1, 2019, the mobile home site rental tax is repealed.
- (d) *Collected by mobile home park licensee* means the mobile home park licensee shall collect one-twelfth of the annual mobile home site rental tax each month from each renter of a mobile home site in the park.
- (e) *Receipt to renter* means:
- (1) *Prior year's tax* —On January 31 of each year the licensee shall give the renter of the mobile home site a separate receipt for the total mobile home site rental tax paid by the renter during the previous calendar year.
 - (2) *Renter vacates—Receipt for current year's tax*: Within 30 days after a renter of a mobile home site vacates the park, the licensee shall give that renter a separate receipt for the total mobile home site rental tax paid by the renter during the current calendar year.
 - (3) *More frequent receipts* —The licensee may provide monthly, quarterly or semiannual receipts for the mobile home site rental tax in addition to the annual receipt.
- (f) *Licensee remits mobile home site rental tax to Director of Finance* means on or before the tenth of each month, the licensee shall remit to the Director of Finance of Howard County the mobile home site rental tax collected during the previous month.
- (g) *Information to be provided when mobile home site rental tax is remitted* means when the licensee remits the mobile home site rental tax collected during the previous month to the Director of Finance, the licensee shall also provide the following documentation:
- (1) The number of sites for which the park is licensed;
 - (2) The number of sites rented during the previous month;
 - (3) For each rental class during the previous month:
 - (i) The monthly rent per unit;
 - (ii) Total rent collected, including rent unpaid from prior months; and
 - (iii) Total tax collected and remitted.
- (h) *Audit—Requirement to maintain records* means the County may audit the records of licensees to determine that the mobile home site rental tax has been correctly calculated and reported to the Director of Finance. The licensee shall maintain for two years the records of rent, charges and fees collected monthly and shall make these records available to the County upon request.
- (i) *Penalties for late remittance* means there is a penalty for late remittance of the mobile home site rental tax as follows:
- (1) One-half percent of the total amount of the tax owed if remitted during the month when due, but after the tenth of that month;
 - (2) One percent of the total amount of the tax owed if remitted after the month when due, but before the end of the following month.
 - (3) Ten percent of the total amount of the tax owed if still unpaid after the end of the second month when due, plus one percent interest per month on the unpaid taxes.

- (j) *Enforcement* means in addition to other enforcement remedies provided by law, the following enforcement measures may be used:
 - (1) *Revocation of license.* A licensee's nonpayment of the mobile home site rental tax or frequent late remittance of the tax may constitute grounds for revocation of the license for a mobile home park.
 - (2) *Civil violation.* The Director of Finance may enforce the provisions of subsections (e), (g) and (h) of this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation shall be a Class B offense.

(C.B. 34, 1978; C.B. 21, 1979; C.B. 15, 1992; C.B. 3, 1993; C.B. 8, 2019, § 1)

Sec. 16.511. - Mobile home park refuse collection charge.

- (a) *Definition:*
 - (1) *Refuse collection service* has the meaning contained in section 20.900 of the County Code.
- (b) *Charge Established.* There is a mobile home park refuse collection charge imposed on mobile home parks for which the County provides refuse collection service. The mobile home park refuse collection charge does not apply to mobile homes stored and unoccupied at a mobile home park or to property in mobile home subdivisions.
- (c) *Amount of Charge; Level of Service:*
 - (1) The amount of the mobile home park refuse collection charge shall be adopted annually by resolution of the County Council.
 - (2) Refuse collection service provided for the mobile home park refuse collection charge is the same as provided for the uniform basic charge for residential property, as established by resolution under the authority contained in title 20, subtitle 9 of the County Code.
- (d) *Collected by Mobile Home Park Licensee.* The mobile home park licensee shall collect the mobile home park refuse collection charge from each renter of a mobile home site in the park.
- (e) *Licensee Remits Mobile Home Site Refuse Collection Charge to Director of Finance.* On or before the tenth of each month, the licensee shall remit to the Director of Finance of Howard County the mobile home park refuse collection charge owed for the previous month.
- (f) *Information to be Provided When Mobile Home Site Refuse Collection Charge is Remitted.* When the licensee remits the mobile home park refuse collection charge collected during the previous month to the Director of Finance, the licensee shall also provide the following documentation:
 - (1) The number of sites for which the park is licensed; and
 - (2) The number of sites rented during the previous month;
- (g) *Audit; Requirement to Maintain Records.* The County may audit the records of a licensee to determine that the mobile home park refuse collection charge has been correctly calculated and reported to the Director of Finance. The licensee shall maintain for two years the records of charges collected and shall make these records available to the County upon request.
- (h) *Penalties for Late Remittance.* There is a penalty for late remittance of the mobile home park refuse collection charge as follows:
 - (1) One-half percent of the total amount of the charge owed if remitted during the month when due, but after the tenth of that month;
 - (2) One percent of the total amount of the charge owed if remitted after the month when due, but before the end of the following month; and

- (3) Ten percent of the total amount of the charge owed if still unpaid after the end of the second month when due, plus one percent interest per month on the unpaid charges.
- (i) *Enforcement.* In addition to other enforcement remedies provided by law, the following enforcement measures may be used:
 - (1) *Revocation of license.* A licensee's nonpayment of the mobile home park refuse collection charge, frequent late remittance of the charge, or failure to accept proof that the charge is subject to the refuse collection assistance program may constitute grounds for revocation of the license for a mobile home park.
 - (2) *Civil violation.* The Director of Finance may enforce the provisions of subsections (f) and (g) of this section with civil penalties under title 24, "Civil Penalties," of the Howard County Code. A violation is a Class B offense.

(C.B. 46, 1996; C.B. 32, 2005; C.B. 15, 2008, § 1)

Editor's note— Section 1 of C.B. 46, 1996, repealed § 16.511 in its entirety. Formerly, § 16.511 pertained to posting of license and permit and derived from C.B. 34, 1978. Section 1 of C.B. 46, 1996, also added § 16.511 as herein set out.

Sec. 16.512. - Certain locations for placement of mobile homes unlawful.

It shall be unlawful for any person to maintain or use or permit to be maintained or used any mobile home which is occupied for dwelling or sleeping purposes on any ground or place, except in a duly licensed mobile home park, or in a duly approved mobile home subdivision, or by a special mobile home permit issued by the Department of Planning and Zoning.

(C.B. 1978; C.B. 21, 1979)

Sec. 16.513. - Requirements for disclosure and posting of rules, regulations, etc.

- (a) (1) A mobile home park owner or operator shall fully disclose in writing all fees, charges, assessments, rules and regulations prior to the assumption of occupancy in the park by a mobile home resident or acceptance of a written lease by such resident. The prospective resident shall also receive a personal copy of such rules and regulations prior to entering into a written lease.

No fees, charges or assessments so disclosed may be increased or rules and regulations changed by the park owner or operator without specifying the date of implementation of the fees, charges, assessments or rules and regulations. This date shall be no less than 60 days after written notice was given to all affected tenants. This provision for increase of fees within the term of the written lease shall not apply to rent increases.

- (2) Failure on the part of the mobile home park owner or operator to disclose fully all fees, charges or assessments shall prevent the park owner or operator from collecting that fee, charge, or assessment.
 - (3) Refusal by the resident to pay any undisclosed charges may not be used by the park owner or operator as a cause for eviction in any court of law.
- (b) A copy of the rules and regulations shall also be posted in some conspicuous place in the mobile home park.

(C.B. 34, 1978)

Sec. 16.514. - Prohibited rental practices.

- (a) It shall be a misdemeanor punishable as provided in section 16.518 for any licensee to require the purchase of any unit from any dealer, distributor or manufacturer as a condition precedent to the availability or retention of any site in a mobile home park. Nor may any licensee require any resident or prospective resident to purchase from any dealer, distributor, installer or manufacturer the material or equipment, including equipment required by applicable law, necessary for installation of the mobile home.
- (b) No mobile home park owner or operator may charge any entrance or exit fee except those charges or expenses which are directly incurred by said park owner as a result of placing of a mobile home upon, or removal of a mobile home from, a mobile home lot. Any such fee may be described by formula based on specific services provided rather than by specific dollar amount and shall be clearly identified in writing prior to the time the rental agreement is signed or otherwise concluded. Nor may the owner charge or collect any fee from the prospective resident or current resident for the privilege of entering into an oral or written agreement for the lease, use, or occupancy of a mobile home or a lot in a mobile home park.
- (c) A mobile home park owner or operator may not make or enforce any rule which shall deny or abridge the right of any resident of such mobile home park or any owner of a mobile home located in such park to sell said mobile home within the park or which shall require the resident or owner to remove the mobile home from the park solely on the basis of the sale thereof. A park owner or operator may prescribe by rule the size, quality, or construction standards for any mobile home to be retained in the park after resale. The purchaser of said mobile home, if said purchaser would otherwise qualify with the requirements of entry into the park, may become a resident of the park, subject to the approval of the park owner or operator but such approval may not be unreasonably withheld. If such approval is withheld, the park owner or operator shall state in writing any reason for the withholding of approval of purchaser. The park may not exact a Commission or fee with respect to the price realized by the seller unless the park owner or operator has acted as agent for the mobile home owner in the sale pursuant to a written contract.
- (d) Where utilities or any other reoccurring service, such as fuel oil supply, is required by the mobile home park resident, the mobile home park owner or operator may not designate that a particular supplier must be used.

(C.B. 34, 1978; C.B. 12, 1983)

Sec. 16.515. - Leases.

- (a) The rental of each mobile home site shall be by written lease agreement between the resident and the mobile home park licensee unless the resident acknowledges in writing that he or she has been offered a written lease but prefers an oral month-to-month lease. Such written acknowledgment shall include notice of receipt of a complete and current copy of rules and regulations, disclosure of all fees and charges as required in subsection 16.513(a)(1), and notice of grounds for eviction. The mobile home park owner or operator shall be required to offer each prospective mobile home park resident, prior to his/her assuming occupancy in the park, a written lease for a period of not less than 12 months. Within 15 days of receipt of a 12-month minimum written lease agreement, the resident or prospective resident shall notify the park owner or operator of his or her decision to either accept or reject such lease offer. In the event a resident or prospective resident does not elect to accept a lease agreement for a minimum period of 12 months, the required written lease shall provide instead for an occupancy period of not less than 90 days, where the unit is owned by the resident, or for an occupancy period of not less than 30 days, where the unit is owned by the mobile home park owner.
- (b) The written lease offered by the park owner or operator shall contain or have attached the following:
 - (1) Specific identification of the lot to be rented or leased.

- (2) A period of duration of not less than one year, or of the shorter term as permitted under the conditions of subsection 16.515(a) of this subtitle.
 - (3) A stipulation of total amount of rental for a mobile home lot, together with a stipulation of the terms of payment, monthly, quarterly, annually, or semiannually, and the amount due at each installment.
 - (4) Specific amounts of any and all fees, charges, assessments, installation charges payable by the resident, in such a manner as to identify the specific service being provided for each charge, assessment, or fee.
 - (5) A complete and current copy of the park rules and regulations, together with an explanation of provisions for amendments thereto.
 - (6) Specific reference to this subtitle as the governing law regulating relations between mobile home park residents and park operators in Howard County as well as the applicable provisions of the Maryland Code.
 - (7) All responsibilities of the prospective resident and all services and facilities to be provided by the park owner or operator.
 - (8) Clear and specific identification of actions on the part of the resident which may be grounds for eviction from the mobile home park or termination of the lease or rental agreement.
- (c) The mobile [home] park resident shall receive a copy of the executed lease.
- (d) Any provision of a lease or rental agreement in which any provision of this subtitle is waived is void as against public policy.
- (e) *Security deposits.* A mobile home park licensee, owner, operator or landlord shall not require a resident to pay a security deposit or an increase in the amount of a security deposit as a condition of entering into a subsequent lease term or tenancy, including a month-to-month tenancy, if the resident has been a continuous resident of the mobile home park for more than 12 months without a break in residency and:
- (1) No security deposit was required during the initial lease terms; or
 - (2) A security deposit was required for the initial lease term under a written lease agreement which was either silent or failed to put the resident on notice of the possibility of subsequent increases in the amount of the security deposit.

(C.B. 34, 1978; C.B. 12, 1984; C.B. 125, 1991)

Sec. 16.516. - Causes for eviction of residents.

Nothing in this section may be interpreted to alter either the park owner's or the resident's rights to not anew a lease pursuant to the terms of the lease. [Evictions are subject to the following:]

- (a) A mobile home park owner or operator may only evict a resident for the following reasons:
 - (1) Nonpayment of rent.
 - (2) Violation of a Federal or State law or local ordinance which is detrimental to the safety and welfare of other dwellers in the mobile home park.
 - (3) Repeated violations over a six-month period of any rule or regulation identified by the park owner or operator in the lease as grounds for eviction.
- (b) An owner or operator shall deliver to the resident a written notice of the cited violations at least 30 days before the date he or she is required to vacate the premises.

(c) No mobile home park owner or operator shall evict or harass a resident of any mobile home park in Howard County or arbitrarily increase the rent or decrease the services to which the resident has been entitled for any of the following reasons:

- (1) Because the resident or other occupant has filed a complaint, or complaints, against the mobile home park owner or operator with any public agency or agencies;
- (2) Because the resident or other occupant has filed a lawsuit, or lawsuits, against the mobile home park owner or operator; or
- (3) Because the resident or other occupant is a member of any tenants' or residents' organization.

Evictions described in this subsection shall be called "retaliatory evictions." If in any eviction preceding the judgment is in favor of the resident for any of the aforementioned defenses, the court may enter judgment for reasonable attorney fees and court costs against the mobile home park owner or operator. In addition, the court may enter judgment against the mobile home park owner or operator for any and all expenses incurred by the resident in his forced move, if judgment is rendered after the resident's eviction.

(C.B. 34, 1978)

Sec. 16.517. - Residents' rights to visitors.

- (a) An invited guest of a mobile home park resident shall have ingress and egress to and from the mobile home park resident's site without the resident or his guest being required to pay a fee or any charge whatsoever. For purposes of this subsection, an "invited guest" shall be defined as a person whose stay at the request of a mobile home park resident does not exceed five consecutive days, or 30 days in any 12-month period. Guests staying in excess of five consecutive days may be required to register and obtain permission of the park management as provided by park rules.
- (b) It shall be unlawful for the owner of a mobile home park or its management to require registration for invited guests of a resident of a mobile home park in Howard County except as provided herein.

(C.B. 34, 1978; C.B. 21, 1979)

Sec. 16.518. - Violation of sections 16.513 through 16.517; enforcement; penalty.

- (a) Any person violating any provisions of sections 16.513 through 16.517 of this subtitle shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than \$100.00 nor more than \$1,000.00. Alternatively or in addition to and concurrent with all other remedies, the licensing authority may enforce the provisions of sections 16.513 through 16.517 with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A first violation shall be a Class D offense. Subsequent violations shall be Class B offenses. No waiver of the provisions of sections 16.513 through 16.517 shall be permitted except as specifically authorized.
- (b) Any appropriate law enforcement agency may bring criminal judicial proceedings to enforce the provisions of this subtitle; in addition to criminal proceedings, the Howard County Office of Law may bring civil proceedings to enforce this subtitle.

(C.B. 34, 1978; C.B. 32, 1985)

Sec. 16.519. - Requirements of mobile home park residents.

The mobile home park resident at all times shall:

- (a) Comply with all reasonable park rules, and require other persons on the premises with the resident's consent to comply with such rules;
- (b) Comply with all obligations imposed on mobile home residents by applicable provisions of building, housing and health codes;
- (c) Keep the mobile home lot which he or she leases clean and sanitary; and
- (d) Comply with reasonable park rules by acting in a manner which does not unreasonably disturb other occupants of the park or constitute a breach of the peace and requiring others on the premises with the resident's consent to act in a similar manner.

(C.B. 34, 1978)

Sec. 16.520. - Severability.

Should any section or provision of this subtitle be declared invalid by a court of competent jurisdiction, such declaration and decision shall not affect the validity of the remaining portions of this subtitle.

(C.B. 34, 1978)

Sec. 16.521. - Conflicts with other provisions.

In any case where a provision of this subtitle is found to be in conflict with a provision of any other act or code of Howard County existing on the effective date of this subtitle, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this subtitle is found to be in conflict with a provision of any other act or code of Howard County existing on the effective date of this subtitle, which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this subtitle shall be deemed to prevail, and such other acts or codes are hereby declared to be repealed to the extent that they may be found in conflict with this subtitle.

(C.B. 34, 1978)

SUBTITLE 6. - HISTORIC PRESERVATION COMMISSION

Sec. 16.600. - Purpose.

The regulations set forth in this subtitle are adopted pursuant to the authority of article 25A, Local Government Article, section 10-325 of the Annotated Code of Maryland 2013, as amended, to regulate construction, alteration, reconstruction, moving and demolition of structures of historic, architectural, and archeological value, together with their appurtenances and environmental settings within respective specified limits. These regulations are designed to safeguard the heritage of the County by preserving districts herein which reflect elements of its cultural, social, economic, political or architectural history; to stabilize and improve the property values in such districts in the County; to foster civic beauty; to strengthen the local economy; and to promote the use and preservation of such historic districts in the County for the education, welfare and pleasure of the residents of the County.

These regulations are also intended to promote the preservation of the County's historic resources by establishing the Historic Preservation Commission, which shall be the steward of the historic preservation plan and serve as a resource available to provide advice and counsel to Howard County agencies, Boards, Commissions, and property owners regarding historic sites, either within or outside the boundaries of historic districts.

(C.B. 25, 1973; C.B. 2, 1981; C.B. 81, 1993; C.B. 71, 2003, § 1; C.B. 11, 2014, § 2)

Sec. 16.601. - Definitions.

Words and phrases used in this subtitle have their usual meanings except as defined below:

- (a) *Adverse changes* means changes by intent or neglect that modify or destroy the historic character of the building or buildings.
- (b) *Appurtenances and environmental settings* mean walkways and driveways (whether paved or not), trees, waterways and rocks, and landscaping that form part of the setting for a historic structure or use on the same lot.
- (c) *Certificate of approval* means an order issued by the Commission authorizing new construction or alterations to properties within a historic district as provided in this subtitle.
- (d) *Commission* means the Historic Preservation Commission.
- (e) *Contributing structure* means a structure located within a historic district and contributing to the historic or architectural value of the district.
- (f) *Historic district* means an area in the County which is deemed to be of historic or architectural value, the boundaries of which shall be established in accordance with Howard County law. A multiple site historic district is any district consisting of more than one property. A single site historic district consists of only one property.
- (g) *Historic sites inventory* means the list of historic sites adopted by resolution of the County Council.
- (h) *Historic structure* means a structure situated within the County which, together with its appurtenances and environmental setting, has significant historic or architectural value. *Historic structure* includes a structure listed on the historic sites inventory.
- (i) *Minor alterations* means the following exterior alterations, provided the alterations comply with the guidelines adopted by the Commission pursuant to section 16.607(d) of this subtitle:
 - (1) Signs;
 - (2) The removal of materials and features that are not in compliance with the guidelines and replacement with materials and features that are in compliance with the guidelines;
 - (3) The repair and replacement of deteriorated materials and features with historically appropriate materials and features including, without limitation, siding, gutters and downspouts, roofs, chimneys, porches, railings, windows, doors and paving;
 - (4) Painting, including changes of color;
 - (5) The removal of exterior light fixtures or the installation of light fixtures;
 - (6) Other exterior modifications including, without limitation, sheds, mailboxes, house numbers, the exterior placement of utilities, and minor landscape features; or
 - (7) Minor changes to plans already approved by the Commission.
- (j) *Principal use or structure* means the main use of a lot or a structure, as opposed to an accessory use or structure.
- (k) *Routine maintenance* means work that does not alter the exterior features of a structure and has no material effect on the historic or architectural significance of the structure.

Routine maintenance includes:

- (1) Repair or replacement of roofs, gutters, siding, external doors and windows, trim, lights, and other appurtenant fixtures using the same materials and design;
- (2) Minor landscaping which will not substantially affect the character of the structure;

- (3) Paving repair using like materials of like design;
 - (4) Painting of previously painted surfaces using the same color; and
 - (5) Other minor maintenance and repair work which is described as routine maintenance in design guidelines approved by the Commission.
- (l) *Structure* means anything constructed, the use of which requires permanent location on the ground, or attached to something having permanent location on the ground. *Structure* includes buildings, porches, decks, awning, fences, gravestones, communication towers, and streetlights and other exterior lighting fixtures. Street furniture such as benches, newspaper boxes, and trash receptacles are considered structures if permanently affixed to the ground. The term *structure* shall be construed as if followed by the words "or part thereof" and to include the words "appurtenances and environmental settings."

(C.B. 25, 1973; C.B. 2, 1981; C.B. 81, 1993; C.B. 71, 2003, § 1; C.B. 11, 2014, § 2; C.B. 67, 2016, § 1; C.B. 46, 2018, § 1)

Note— Formerly, § 16.600(a).

Sec. 16.602. - Establishment of historic districts.

- (a) *Boundaries Established.* The boundaries of historic districts shall be established in accordance with title 16, subtitle 2 of the Howard County Code (the Zoning Enabling Act).
- (b) *Zoning Regulations Remain in Effect.* The Zoning Regulations of Howard County, as amended, shall remain in full force and effect within any historic district hereafter established, except as may herein be modified.
- (c) *Zoning Districts as Designated on the Zoning Map.* The zoning districts as designated on the Zoning Map of Howard County, as amended, shall remain in full force and effect within any historic district.
- (d) *Single Site Historic Districts.* Single site historic districts may only be established upon the petition of the owner of the property which is the subject of the petition.
 - (1) Procedure for Establishing Single Site Historic Districts. All petitions for Single site historic districts shall adhere to the following procedures:
 - a. Petitions shall be submitted to and reviewed by the Historic Preservation Commission following the Commission's Rules of Procedure. The Department of Planning and Zoning shall prepare and forward a Technical Staff Report on the petition and forward the report to the Commission and the Zoning Board prior to the Commission's public meeting date and post the report on the Historic Preservation Commission's webpage.
 - b. The Commission shall make recommendations to the Zoning Board on all petitions to create boundaries of single site historic districts or to amend the boundaries of historic districts on a piecemeal basis. The Commission shall make recommendations on whether to approve, approve with modifications, or deny the applications. The Historic Preservation Commission shall transmit its findings and recommendations concerning the petition to the Zoning Board prior to the Zoning Board's public hearing on a petition.
 - c. The Zoning Board shall consider petitions for single site historic districts using the following procedures:
 - i. *Public Hearing Required.* The Zoning Board shall hold a public hearing on single site historic districts at which parties of interest and citizens shall have an opportunity to be heard. The Zoning Board shall be prohibited from holding meetings which include an opportunity for public testimony on any day on which Rosh Hashanah, Yom Kippur, Eid Ul Fitr or Eid Ul Adha is observed.

- ii. *Rules of Procedure; Notice.* The Zoning Board public hearings on single site historic districts shall be conducted in accordance with the rules of procedure adopted by the Zoning Board except for the provisions relating to public notice, which shall be as provided in this section. The public notice required for Zoning Board hearings on single-site historic district applications shall be posted at least 30 days prior to the hearing on the County's website and shall give notice of the date, time and place of the hearing on the application.
- (2) *Criteria for Establishing Single Site Historic Districts.* A petition for a single site historic district may be granted if the Zoning Board finds affirmatively that the establishment of a single site historic district will:
- a. Serve to safeguard the heritage of the County by preserving elements of its cultural, social, economic, political or architectural history;
 - b. Protect the integrity of a historic property from adverse changes and/or demolition; and
 - c. Implement the goals set forth in the Historic Preservation Plan and General Plan.

(C.B. 25, 1973; C.B. 2, 1981; C.B. 81, 1993; C.B. 107, 1994; C.B. 71, 2003, § 1; C.B. 11, 2014, § 2; C.B. 46, 2018, § 1)

Sec. 16.603. - Certificates of approval.

- (a) *Certificate of Approval Required.* Except as provided otherwise in this section, a certificate of approval from the Commission is mandatory before the following may be undertaken within any historic district:
- (1) Construction, moving, demolition, repair or alteration of any structure in any manner affecting the exterior appearance of the structure;
 - (2) Construction or alteration of parking areas; and
 - (3) Installation or alteration of exterior signs.
- (b) *Exemptions.* A certificate of approval is not required for:
- (1) Routine maintenance; or
 - (2) Minor alterations that are determined by the Executive Secretary of the Commission to be consistent with the guidelines. The Executive Secretary's determination shall be posted on the Commission's website. The Executive Secretary shall notify each Commissioner in writing. If within five days of posting on the website, and written notification to the Commissioners, any person objects in writing to the Executive Secretary, a certificate of approval is required. Notwithstanding any provision of this Code, the determination of the Executive Secretary may not be appealed.
- (c) *Preparation for New Development.* A certificate of approval is not required for the following work when carried out in accordance with an approved subdivision plan, site development plan, forest conservation plan, or grading plan:
- (1) Construction or alteration of public streets and sidewalks, use-in-common driveways, storm drains and drainage swales, stormwater management facilities, and utility lines;
 - (2) Tree clearing and removal; or
 - (3) Installation of forest conservation plantings, street trees, and other required landscaping.
- (d) *Building Permit.* The Department of Inspections, Licenses and Permits shall not issue a building permit or a grading permit for work requiring a certificate of approval unless the Commission has issued a certificate of approval. The permit shall incorporate any requirements or modifications required by the certificate of approval.

- (e) *Sign Permit.* The Department of Inspections, Licenses and Permits shall not issue a sign permit for work requiring a certificate of approval unless the Commission has issued a certificate of approval. The sign permit shall incorporate any requirements or modifications required by the certificate of approval.
- (f) *Posted on Property.* The certificate of approval shall be posted on the property in a location visible from a public street while the work authorized by the certificate is being performed.
- (g) *Expiration of Certificate of Approval.* Unless extended by the Commission, a certificate of approval issued by the Commission shall expire automatically if:
 - (1) The work has not been substantially completed within 18 months from the date the certificate of approval was issued for an application for the alteration, repair, moving, or demolition of a structure, or for the construction of a new accessory structure.
 - (2) The work has not been substantially completed within three years from the date the certificate of approval was issued for an application for the construction of a new principal structure.
- (h) *Extension of Certificate of Approval.* An application for extension of a certificate of approval shall be treated and considered as a new application before the Commission.

(C.B. 25, 1973; C.B. 2, 1981; C.B. 81, 1993; C.B. 71, 2003, § 1; C.B. 11, 2014, § 2; C.B. 67, 2016, § 1)

Sec. 16.603A. - Review of development plans.

Prior to the initial submittal of an application for subdivision or site development plan approval on a site located in a historic district established under this subtitle, adjoining a multi-site historic district, or that contains a historic structure, the applicant shall request review by the Commission to identify all historic resources on the site and obtain advice from the Commission regarding the design of development.

(C.B. 46, 2009, § 1; C.B. 11, 2014, § 2)

Sec. 16.604. - Historic Preservation Commission.

- (a) *Establishment.* There is a Historic Preservation Commission to carry out the purposes of this subtitle.
- (b) *Membership and Appointment:*
 - (1) *General provisions.* General provisions applicable to this Commission are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
 - (2) *Number of members.* The Commission shall have a membership of seven persons.
 - (3) *Qualifications:*
 - (i) All members shall be residents of Howard County.
 - (ii) Members shall be professionals in or have special interest, knowledge, or training in such fields as history, architecture, archeology, anthropology, curation, preservation, urban design or related disciplines and shall have knowledge of and have demonstrated an interest in the preservation of historic and architectural areas of the County.
 - (iii) The Commission shall include at least one resident or property owner from each multiple site historic district in Howard County. When a new multiple site historic district is created, a resident or property owner from the new district shall be appointed to the Commission within three years of the date the new district is created. Within three months of the creation of the new multiple site historic district, the County Executive shall appoint a

resident or property owner from the new district as a temporary additional voting member of the Commission, to serve until the permanent member of the Commission from that district is appointed and confirmed.

- (c) *Quorum.* Three members shall constitute a quorum, and the vote of the majority present shall be necessary for a decision.
- (d) *Executive Secretary.* The Director of the Department of Planning and Zoning or the Director's designee shall serve as the Executive Secretary to the Commission and shall attend all meetings of the Commission and may provide recommendations on applications before the Commission.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 107, 1994; C.B. 71, 2003, § 1; C.B. 11, 2014, § 2; C.B. 67, 2016, § 1)

Sec. 16.605. - Procedures of the Commission.

- (a) *Rules of Procedure.* The Commission shall adopt rules of procedure necessary for the discharge of its duties.
- (b) *Applications:*
 - (1) Applications for a certificate of approval and any other Commission approval or review required under this subtitle shall be filed with the Department of Planning and Zoning.
 - (2) The Department shall check the application for completeness and shall forward the application, together with all maps, plans and all other data required by the rules of the Commission, to the Commission.
 - (3) Provided that the application was filed with the Department of Planning and Zoning at least 22 calendar days before the Commission's next scheduled meeting, the Department shall place the application on the agenda for the next scheduled Commission meeting. The Commission shall hear only those applications which staff from the Department of Planning and Zoning determines are complete. Applications filed less than 22 calendar days before the Commission's next scheduled meeting shall be placed on the agenda for the following meeting.
 - (4) The Commission may hold an emergency meeting to hear an application for a certificate of approval which requires immediate action due to an immediate safety or health hazard or the need for emergency repairs.
- (c) *Standing.* Any person, or the person's duly constituted representative, shall be entitled to appear and be heard on any matter before the Commission reaches a decision.
- (d) *Records.* The Commission shall keep a record of its proceedings and action, which shall be on file for public view at the Department of Planning and Zoning.
- (e) *Notice.* Notice of Commission meetings shall appear in a newspaper of general circulation in Howard County at least seven days prior to such meeting. Each application to be heard at a Commission meeting shall be advertised in the manner provided for in the rules of the Commission. Notice of an emergency meeting is not required to be published in a newspaper, provided that the property which is the subject of an application to be heard at an emergency meeting is posted with the time, date, place, and subject matter of the meeting for at least 24 hours immediately prior to the meeting.
 - (1) The emergency notice poster shall:
 - (i) Give the address of the subject property, if available.
 - (ii) Be double-sided and at least 30 inches by 36 inches in size.

- (iii) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
 - (iv) State that the subject property is proposed to be altered and include a description of the proposed alteration.
 - (v) Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.
- (f) *Action of the Commission:*
- (1) The Commission shall file with the Department of Planning and Zoning its certificate of approval, modification or denial of all applications and plans submitted to it for review.
 - (2) No work shall begin until such certificate of approval shall have been filed.
 - (3) Failure of the Commission to vote on an application within 90 days from the date a complete application is filed shall constitute approval, unless an extension of the 90-day period is agreed upon mutually by the applicant and the Commission or the application has been withdrawn.
 - (4) The Commission shall set forth, in writing, its reason for approval or denial of an application submitted to it for review.
 - (5) If an application is denied, in the absence of a change to the structure arising from casualty, no new application for the same or similar work shall be filed within one year after the conclusion of the hearing on the denied application.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 71, 2003, § 1; C.B. 46, 2009, § 1; C.B. 11, 2014, § 2; C.B. 69, 2018, § 1)

Sec. 16.606. - Powers of the Commission.

- (a) *Review of Applications.* The Commission shall review all applications for certificates of approval. The Commission shall also review applications for alterations to historic structures outside the historic district and make any other determination when required by the zoning regulations. The Commission shall approve, approve with modifications, or deny the applications.
- (b) *Consultation with the Maryland Historical Trust.* The Commission may consult with the Maryland Historical Trust to make an analysis of and recommendation concerning the preservation of structures of historic or architectural value within the County. Such report may propose boundaries of districts as well as identify particular structures recommended to be preserved.
- (c) *Recommend Designation as Historic District.* The Commission shall make recommendations to the Howard County Council on all petitions to create or modify multiple site historic districts. The Commission shall also make recommendations to the Zoning Board on all petitions to create boundaries of single site historic districts or to amend the boundaries of historic districts on a piecemeal basis.
- (d) *Provide Advice on Historical Resources.*
 - (1) The Commission shall perform the following advisory functions:
 - (i) Advise and assist in developing plans for the preservation of historic resources within Howard County upon the request of an Agency, Board or Commission of Howard County Government.

- (II) Advise and assist the Department of Planning and Zoning in identifying historic resources on property that requires subdivision or site development plan approval and is located in a historic district established under this subtitle or contains an historic structure. Such advice shall be given prior to the initial plan submittal for either subdivision or site development plans.
- (III) Advise an applicant for subdivision or site development plan approval for a site located in a historic district established under this subtitle, Adjoining a Multi-Site Historic District or that contains a historic structure. Such advice shall be provided prior to the initial submittal for a subdivision or site development plan. After Commission review of a plan under this paragraph, the Director of the Department of Planning and Zoning may require the applicant to resubmit the plan to the Commission for its review and advice if:
 - A. Before the subdivision application or site development plan is approved, the applicant submits a revised plan that the Director of the Department of Planning and Zoning determines is inconsistent with the Commission's comments on the previous plan; or
 - B. The subdivision plan or site development plan expires and the applicant submits a new plan.
- (IV) Upon the request of the applicant, provide pre-application advice on the design of proposed work to persons seeking a certificate of approval.
- (2) The Commission may perform the following advisory functions:
 - (I) Review applications for zoning text amendments, map amendments, conditional use, or variance approvals and make recommendations to the Zoning Board, Planning Board, County Council, or Hearing Examiner for:
 - (A) Areas located within a historic district or
 - (B) A historic structure listed on the historic sites inventory;
 - (II) Review and provide advice to the Planning Board and County Council on other proposals affecting historic preservation, including County general plans and area master plans.
 - (III) Advise in developing plans for the preservation of historic resources within Howard County upon the request of the owner of the historic resource.
- (e) *Adopt Rules to Implement Historic Tax Credit Program:*
 - (1) The Commission shall adopt rules to implement the historic tax credit program under sections 20.112 and 20.113 of the County Code.
 - (2) The rules shall include:
 - (I) Procedures to be followed by a property owner in applying for the tax credit.
 - (II) Procedures to be followed by the Commission in considering an application; and
 - (III) Guidelines for the performance of eligible work.
- (f) *Approve Historic Tax Credits.* As specified in sections 20.112 and 20.113 of the County Code, the Commission may approve an application for a historic tax credit.
- (g) *Maintain the Inventory.* The Commission shall advise on updating and maintaining the historic sites inventory.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 107, 1994; C.B. 87, 1995; C.B. 71, 2003, § 1; C.B. 46, 2009, § 1; C.B. 11, 2014, § 2; C.B. 67, 2016, § 1)

Sec. 16.607. - Standards for review.

- (a) *Elements for Consideration.* In reviewing an application for a certificate of approval, the Commission shall give consideration to:
 - (1) The historic, architectural, or archeological value or significance of the structure and its relationship to historic value of the surrounding area.
 - (2) The relationship of the exterior architectural features of such structure to the remainder of the structure and to the surrounding area.
 - (3) The general compatibility of exterior design, scale, proportion, arrangement, texture and materials proposed to be used.
 - (4) Whether the requested action is necessary to protect against threats to public safety.
 - (5) Any other factors, including aesthetic factors, which the Commission deems to be pertinent.
- (b) *Exterior Features Only.* The Commission shall pass only on exterior features of a structure and shall not consider interior arrangement; nor shall it disapprove applications except in regard to the considerations set forth above.
- (c) *Intent of the Subtitle.* It is the intent of this subtitle that the Commission be strict in its judgment of plans for contributing structures. It is also the intent of this subtitle that the Commission shall be lenient in its judgment of plans for structures of little historic value or plans for new construction, except where such plans would seriously impair the historic or architectural value of surrounding structures or the surrounding area. It is not the intent of this subtitle to limit new construction, alteration, or repairs to the architectural style of any one period.
- (d) *Additional Guidelines.* The Commission shall adopt guidelines for its review of applications based on the standards of this subtitle. The guidelines may include standards for identifying contributing structures.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 71, 2003, § 1; C.B. 75, 2018, § 1)

Sec. 16.608. - Structures of unusual importance.

- (a) *Structure of Unusual Importance.* In the case of an application for alteration affecting the exterior appearance of a structure or for the moving or demolition of a structure the preservation of which the Commission deems of unusual importance to the County, State or nation, the Commission shall endeavor to work out with the owner an economically feasible plan for the preservation of such structure.
- (b) *Deny Application.* Unless the Commission is satisfied that proposed construction, alteration, or reconstruction will not materially impair the historic value of the structure, the Commission shall deny the application.
- (c) *Negotiation.* If an application is submitted for alteration, moving or demolition of a structure that the Commission deems of unusual importance and no economically feasible plan can be formulated, the Commission shall have 90 days from the time it concludes that no economically feasible plan can be formulated to negotiate with the owner and other parties in an effort to find a means of preserving the building.
- (d) *Special Circumstances.* The Commission may approve the proposed alteration, moving or demolition of a structure of unusual importance despite the fact that the changes come within the provisions of subsections (a) through (c) of this section, if:
 - (1) The structure is a deterrent to a major improvement program which will be of substantial benefit to the County;
 - (2) Retention of the structure would be a threat to public safety;
 - (3) Retention of the structure would cause undue financial hardship to the owner; or

- (4) Retention of the structure would not be in the interest of a majority of the persons in the community.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 71, 2003, § 1; C.B. 75, 2018, § 1)

Sec. 16.609. - Powers of Howard County.

- (a) Howard County shall have the right to accept and use gifts for the exercise of the Commission's functions.
- (b) Howard County may purchase or accept architectural easements in connection with structures located in or adjacent to an historic district. Such easement shall grant to the Commission, the residents of the historic district and the general public, the perpetual right, or the right for a specified term, to have the exterior appearance of any structure upon which it is applied retained in substantially the same character as when the easement took effect.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 71, 2003, § 1)

Note— Formerly, numbered as section 16.610. C.B. 71, 2003 repealed former section 16-609 which pertained to routine maintenance.

Sec. 16.610. - Enforcement.

When there is any violation of this subtitle or any action taken there under, the Department of Planning and Zoning may institute appropriate action to prevent, enjoin, abate or remove the violation. Alternatively and in addition to and concurrent with all other remedies, the Department of Planning and Zoning may enforce the provisions of this subtitle by the use of civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle shall be a Class C offense.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 71, 2003, § 1)

Note— Formerly numbered as § 16.611.

Sec. 16.611. - Appeals.

Any person or persons jointly or severally, or firm or corporation, aggrieved by a decision of the Commission may appeal the decision of the Commission to the Circuit Court for Howard County, provided the appeal is made within 30 days of the Commission's vote to approve or deny the application, or the date an application is approved due to the failure of the Commission to vote.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 71, 2003, § 1; C.B. 11, 2014, § 2)

Note— Formerly, numbered as 16.612.

Sec. 16.612. - Severability.

If any word, clause, paragraph or section of this subtitle shall be ruled invalid or unconstitutional by a court of competent jurisdiction, it shall not affect the validity of this subtitle as a whole or any part thereof other than that portion so judged to be invalid or unconstitutional.

(C.B. 25, 1973; C.B. 47, 1979; C.B. 2, 1981; C.B. 111, 1981; C.B. 32, 1985; C.B. 73, 1987; C.B. 2, 1988; C.B. 30, 1988; C.B. 62, 1988; C.B. 81, 1993; C.B. 71, 2003, § 1)

Note— Formerly, numbered as 16.613.

SUBTITLE 7. - FLOODPLAIN⁽⁶⁾

Footnotes:

--- (6) ---

Editor's note— Section 2 of C.B. 61, 1988, amended sub. 7 to read as herein set out in §§ 16.700—16.705. Prior to said amendment, the provisions of former sub. 7, §§ 16.700—16.704, pertained to similar subject matter and derived from C.B. 25, 1977. Subsequently C.B. 3, 2005, amended this subtitle to read as herein set out.

Sec. 16.700. - Statutory authority; purpose; abrogation and greater restrictions.

- (a) *Statutory Authority.* The Maryland General Assembly, in the Land Use Article of the Annotated Code of Maryland, has established as policy of the state that the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning control, and that planning and zoning controls shall be implemented by local government in order to, among other purposes, secure the public safety, promote health and general welfare, and promote the conservation of natural resources. Therefore, Howard County does adopt floodplain management regulations as contained in this subtitle; title 16, subtitle 1 of this Code; and the Howard County Building Code.
- (b) *Purpose.* It is the purpose of this subtitle to promote the public health, safety and general welfare, and to:
- (1) Protect human life, health and welfare;
 - (2) Encourage the use of appropriate construction practices in order to prevent or minimize flood damage in the future;
 - (3) Minimize flooding of water supply and sanitary sewage disposal systems;
 - (4) Maintain natural drainage;
 - (5) Reduce financial burdens imposed on the community, its governmental units and its residents, by discouraging unwise design and construction of development in areas subject to flooding;
 - (6) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (7) Minimize prolonged business interruptions;
 - (8) Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
 - (9) Reinforce that those who build in and occupy special flood hazard areas should assume responsibility for their actions;

- (10) Minimize the impact of development on adjacent properties within and near flood-prone areas;
 - (11) Provide that the flood storage and conveyance functions of floodplains are maintained;
 - (12) Minimize the impact of development on the natural and beneficial functions of floodplains;
 - (13) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
 - (14) Meet community participation requirements of the national flood insurance program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.
- (c) *Abrogation and Greater Restrictions.* Regulations governing the floodplain are not intended to repeal or abrogate any existing regulations and ordinances, including Subdivision Regulations, the Howard County Zoning Regulations, the Howard County Building Code, this Code, or any existing easements, covenants, or deed restrictions. If a conflict exists between these regulations and any other Code provision, easement, covenant, or deed restriction, the more restrictive shall govern.

(C.B. 41, 2013, § 1(3))

Sec. 16.701. - Definitions.

Except as specifically defined in this section, terms used in this subtitle shall have the meanings set forth in subsection 3112, floodplain, of the Howard County Building Code:

- (a) *Base flood* means the flood having a one-percent chance of being equaled or exceeded in any given year; the base flood also is referred to as the one-percent annual chance (100-year) flood.
- (b) *Base flood elevations ("BFE")* means the water surface elevation of the base flood in relation to the datum specified on the County's FIRM. In areas of shallow flooding, the base flood elevation is the highest adjacent natural grade elevation plus the depth number specified in feet on the FIRM, or at least four feet if the depth number is not specified.
- (c) *Building code* means the Building Code of Howard County adopted pursuant to subtitle 1, "Building Code" of title 3, "Buildings," of the Howard County Code.
- (d) *Design Manual* means Howard County's Technical Standards, approved by resolution of the County Council, for design, construction and inspection of bridges, roads, storm drainage structures, stormwater management systems, sidewalks, walkways, parking areas, traffic control devices, water and sewer facilities, and other improvements.
- (e) *Development* means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, placement of manufactured homes, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (f) *FEMA* means the Federal Emergency Management Agency.
- (g) *Flood Insurance Rate Map ("FIRM")* means an official map on which FEMA has delineated special flood hazard areas to indicate the magnitude and nature of flood hazards, to designate applicable flood zones, and to delineate floodways, if applicable. FIRMS that have been prepared in digital format or converted to digital format are referred to as Digital FIRMS (DFIRM).
- (h) *Flood Insurance Study ("FIS")* means the official report in which FEMA has provided flood profiles, floodway information, and the water surface elevations.
- (i) *Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a recreational vehicle.
- (j) *MDE* means the Maryland Department of the Environment.

- (k) *NFIP* means the National Flood Insurance Program.
- (l) *Recreational vehicle* means a vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.
- (m) *Special flood hazard area ("SFHA")* means the land in the floodplain subject to a one-percent or greater chance of flooding in any given year. Special flood hazard areas are designated by FEMA in flood insurance studies and on flood insurance rate maps as Zones A, AE, AH, AO, A1-30, and A99, and Zones VE and V1-30. The term includes areas shown on other flood maps that are identified in section 16.703 of this subtitle.
- (n) *Start of construction* means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvements, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (o) *Structure* means that which is built or constructed; specifically, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
- (p) *Violation* means (i) any construction or development in a special flood hazard area that is being performed without an issued permit, (ii) the failure of a building, structure, or other development for which a permit is issued to be fully compliant with these regulations and the conditions of the issued permit, or (iii) a building, structure, or other development without the required design certifications, the elevation certificate, or other evidence of compliance required is presumed to be a violation until such time as the required documentation is provided.

(C.B. 61, 1988; C.B. 3, 2005, § 4; C.B. 41, 2013, § 1(3))

Editor's note— Renumbered from previous section 16.700.

Sec. 16.702. - Floodplain delineation.

- (a) An area to be known as "floodplain" shall include all areas subject to inundation by the waters of the one-percent annual chance flood. The source of this delineation shall be the Flood Insurance Study for Howard County, Maryland and incorporated areas, effective November 6, 2013, or the most recent revision thereof, and the accompanying Flood Insurance Rate Maps, effective November 6, 2013, and all subsequent amendments and revisions to the FIRMs prepared for Howard County by the Federal Emergency Management Agency or the floodplain studies and requirements of the Department of Public Works and the Department of Planning and Zoning, whichever is more restrictive.
- (b) The floodplain shall be comprised of three parts as follows:
 - (1) *Floodway*. That portion of the floodplain required to carry and discharge the waters of the one-percent annual chance flood without increasing the water surface elevation at any point more than one foot above existing conditions.

- (2) *Floodway fringe.* Those portions of land within the floodplain subject to inundation by the one-percent annual chance flood, lying beyond the floodway.
- (3) *Approximate floodplain.* Those portions of land within the floodplain subject to inundation by the one-percent annual chance flood, where a detailed study has not been performed, but where a 100-year floodplain boundary has been approximated.

The delineation of the floodplain may be revised, and amended by the Department of Public Works or the Department of Planning and Zoning based upon data reflecting natural or reconstructed physical changes, provided that all such revisions, amendments, and modifications shall be subject to the review and approval of the Federal Emergency Management Agency.

(C.B. 61, 1988; C.B. 3, 2005, § 4; C.B. 41, 2013, § 1(3))

Editor's note— Renumbered from previous section 16.701.

Sec. 16.703. - Basis for establishing special flood hazard areas and base flood elevations.

- (a) For the purposes of this subtitle, the minimum basis for establishing special flood hazard areas and base flood elevations is the FIS for Howard County, Maryland and incorporated areas dated November 6, 2013, or the most recent revision thereof, and the accompanying firms and all subsequent amendments and revisions to the FIRMs. The FISs and FIRMs are retained on file and available to the public at the Department of Public Works.
- (b) Where field surveyed topography or digital topography indicates that ground elevations are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard on the FIRM, the area shall be considered as special flood hazard area.
- (c) To establish base flood elevations in special flood hazard areas that do not have such elevations shown on the FIRM, the Floodplain Administrator may provide the best available data for base flood elevations, may require the applicant to obtain available information from federal, state or other sources, or may require the Applicant to establish special flood hazard areas and base flood elevations as set forth in sections 16.704 and 16.706 of this subtitle.

(C.B. 41, 2013, § 1(3))

Sec. 16.704. - Use and interpretations of FIRMs.

- (a) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries.
- (b) The following shall apply to the use and interpretation of FIRMs and data:
 - (1) Where field surveyed topography indicates that ground elevations:
 - (i) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;
 - (ii) Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the Applicant obtains a letter of map change that removes the area from the special flood hazard area.
 - (2) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified special flood hazard areas, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.

- (3) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
- (4) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMS and in FISs.
- (5) If a preliminary flood insurance rate map and/or a preliminary flood insurance study has been provided by FEMA:
 - (i) Upon the issuance of a letter of final determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - (ii) Prior to the issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to section 16.703(c) of this subtitle and used where no base flood elevations or floodway areas are provided on the effective FIRM.
 - (iii) Prior to issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change or appeal to FEMA.

(C.B. 41, 2013, § 1(3))

Sec. 16.705. - Requirements and restrictions applicable to the floodplain.

- (a) Within the floodplain, no development shall be permitted except as provided in this subtitle, the Howard County Building Code adopted at title 3, subtitle 1 of the Howard County Code and the Subdivision Regulations adopted at title 16, subtitle 1 of the Howard County Code.
- (b) Within the approximate floodplain for new subdivisions, site development plans, or single lots, the 100-year flood elevations (base flood elevations) shall be certified by a qualified design professional as determined by the Director of the Department of Public Works based on hydrologic and hydraulic analyses which include a floodway analysis. For a single lot, if no data are available, methods described in Federal Emergency Management Agency Publication No. 265, "Managing Floodplain Development in Approximate Zone A Areas", or a method approved by the Department of Planning and Zoning shall be used to determine the BASE flood elevation.
- (c) *Buildings and Structures.* In addition to the requirements set forth in the Howard County Building Code, new buildings and structures (including the placement and replacement of manufactured homes) and substantial improvement of existing structures (including manufactured homes) that are located, in whole or in part, in any special flood hazard area shall:
 - (1) Be designed (or modified) and constructed to safely support flood loads. The construction shall provide a complete load path capable of transferring all loads from their point of origin through the load-resisting elements to the foundation. Structures shall be designed, connected and anchored to resist flotation, collapse or permanent lateral movement due to structural loads and stresses, including hydrodynamic and hydrostatic loads and the effects of buoyancy, from flooding equal to the flood protection elevation or the elevation required by these regulations or the Howard County Building Code, whichever is higher.
 - (2) Be constructed by methods and practices that minimize flood damage.
 - (3) Use flood damage-resistant materials below the elevation of the lowest floor required in section 3112 of the Howard County Building Code.

- (4) Have electrical systems, equipment and components, and mechanical, heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment located at or above the elevation of the lowest floor required in section 3112 of the Howard County Building Code. Electrical wiring systems are permitted to be located below elevation of the lowest floor provided they conform to the provisions of the electrical part of the Howard County Building Code for wet locations. If replaced as part of a substantial improvement, electrical systems, equipment and components, and heating, ventilation, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall meet the requirements of this section.
- (5) As an alternative to paragraph (4), electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment are permitted to be located below the elevation of the lowest floor provided they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to that elevation.
- (6) Have the electric panelboard elevated at least three feet above the BFE.
- (7) Comply with the requirements of the most restrictive designation if located on a site that has more than one flood zone designation (a zone, designated floodway).
- (d) *Recreational Vehicles.* Recreational vehicles shall not be parked or stored in special flood hazard areas.
- (e) *Protection of Water Supply and Sanitary Sewage Systems.*
 - (1) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
 - (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharges from systems into floodwaters.
 - (3) In addition to the requirements of section 3.808 of this Code, on-site waste disposal systems shall be located to avoid impairment to or contamination from them during conditions of flooding.

(C.B. 61, 1988; C.B. 3, 2005, §§ 1, 4; C.B. 41, 2013, § 1(3))

Editor's note— Renumbered from previous section 16.702.

Sec. 16.706. - Permits.

- (a) *Permits Required.* A person shall not begin any development or construction which is wholly within, partially within, or in contact with any flood hazard area established in section 16.703 of this subtitle, including but not limited to: Filling; grading; construction of new structures; the substantial improvement of buildings or structures, including repair of substantial damage; placement or replacement of manufactured homes, including substantial improvement or repair of substantial damage of manufactured homes; erecting or installing a temporary structure, or alteration of a watercourse, until a permit is obtained from the County in accordance with the requirements of this subtitle and the Howard County Building Code.
- (b) In addition to the permits required in paragraph (a), Applicants for permits in nontidal waters of the state are advised to contact MDE. Unless waived by MDE, pursuant to Code of Maryland Regulations 26.17.04, construction on nontidal waters and floodplains, MDE regulates the "100-year frequency floodplain of free-flowing waters," also referred to as nontidal waters of the state. To determine the 100-year frequency floodplain, hydrologic calculations are based on the ultimate development of the watershed, assuming existing zoning. The resulting flood hazard areas

delineated using the results of such calculations may be different than the special flood hazard areas established in section 16.703 of this subtitle.

- (c) *A Permit is Valid Provided the Actual Start of Work is Within 180 Days of the Date of Permit Issuance.* Requests for extensions shall be submitted in writing and justifiable cause demonstrated. The Floodplain Administrator may grant, in writing, one or more extensions of time, for additional periods not exceeding more than 90 days each and provided there has been no amendment or revision to the basis for establishing special flood hazard areas and BFEs set forth in section 16.703 of this subtitle.
- (d) *Application Required.* In accordance with the Howard County Building Code, an application for a permit shall be made by the owner of the property or the owner's authorized agent prior to the start of any work. The application shall be on a form provided by the Department of Inspections, Licenses and Permits.
- (e) *Additional Application Requirements—Certain Development.* In addition to the permit application requirements set forth in section 3.101 of this Code, a permit application for development proposals and subdivision proposals having the lesser of five lots or at least five acres in special flood hazard areas where base flood elevations are not shown on the FIRM shall include:
 - (1) A determination of the base flood elevations; and
 - (2) If hydrologic and hydraulic engineering analyses are submitted, such analyses shall be performed in accordance with the requirements and specifications of MDE and FEMA.
- (f) *New Technical Data.*
 - (1) The Applicant may seek a letter of map change by submitting new technical data to FEMA, such as base maps, topography, and engineering analyses to support revision of floodplain and floodway boundaries and/or base flood elevations. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the Applicant. A copy of the submittal shall be attached to the application for a permit.
 - (2) An Applicant who submits new technical data to support any change in floodplain and designated floodway boundaries or base flood elevations shall submit a letter of map change from FEMA as soon as practicable, but not later than six months after the date such information becomes available. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the Applicant.
- (g) *Application of Requirements.* The general requirements of this subtitle and the Howard County Building Code apply to all development proposed within all special flood hazard areas identified in section 16.703 of this subtitle.

(C.B. 41, 2013, § 1(3))

Sec. 16.707. - Warning and disclaimer of liability.

- (a) *Warning.* The degree of flood protection required by floodplain regulations contained in the Howard County Code is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, and flood heights may be increased by manmade or natural causes. These regulations do not imply that land outside of the special flood hazard areas or uses that are permitted within such areas will be free from flooding or flood damage.
- (b) *Disclaimer.* These regulations shall not create liability on the part of Howard County, any officer, official, or employee thereof, MDE or FEMA, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made hereunder.

(C.B. 41, 2013, § 1(3))

Sec. 16.708. - Floodplain administrator.

- (a) *Designation of the Floodplain Administrator.* The Director of the Department of Public Works is appointed to administer and implement floodplain regulations as contained in this Code and is referred to as the Floodplain Administrator.
- (b) *Delegation of Authority.* The Floodplain Administrator may:
 - (1) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees; and
 - (2) Enter into a written agreement or written contract with another Maryland political subdivision or private sector entity to administer specific provisions of this subtitle, subtitle 7 of this title, and the Howard County Building Code. Administration of any part of these regulations by another entity shall not relieve the political subdivision of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.
- (c) *Duties and Responsibilities of the Floodplain Administrator.* The duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:
 - (1) Review applications for permits to determine whether proposed activities will be located in flood hazard areas.
 - (2) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
 - (3) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
 - (4) Review applications to determine whether all necessary permits have been obtained from the federal, state or local agencies from which prior or concurrent approval is required; in particular, permits from MDE for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing nontidal waters of the state.
 - (5) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities and MDE (NFIP State Coordinator), and have submitted copies of such notifications to FEMA.
 - (6) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
 - (7) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if noncompliance has occurred or violations have been committed.
 - (8) Review elevation certificates and require incomplete or deficient certificates to be corrected.
 - (9) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the County, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
 - (10) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - (i) Flood insurance studies, flood insurance rate maps (including historic studies and maps and current effective studies and maps) and letters of map change; and

- (ii) Documentation supporting issuance and denial of permits, elevation certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- (11) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- (12) Advise the Hearing Examiner regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- (13) Administer the requirements related to proposed work on existing buildings:
 - (i) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
 - (ii) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- (14) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: Issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for increased cost of compliance coverage under NFIP flood insurance policies.
- (15) Notify FEMA when the corporate boundaries of the County have been modified and:
 - (i) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - (ii) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place within six months of the date of annexation and a copy of the amended regulations shall be provided to MDE (NFIP State Coordinator) and FEMA.
- (16) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

(C.B. 41, 2013, § 1(3))

Sec. 16.709. - Development that affects flood-carrying capacity of nontidal waters.

- (a) *Alteration of a Watercourse.* Unless waived by MDE and except as provided in subsection (b) of this section, for any proposed development that involves alteration of a watercourse that is in an area without base flood elevations and designated floodways, an Applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting such changes, including a floodway analysis, and submit such technical data to the floodplain administrator and to FEMA. The analyses shall be prepared by a licensed professional engineer in a format required by MDE and by FEMA for

a conditional letter of map revision and/or letter of map revision. Submittal requirements and fees shall be the responsibility of the Applicant.

- (b) *Exception.* A watercourse may be altered only upon submission, by the Applicant, of the following:
- (1) A certification by a licensed professional engineer that the flood-carrying capacity of the watercourse will not be diminished; and
 - (2) Evidence that adjacent communities, the U.S. Army Corps of Engineers, and MDE have been notified of the proposal, and evidence that such notifications have been submitted to FEMA.

(C.B. 41, 2013, § 1(3))

Sec. 16.710. - Subdivision proposals and development proposals.

In accordance with section 16.115 of this Code, in all flood zones, subdivision proposals and development proposals shall:

- (a) Be consistent with the need to minimize flood damage and are subject to all applicable standards in this subtitle and the Howard County Building Code.
- (b) Have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (c) Have adequate drainage paths provided to reduce exposure to flood hazards and to guide floodwaters around and away from proposed structures.

(C.B. 41, 2013, § 1(3))

Sec. 16.711. - Variances.

- (a) *Generally.*
- (1) *Authority to consider.* The Floodplain Administrator, through the Director of the Department of Inspections, Licenses and Permits, shall have the power to consider and authorize or deny variances from the strict application of the requirements of these regulations for construction adjacent to a floodplain in accordance with section 3112.4 of the Howard County Building Code. A variance shall be approved only if it is determined to not be contrary to the public interest and where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations, an unnecessary hardship would result.
 - (2) *Conditions.* Upon consideration of the purposes of these regulations, the individual circumstances, and the considerations and limitations of this section, the Floodplain Administrator, through the Director of the Department of Inspections, Licenses and Permits, may attach such conditions to variances as it deems necessary to further the purposes of these regulations.
 - (3) *Notification to Applicant.* The Floodplain Administrator, through the Director of the Department of Inspections, Licenses and Permits, shall notify, in writing, any Applicant to whom a variance is granted to construct or substantially improve a building or structure with its lowest floor below the elevation required by these regulations that the variance is to the floodplain management requirements of these regulations only, and that the cost of federal flood insurance will be commensurate with the increased risk, with rates up to \$25.00 per \$100.00 of insurance coverage and that the construction of structures below the base flood elevation increases risks to life and property.
 - (4) *Records.* A record of all variance actions, including justification for issuance shall be maintained pursuant to section 16.709 of this subtitle.

- (b) *Considerations for Granting Variances.* The Floodplain Administrator, through the Director of the Department of Inspections, Licenses and Permits shall make an affirmative decision on a variance request for construction adjacent to a floodplain only upon:
- (1) A showing of good and sufficient cause.
 - (2) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the Applicant.
 - (3) A determination that the granting of a variance for development within any designated floodway, or flood hazard area with base flood elevations but no designated floodway, will not result in increased flood heights beyond that which is allowed in these regulations.
 - (4) A determination that the granting of a variance will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud or victimization of the public, or conflict with existing local laws.
 - (5) A determination that the building, structure or other development is protected by methods to minimize flood damages.
 - (6) A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.
- (c) *Variance Prohibited.*
- (1) A variance shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - (2) A variance may not be issued for any property located in the Tiber Branch Watershed unless the variance:
 - (i) Was requested on or before November 7, 2016;
 - (ii) Is necessary for the reconstruction of existing structures or infrastructure damaged by flood, fire, or other disaster;
 - (iii) Is necessary for the construction of a stormwater management or flood control facility as part of a redevelopment project;
 - (iv) Is necessary for the retrofit of existing facilities or installation of new facilities intended solely to improve stormwater management or flood control for existing development;
 - (v) Is requested as part of a development proposal and the Director of the Department of Public Works, or his designee serving as Floodplain Administrator, finds that upon completion of construction of the development, which may include off-site improvements within the Tiber Branch Watershed, there will be improvement to flood control in the Tiber Branch Watershed at least ten percent more than what would otherwise be required by law; or
 - (vi) Is necessary for the construction of an addition, garage, driveway or other accessory use improvement of an existing residential structure on property located within the Tiber Branch Watershed that increases the square footage of the impervious surfaces on the property by no more than 25 percent over the square footage of impervious surfaces that existed on the property prior to the effective date of this bill [Dec. 9, 2016].

(C.B. 41, 2013, § 1(3); C.B. 80, 2016, § 1)

Sec. 16.712. - Violation.

- (a) If the County determines that there has been a violation of any provision of these regulations, the County shall give notice of such violation to the owner, the owner's authorized agent, and the person

responsible for the violation and may issue a stop work order. The notice of violation and stop work order shall be in accordance with the Howard County Building Code.

- (b) Where there is any violation of this subtitle or any action taken thereunder, the County shall institute appropriate action to prevent, enjoin, or compel compliance with the provisions of this subtitle. In addition to and concurrent with all other remedies at law or equity, the County may enforce the provisions of this subtitle with civil penalties pursuant to the provisions of title 24, "Civil Penalties" of the Howard County Code. A violation is a Class B offense. Each day that a violation continues is a separate offense.

(C.B. 61, 1988; C.B. 3, 2005, §§ 1, 4; C.B. 41, 2013, § 1(3))

Editor's note— Renumbered from previous section 16.703.

Sec. 16.713. - References to the 100-year floodplain.

Each reference in the Howard County Code or the Howard County Zoning Regulations to the "100-year floodplain" shall mean "base flood elevation".

(C.B. 41, 2013, § 1(3))

Sec. 16.714. - Severability.

If any section, sentence, clause or phrase of this subtitle is held invalid or unconstitutional by any court or competent jurisdiction, the ruling shall not affect the validity of the remaining portions or this subtitle.

(C.B. 41, 2013, § 1(3))

SUBTITLE 8. - DEPARTMENT OF PLANNING AND ZONING²¹

Footnotes:

--- (7) ---

Editor's note— Subtitle 8, §§ 16.800, 16.801, was added by § 76 of C.B. 62, 1988. Section 101 declared the bill effective July 1, 1989.

Sec. 16.800. - General provisions.

General provisions regarding this Department are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.

(C.B. 82, 1988)

Sec. 16.801. - The Department of Planning and Zoning.

- (a) *Head.* The Director of Planning and Zoning shall be the head of the Department of Planning and Zoning (formerly known as the Office of Planning and Zoning).

- (b) *Qualifications of Director of Planning and Zoning.* The Director of Planning and Zoning shall be a trained planner with wide and varied experience in the fields of Planning and Zoning. The Director shall have ten years of experience in urban and regional planning and shall have held a position of administrative leadership and responsibility for at least five years.
- (c) *Duties and Responsibilities.* The Department of Planning and Zoning shall comprehensively plan for the growth and development of the County, including but not limited to the functions set forth in this subsection.
 - (1) *Comprehensive general plan.* Within five years from the adoption of the comprehensive rezoning plan, the Department of Planning and Zoning shall coordinate the preparation and revision of a general plan for the County, including but not limited to a plan for land use and land conservation and multiyear development plans for transportation, public facilities, water, sewerage, parkland, housing, human services and environmental protection. The general plan shall follow general guidelines promulgated by the Planning Board and adopted by the County Council.
 - (2) *Subdivision rules and regulations:*
 - (i) *Preparation.* The Department of Planning and Zoning shall prepare and periodically revise procedures governing the subdivision of land and land development.
 - (ii) The Department of Planning and Zoning shall prepare recommended language for legislation governing development and the subdivision of land and shall forward this to the County Executive for submission to the County Council.
 - (iii) The Department of Planning and Zoning shall administer and enforce laws and procedures governing the subdivision of land and land development.
 - (3) *Zoning map; zoning regulations:*
 - (i) *Preparation.* The Department of Planning and Zoning shall prepare a comprehensive zoning plan, including a zoning map and zoning regulations. The Department shall submit these to the Planning Board for its recommendations and then to the County Council. The County Council, after public notice, shall hold a public hearing on the comprehensive zoning plan prior to taking final action on it.
 - (ii) *Enforcement.* The Department of Planning and Zoning shall administer and enforce regulations governing zoning, except as otherwise provided by law.
 - (4) *Amendments to comprehensive zoning plan:*
 - (i) *Piecemeal map amendments.* The Department of Planning and Zoning shall receive all petitions for piecemeal amendments to the zoning map. The Department shall accept and review these petitions and prepare findings and recommendations. The Department shall submit these petitions, recommendations and findings to the Planning Board for its recommendations after public notice and then to the Zoning Board. The Zoning Board, after public notice, shall hold a public hearing on the proposed reclassification or amendment prior to taking action.
 - (ii) *Text amendments.* The County Council shall receive all petitions for text amendments to the zoning regulations. The County Council shall submit these petitions to the Department of Planning and Zoning and to the Planning Board for their review and recommendations.
 - (5) *Deadline for traffic studies and all other technical reports for petitions to be considered by the Zoning Board, County Council, and the Planning Board.* Any petitioner seeking approval from the Zoning Board, County Council, or the Planning Board in a public hearing shall submit other technical reports to the Department of Planning and Zoning at least two weeks prior to the Planning Board meeting or hearing concerning the petition. Within two weeks of the public hearing, no additional information shall be accepted by the Department of Planning and Zoning. Any other technical reports submitted during Planning Board or Zoning Board deliberations shall result in the granting of at least a two week postponement for the opposing party, upon request.

The Zoning Board, County Council, or Planning Board may request any additional information during its deliberation process and grant the parties at least a two-week postponement, upon request.

- (6) *Deadline for technical staff reports for petitions to be considered by the Zoning Board, County Council, and Planning Board.* The Department of Planning and Zoning shall transmit its findings and recommendations concerning petitions to be considered by the Zoning Board, County Council, or the Planning Board to the Planning Board and the general public at least two weeks prior to any required public meeting or hearing. Any initial meeting or hearing shall not be scheduled until all questions raised by the Department of Planning and Zoning in their technical staff report are answered by the petitioner, as determined by the Department of Planning and Zoning. Failure to adhere to this provision will result in a postponement in consideration of the report until the next meeting or hearing.
- (7) *Other zoning changes.* The Department of Planning and Zoning shall receive all petitions related to zoning matters, such as conditional uses, variances, and nonconforming uses. The Department shall accept and review these applications and petitions and shall transmit them to the Hearing Examiner for the Board of Appeals. For all petitions related to variances in nonresidential districts, conditional uses, and extension, enlargement, or alteration of nonconforming uses, the Department shall prepare findings and recommendations in a technical staff report and shall submit the petitions, findings and recommendations to the Hearing Examiner for the Board of Appeals. The technical staff report shall be made available to the Hearing Examiner and the general public at least two weeks prior to any required public meeting or hearing. If the Hearing Examiner approves a petition subject to an amendment or modification of the petition and the approval is appealed to the Board of Appeals, the Department will prepare and submit to the Board its findings and recommendations concerning the amendment or modification in a technical staff report. The technical staff report shall be made available to the Board of Appeals and the general public at least two weeks prior to any required public meeting or hearing.
- (8) *Sites for public facilities.* The Department of Planning and Zoning shall assist in the preparation of comprehensive multiyear plans for the siting and development of public facilities, including but not limited to schools, police and fire stations, parks, facilities for the provision of water and the handling of sewage and solid waste, libraries, and government offices.
- (9) *Historic preservation.* The Department of Planning and Zoning shall be responsible for the administration and enforcement of the County's laws and regulations governing historic preservation.
- (10) *Capital program.* Each year the Department of Planning and Zoning shall review the proposed capital program. The Department shall prepare comments and recommendations on the impact of the proposed capital program on the County general plan and the growth of the County and submit these comments and recommendations to the County Executive.
- (11) *Planning Board.* The Director of Planning and Zoning or the Director's designee shall serve as Executive Secretary of the Planning Board and shall attend all meetings of that board.
- (12) *Agricultural preservation.* The Department of Planning and Zoning is responsible for the acquisition and stewardship of the agricultural land preservation easements, pursuant to subtitle 5 of title 15 of the Howard County Code.
- (13) *Other duties and responsibilities.* The Director of Planning and Zoning may assign any administrative and/or supervisory duties and responsibilities to the Deputy Director of Planning and Zoning. The Department of Planning and Zoning is responsible for other functions prescribed by directive of the County Executive or by law.

(C.B. 82, 1988; C.B. 151, 1991, C.B. 7, 1993; C.B. 72, 1993; C.B. 107, 1994; C.B. 29, 2001, § 1; C.B. 49, 2001, § 2; C.B. 58, 2006, § 1; C.B. 5, 2011, § 1; C.B. 55, 2013, § 1; C.B. 6, 2015, § 1; C.B. 63, 2018, § 1)

SUBTITLE 9. - PLANNING BOARD⁸¹

Footnotes:

--- (8) ---

Editor's note— Subtitle 9, § 16.900, was added by § 77 of C.B. 62, 1988. Section 101 declared the bill effective July 1, 1989.

Sec. 16.900. - Planning Board.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members.* The Planning Board shall have five members.
- (c) *Qualifications.* All members of the Planning Board shall be residents of Howard County.
- (d) *Executive Secretary.* The Director of Planning and Zoning or the Director's designee shall serve as Executive Secretary of the Planning Board and shall attend all meetings of the Board.
- (e) *Meetings.* The Planning Board shall hold regular monthly meetings. Special meetings may be held at any time, at the call of the Chair.
- (f) *Records.* The Planning Board shall keep a record of its findings, recommendations, determinations and decisions. The Planning Board shall keep minutes of its proceedings. The records shall be filed with the Department of Planning and Zoning, which shall maintain them.
- (g) *Outside Assistance.* With the approval of the County Executive, the Planning Board may retain legal counsel or consultants as necessary to carry out its function and duties and responsibilities.
- (h) *Studies.* The Planning Board may initiate studies related to the general duties and responsibilities and functions of the Board. For the purpose of conducting such studies, the Board shall have the assistance of the staff of the Department of Planning and Zoning, as may be provided in the budget.
- (i) *Hearings.* Prior to making recommendations to the County Council on adoption of the general plan, the Planning Board shall hold at least one public hearing at which interested persons shall be afforded a reasonable opportunity to be heard regarding the general plan. In addition, prior to making recommendations to the County Council on adoption of comprehensive zoning, the Planning Board shall hold at least one public hearing at which interested persons shall be afforded a reasonable opportunity to be heard regarding the comprehensive zoning. In both cases, at least 30 days' notice of the time and place of the hearing shall be on the County's website. The Planning Board may hold hearings on any matter pending before it and shall hold hearings upon written request of the County Executive or on resolution of the County Council and as required by law and regulations.
- (j) *Duties and Responsibilities.* The Planning Board shall carry out all duties and responsibilities assigned to it by law.
 - (1) *Recommendations on Planning and Zoning:*
 - (i) *Recommendations.* The Planning Board shall make recommendations to the County Council and the Zoning Board on all matters relating to:

The Planning and Zoning of the County, the adoption and amendment of regulations regarding the Planning and Zoning of the County, and amendments to the zoning map or zoning regulations.

- (ii) *Time frame.* The Planning Board shall make its recommendations within a reasonable period of time, but in any event no more than 45 days after it hears the petition unless the Zoning Board or the County Council allow a longer period of time for the Planning Board to make its recommendations.
 - (iii) *Deadline for Planning Board recommendations for planning and zoning legislation to be considered by the County Council .* A bill proposing the adoption and amendment of the Comprehensive General Plan, regulations regarding the Planning and Zoning of the County, or the zoning map or zoning regulations shall not be added to the Council's legislative agenda until the County Council has received:
 - a. A final technical staff report and recommendation from the Department of Planning and Zoning; and
 - b. A recommendation and report from the Planning Board.
- (2) *Decision making:*
- (i) The Planning Board shall make decisions with respect to matters submitted to it pursuant to the laws, rules, regulations, and ordinances of the County.
 - (ii) The Planning Board has authority regarding street naming and house numbering pursuant to subtitle 4, "Street Names and House Numbers" of [this] title 16 of the Howard County Code.
 - (iii) Any person specially aggrieved by any decision of the Planning Board and a party to the proceedings before it may, within 30 days thereof, appeal said decision to the Board of Appeals in accordance with section 501 of the Howard County Charter. For purposes of this section the term "any person specially aggrieved" includes but is not limited to a duly constituted civic, improvement, or community association provided that such association or its members meet the criteria for aggrievement set forth in subsection 16.103(b) of this title.
- (3) *Recommendations on capital programs and capital budgets:*
- (i) *Recommendations.* Each year the Planning Board shall review the proposed capital program and any new or substantially changed capital project, pursuant to law. It shall prepare comments and recommendations on the impact of the proposed capital program on the County general plan and the growth of the County and submit these comments and recommendations to the County Executive, with a copy to the County Council.
 - (ii) *Time frame.* The proposed capital programs for the following fiscal year shall be submitted to the Planning Board at least two months before the County Executive is required to file the County's proposed capital program. The Planning Board shall submit its comments and recommendations within one month of receiving the proposed programs.
- (4) *General plan guidelines:*
- (i) *Preparation of guidelines.* Within five years from the adoption of this comprehensive rezoning plan, the Planning Board shall prepare general guidelines to be used by the Department of Planning and Zoning in the preparation and/or revision of the general plan.
 - (ii) *Adoption of guidelines.* The County Council shall adopt the guidelines by resolution prior to the formulation of the general plan utilizing these guidelines.
- (5) *Other recommendations.* At the directive of the County Executive or by resolution of the County Council, the Planning Board shall review and make recommendations on any matter related to planning.

(C.B. 62, 1988; C.B. 13, 1990; C.B. 83, 1993; C.B. 107, 1994; C.B. 17, 2003; C.B. 25, 2012, § 5; C.B. 73, 2017, § 1)

Footnotes:

--- (9) ---

Editor's note— Section 1 of C.B. 77, 1995, repealed former subtitle 10, §§ 16.1000—16.1012, relating to growth management and derived from C.B. 43, 1989; C.B. 98, 1989; C.B. 104, 1989; C.B. 55, 1990; C.B. 61, 1990; C.B. 62, 1990; and C.B. 12, 1991. Subsequently, C.B. 37, 2000 added a new section 16.1000 pertaining to zoning counsel.

Sec. 16.1000. - Zoning Counsel.

- (a) The County Council may employ a Zoning Counsel on a part-time, contractual basis. The Zoning Counsel shall be a member in good standing of the Bar of the Maryland Court of Appeals and at the time of appointment shall have been actively engaged in the general practice of law for at least five years.
- (b) A decision to enter into a contract with an individual to perform the duties of Zoning Counsel shall be made by an affirmative vote of at least three Councilmembers. A decision to terminate a Zoning Counsel's contract shall be made by an affirmative vote of at least four Councilmembers.
- (c) The Zoning Counsel shall appear at all Zoning Board hearings on requests for piecemeal zoning map amendments for the purposes of producing evidence and testimony supporting comprehensive rezoning and facilitating the compilation of a complete record.
- (d) In the performance of these duties the Zoning Counsel may:
 - (1) Present evidence and witnesses;
 - (2) Examine and cross-examine witnesses;
 - (3) Present argument; and
 - (4) Take any other action necessary to perform these duties.
- (e) The budget for the Zoning Counsel shall be included in the County Council budget.
- (f) The Zoning Counsel may retain expert witnesses and compensate them to the extent that the Council budget includes funds for such compensation.
- (g) The Zoning Counsel shall be available:
 - (1) To any person interested in any zoning matter to advise as to procedures before a County agency or board, provided that when doing so the Zoning Counsel does not engage in the practice of law or render individual legal advice; and
 - (2) To any group to speak about zoning procedures in the County.
- (h) The Zoning Counsel shall attend certain presubmission community meetings, as necessary. The County Council shall determine whether or not the Zoning Counsel shall attend certain presubmission community meetings to advise any person or group of procedural matters.
- (i) The Zoning Counsel:
 - (1) Does not represent the County, any government agency or any private party;
 - (2) Is not a party and does not have a right of appeal in connection with any case before the Board of Appeals;
 - (3) May not represent any client involving land use in Howard County; and
 - (4) May not represent any client before the Zoning Board or Board of Appeals for one year after leaving the Office of Zoning Counsel.

- (i) Subject to section 22.1000 of the County Code, on or before July 1 of each year, the Zoning Counsel shall submit to the Council and the County Executive a report on the activities of the office in the past year.

(C.B. 37, 2000; C.B. 58, 2005; C.B. 8, 2006, § 1; C.B. 43, 2018, § 1)

Secs. 16.1001—16.1012. - Reserved.

SUBTITLE 11. - ADEQUATE PUBLIC FACILITIES⁽¹⁰⁾

Footnotes:

--- (10) ---

State Law reference— Adequate public facilities ordinances, Ann. Code of Md. art. 66B, § 10.01 et seq.; applicability to County, Ann. Code of Md. art. 66B, § 1.02.

Sec. 16.1100. - Short title; background; purpose; organization.

- (a) *Short Title.* This subtitle shall be known as the Adequate Public Facilities Act of Howard County.
- (b) *Background:*
 - (1) *Growth management process.* Underlying this subtitle is the need to provide a growth management process that will enable the County to provide adequate public roads, schools, and other facilities in a timely manner and achieve general plan growth objectives and to provide information to other agencies of the County and State, as well as to the public, so that they can plan accordingly. This process is designed to provide predictability to all parties and to direct growth to areas where adequate infrastructure exists or will exist.
 - (2) *Basis of growth management process.* The growth management process is based on the following assumptions:
 - (i) The general plan and zoning plan define land use and the distribution and pace of development.
 - (ii) The government has a responsibility to fund and construct adequate public facilities in a timely and coordinated manner.
 - (iii) A growth management process will result in more predictable residential and commercial development.
 - (iv) A commitment from government and the community to the growth management process is fundamental to achieving adequate public facilities.
 - (3) *Elements of the growth management process.* This subtitle is one of five interconnected elements that constitute the growth management process. Each element has a part to play in providing the predictability required for planning and implementing adequate public facilities.
 - (i) *Establishing policy.* The general plan, the zoning plan, and the standards in this subtitle constitute the policy base for the growth management process. This common base is the platform from which data are generated and planning documents written.
 - (ii) *Capital planning.* Capital improvement master plans define the necessary public school, road, solid waste, and water and sewerage infrastructure which supports the land use and growth policies established in the general plan. Capital improvement master plans will minimally contain planning assumptions, standards of service, descriptions of additions

and improvements, justification and priorities for additions and improvements, and budget projections for each of the next ten years. The plans will be reviewed and approved annually.

- (iii) *Revenue allocation* . Limited resources will require coordinated allocation of funds for roads, schools and other facilities. The Planning Board, the County Executive, the County Council, and participating agencies and departments will work together to review priorities and budget projections included in the capital improvement master plans. The County Council will conduct a public hearing and, through adoption of the capital budget and capital improvement program, will approve the distribution of funds across capital improvement master plans.

The building excise tax (see title 20, subtitle 5 of the Howard County Code), enhances the County's ability to provide adequate public road facilities.

- (iv) *Adequate public facilities* . The general plan guides where and when growth occurs. The adequate public facilities process and standards will manage growth so that facilities can be constructed in a timely manner.

- a. Within one year of the enactment date of the general plan, as required by section 16.801 of this Code, an Adequate Public Facilities Act Review Committee shall be convened. The Review Committee shall meet, conduct at least two public hearings, and, within one year of its first meeting, submit a report with recommendations on the Adequate Public Facilities Act to the County Executive and the County Council. The Committee shall be staffed by the Department of Planning and Zoning.

- b. Five years after the Review Committee has issued its recommendations, another Review Committee shall be convened to evaluate the impact of the previous recommendations which have been implemented and make any additional recommendations.

- c. Each Review Committee shall be comprised of:

1. Two appointees from each member of the County Council;
2. Three appointees from the County Executive; and
3. One appointee from the Board of Education; and
4. One appointee from the Howard County Public School System Superintendent.

- (v) *Monitoring growth* . The Department of Planning and Zoning will develop statistics and other pertinent data which will be continually used to assess the growth management process so that status reports can be prepared and adjustments recommended regarding the growth management process.

- (c) *Purpose*. The purpose of this subtitle is to provide a predictable planning environment for the provision of adequate road facilities and adequate public schools facilities by requiring residential and nonresidential projects to pass certain tests as a condition of subdivision or site development plan approval.

- (d) *Organization and Contents of This subtitle*:

- (1) *Definitions*. The meanings of certain words and phrases used in this subtitle are found in section 16.1110, "Definitions," of this subtitle.

- (2) *Adequate road facilities* means this subtitle requires residential and nonresidential projects to be tested for adequate road facilities. Section 16.1101 deals with this test and its implementation.

- (3) *Housing unit allocation concept* means the housing unit allocation concept underlies the tests for adequate public facilities. Section 16.1102 deals with this concept.

- (4) *Adequate school facilities* means this subtitle requires residential projects to be tested for adequate public school facilities. Section 16.1103 deals with these tests.
- (5) *Housing unit allocation process* means residential projects are granted housing unit allocations. Section 16.1104 deals with the process for granting these allocations.
- (6) *Processing plans*, see: Section 16.1105 deals with the process by which the test for adequate road facilities and the tests for adequate public school facilities are incorporated into the subdivision and site development plan review and approval process.
- (7) *Milestones*. see: Section 16.1106 deals with milestones, an additional tool to provide a predictable planning environment and assure that housing unit allocations are utilized.
- (8) *Exemptions* means certain projects are exempted, partly or wholly, from the test for allocations and/or the test for adequate road facilities and/or the tests for adequate school facilities. Section 16.1107 lists the exemptions.
- (9) *Development monitoring system* means a development monitoring system provides information on the County's employment and residential growth. Section 16.1108 mandates the creation of a development monitoring system.
- (10) *Appeals*, see: Section 16.1109 deals with appeals made in connection with this subtitle.

(C.B. 7, 1992; C.B. 39, 1995; C.B. 5, 2000; C.B. 50, 2000; C.B. 1, 2018, § 2)

Editor's note— Former § 16.1100, which authorized the County to fix impact fees, was enacted by ch. 239 of the 1991 Laws of Maryland and was repealed by ch. 285 of the 1992 Laws of Maryland.

Sec. 16.1101. - Adequate transportation facilities.

- (a) *Requirement to be Tested for Adequate Transportation Facilities*. Each final development plan proposing downtown revitalization and each subdivision and site development plan, except those listed in Section 16.1107, "Exemptions," shall pass the test for adequate road facilities. In Downtown Columbia, testing for the adequacy of pedestrian and bicycle facilities is also required, as well as a queuing analysis and transportation demand management statement as specified in subsection 16.1101(f).
- (b) *The Test for Adequate Road Facilities*. A project or a phase of a project will pass the test for adequate road facilities if, in the scheduled completion year of the project or the phase of the project:
 - (1) The road facilities in the impact area of the proposed project will operate at or above the minimum level of service after including the traffic generated by the project; or
 - (2) The road facilities in the impact area of the proposed project will operate below the minimum level of service after including the traffic generated by the project but the developer proposes a mitigation plan, subject to approval by the Director of Planning and Zoning, after consultation with the Director of Public Works, as provided in subsection (f) below.
- (c) *Traffic Study*. A traffic study, as specified in the Howard County Design Manual, shall be submitted with each application for approval of a subdivision or site development plan under the Subdivision and Land Development Regulations and with each application for approval of a final development plan proposing downtown revitalization. For projects which will not produce additional traffic, an affidavit stating that the project will not produce additional traffic may be submitted in lieu of a traffic study.
- (d) *Road Facilities to Be Included in Determining Adequacy*. In determining whether a proposed project passes the test for adequate road facilities, the following road facilities shall be considered as existing in the scheduled completion year of the project:

- (1) Road facilities in existence as of the date the developer submits the application for approval of the project;
 - (2) New road facilities or improvements to existing road facilities for which sufficient funds have been included in the Howard County Capital Program or Extended Capital Program as defined in title 22 of the Howard County Code or the Maryland Consolidated Transportation Program so that the facilities will be substantially completed before or during the scheduled completion year of the project, unless the Director of Planning and Zoning, after consultation with the Director of Public Works, demonstrates that such facilities or improvements are not likely to be completed by that time.
 - (3) New road facilities or improvements to existing road facilities which:
 - (i) Have been included in developers' mitigation plans submitted for approval to the Department of Planning and Zoning before the project which is being tested;
 - (ii) Which are scheduled to be substantially completed before or during the scheduled completion year of the proposed project; and
 - (iii) Have been included in a developer agreement which shall include the information required by section 16.147(e) and section 16.156(k) of this Code.
 - (4) The mitigation proposed by the developer.
- (e) *Traffic to Be Considered in Determining Adequacy.* In determining whether a project passes the test for adequate road facilities, the following traffic shall be considered as existing when the subdivision or land development is completed:
- (1) Traffic existing at the time of application.
 - (2) Background traffic growth.
 - (3) Traffic generated by proposed subdivisions which have passed the test for adequate road facilities prior to submission of the application for approval of the project but have not yet been recorded.
 - (4) Traffic generated by proposed site developments which passed the test for adequate road facilities prior to submission of the application for approval of the project but have not yet received site development plan approval.
 - (5) Traffic generated by subdivisions or site development plans which passed the test for adequate road facilities and were recorded or approved prior to submission of the application for approval of the project and which are scheduled to be completed before or during the scheduled completion year of the proposed project.
 - (6) Traffic generated by the proposed project.
- (f) *Testing Provisions Applicable to Downtown Columbia:*
- (1) For all final development plan applications proposing downtown revitalization and all subdivision and site development plan applications in Downtown Columbia, the intersection standard is up to 1,600 CLV for all intersections as specified in the Howard County Design Manual. A queuing analysis is also required for the same intersections.
 - (2) The County will conduct independent traffic monitoring studies every five years in order to assess the validity of traffic study assumptions and whether recalibration of projections should be required for future traffic studies.
 - (3) Downtown revitalization is also subject to a pedestrian and bicycle level of service test as specified in the Howard County Design Manual.
- (g) *Extent of the Mitigation:*
- (1) Mitigation means the construction and/or the funding of improvements to road facilities by a developer or developers, as approved by the director of planning and zoning, after consultation

with the director of public works. Mitigation measures may include any intersection capacity improvements except grade separation of the roadways and ramps within the intersection or improvements to the through lanes of intermediate arterials and higher classified roads.

- (2) Except as otherwise provided in subsections (3) and (4) below, mitigation necessary to pass the test for adequate road facilities shall increase capacity on each road facility below the minimum level of service in the impact area so that the level of service on each road facility in the impact area after construction of the project would be equal to the level of service if the project had not been constructed but not more than the minimum level of service.
 - (3) Except as otherwise provided in subsection (5) below, in the event that mitigation to an intersection pursuant to subsection (2) above would require the construction of improvements to interchanges or grade-separated intersections or improvements to the through lanes of intermediate arterials and higher classified roads, mitigation necessary to pass the test for adequate road facilities shall increase the capacity of the intersection to the fullest extent possible without constructing such improvements.
 - (4) In circumstances where mitigation pursuant to subsection (2) above would have a negative impact on the characteristic(s) (historic or environmental) which served as the basis for declaring an intersection constrained, mitigation needed to pass the test for adequate road facilities on a constrained road facility shall increase the capacity on the constrained facility to the fullest extent possible without negatively impacting the characteristic(s) which caused the road facility to be declared constrained.
 - (5) Mitigation provisions applicable to Downtown Columbia:
 - (i) All intersections serving a project located within Downtown Columbia are subject to potential mitigation, including modification of traffic signal equipment, timing, phasing and/or coordination; construction of new side street through lanes; extension of existing turn lanes; construction of new turn lanes; re-alignment; and similar improvements.
 - (ii) When grade-separated roadways or arterial through lane improvements are the only viable mitigation alternatives, full mitigation will not be required by the developer, but may be provided in accordance with the Howard County Design Manual.
 - (iii) Mitigation requirements to meet the pedestrian and bicycle level of service are specified in the Howard County Design Manual.
- (h) *Mitigation Involving Funding of Capital Projects:*
- (1) If the Director of Planning and Zoning, after consultation with the Director of Public Works, determines that the timing of capital projects or the need to ensure continuity in the transportation network makes it more efficient to delay the construction of all or part of proposed mitigation, the Director shall require that the developer:
 - (i) Delay the construction of all or part of the improvements to a date certain and sign a major facilities agreement guaranteeing the construction of the delayed improvements; or
 - (ii) Sign a major facilities agreement to pay the County the current estimated cost of the mitigation, which money shall be used by the County to fund all or part of a capital project to improve the road facility which was to have been mitigated by the developer.
 - (2) If a proposed mitigation would be temporary because of other proposed improvement plans impacting the road facility, the Director of Planning and Zoning, after consultation with the Director of Public Works, may waive construction of the mitigation, provided that the waiver will not create traffic safety problems. In such event the developer will be required to enter into a major facilities agreement to pay the County the current estimated cost of the mitigation, which moneys shall be used to help fund the costs of a capital project to improve the road facility which was to have been mitigated by the developer.
 - (3) If the Director of Planning and Zoning, after consultation with the Director of Public Works, determines that a road facility is subject to mitigation plans from multiple projects, the Director

may apportion the mitigation requirements among the developers of the projects, assigning to each project its prorated share of the construction costs. If timing of the mitigation plans is not concurrent or presents other practical difficulties, the Director shall require each developer to enter into a major facilities agreement to make a payment in lieu of mitigation. The moneys collected shall be used to fund the costs of a capital project to improve the road facility sufficiently to mitigate the traffic generated by the multiple projects.

- (4) The developers of multiple projects may jointly propose a mitigation plan for purposes of meeting the adequate transportation facilities requirement. Each mitigation plan proposed under this subsection (4) shall indicate the participants in the plan; which participant(s) will be responsible for implementing the plan and constructing any required transportation improvements; and how the transportation capacity to be created will be apportioned among the plan participants.
- (i) *Planning Board Use of Capacity and Mitigation Standards in Determination of Adequacy for Certain Development Plans.* The Planning Board shall apply the capacity and mitigation standards of this subtitle for determining the adequate capacity of roads or schools when considering those development plans for which adequate capacity of roads or schools is a standard for approval as provided in the zoning regulations.

(C.B. 7, 1992; C.B. 16, 1995; C.B. 39, 1995; C.B. 47, 2010, § 1(1); C.B. 1, 2018, § 2)

Editor's note— C.B. 47, 2010, § 1(1), adopted Aug. 5, 2010, amended § 16.1101 title to read as herein set out. Former § 16.1101 title pertained to adequate road facilities

Sec. 16.1102. - Housing unit allocation concept; housing unit allocation chart.

(a) *Underlying Logic; Purpose:*

- (1) Fiscal studies performed in connection with preparation of the general plan analyzed various levels of population and housing unit growth. As a result of those studies, which included cost/revenue and cost/benefit analyses, the general plan included annual targets for residential completions.
- (2) The purpose of the housing unit allocation concept is to achieve but not, on the average, exceed the general plan annual targets for residential completions and, in so doing, to provide an orderly and predictable planning environment for schools and other public facilities.
- (3) The housing unit allocation concept has been implemented in this subtitle through the housing unit allocation test and underlies the housing unit allocation chart used in connection with that test. Use of the housing unit allocation concept and the embodiment of that concept in the housing unit allocation chart will allow the county to develop in a manner consistent with the general plan.
- (4) Because the need for school capacity fluctuates over time, long-term planning and programming predictability and the efficient use of public funds demands that the adequate school facilities test be linked with the housing unit allocation chart. Use of the housing unit allocation chart is required even when all schools are adequate in order to provide a predictable planning environment for the continuation of that adequacy.

(b) *Housing Unit Allocation Chart:*

- (1) *Description.* The housing unit allocation chart is a chart indicating the projected number of housing unit allocations available to be granted in the County each year for a ten-year period. The chart is designed to specify housing unit allocations for the scheduled completion year of a project or any phase of a project. The chart divides the available housing unit allocations into the following categories based on geographic areas as set forth in the general plan: Growth and

revitalization, established communities, the Rural West and Downtown Columbia, and green neighborhood units.

- (2) *Basis.* The basis of the housing unit allocation chart is the general plan geographic targets for residential growth. However, if the general plan monitoring report indicates that general plan policies for agricultural preservation and environmental protection are not being met, the housing unit allocation chart may be adjusted to more effectively achieve these policies.
- (3) *Preparation and adoption .* The Department of Planning and Zoning shall prepare and update the housing unit allocation chart for consideration and adoption by the County Council. Once each year, and more often if the Council determines that amendments are appropriate, the County Council shall adopt the housing unit allocation chart by resolution, after a public hearing. Whenever the housing unit allocation chart is adopted or amended, the school capacity chart shall be adopted or amended concurrently to be consistent.
- (4) *Amendments for economic development, grants, etc.* From time to time, the County may be presented with opportunities for economic development [o]r availabilities of state or federal grant moneys which require increasing the number of housing unit allocations for distribution for a given year. In order to take advantage of these opportunities, the County Council may, at any time, amend the housing unit allocation chart for a certain year or years. If the Council makes such an amendment, it shall use the rolling average (see section 16.1110, "definitions") to amend the number and/or distribution of allocations for subsequent years.
- (5) *Green neighborhood allocations.* To encourage sustainable residential planning and design, to minimize adverse impacts on natural resources, and to promote energy efficiency, beginning in fiscal year 2008:
 - (i) The annual housing unit allocation chart may move up to 100 allocations per year from other housing allocation categories to be used solely for housing that meets green neighborhood standards adopted by resolution of the County Council;
 - (ii) A development using green neighborhood allocations shall satisfy the remaining applicable provisions of this subtitle.
- (6) *Downtown Columbia Housing allocations.* To encourage the revitalization of Downtown Columbia, beginning in fiscal year 2011 the number of housing unit allocations shall be increased to provide allocations consistent with the phasing progression in the adopted Downtown Columbia plan as follows:
 - (i) For Downtown Columbia revitalization, the housing unit allocation chart adopted each year by the County Council shall include the total number of residential units allowed in the current phase of the downtown revitalization phasing progression, and shall also include the total number of units allowed in the downtown revitalization phasing progression for all subsequent phases of downtown revitalization.
 - (ii) The annual distribution of allocations within each phase shall ensure that sufficient allocations are available at the beginning of each phase to take advantage of mixed-use market opportunities and ensure timely achievement of phasing progression and CEPPA requirements.
 - (iii) The granting of allocations for downtown revitalization is made independent of and without reference to the number of allocations for the planning region of Columbia. The granting of allocations for development under new Town zoning that is not subject to the downtown revitalization phasing progression continues to be based on the allocations for the Columbia Planning Region.
 - (iv) Development in Downtown Columbia may not use Green Neighborhood allocations.
 - (v) If the total number of residential units proposed in a final development plan application exceeds the number of available allocations for the scheduled completion year of either the initial phase or any additional phase(s), the developer may request and the Department of

Planning and Zoning shall authorize the advancing of allocations from future years needed to complete a comprehensive final development plan provided that:

- a. The plan complies with phasing progression requirements;
 - b. All necessary CEPPA requirements have been met;
 - c. All adequate public facilities transportation tests have been passed; and
 - d. The adequate public facilities schools tests have been passed.
- (vi) Redistribution of housing unit allocations within an approved final development plan is permitted within the first four years of the final development plan phasing without being subject to section 16.1104(b) or retesting for housing unit allocations and adequate school facilities provided:
- a. The total number of housing unit allocations approved by the final development plan is not exceeded;
 - b. Milestones are satisfied for all plan processing;
 - c. The redistribution of units complies with the downtown revitalization phasing progression requirements; and
 - d. All necessary CEPPA requirements have been met.

The redistribution of units may be subject to retesting for adequate transportation facilities if the Department of Planning and Zoning, in consultation with the Department of Public Works, finds it appropriate to retest based on the number of units being redistributed and existing critical lane volume.

After the first four years of the final development plan phasing, any redistribution of housing unit allocations will require rephasing under section 16.1104.(b).

- (vii) Allocations will become permanent upon the recordation of the approved final development plan, and will remain valid provided the developer continues to meet all required milestones.

(C.B. 7, 1992; C.B. 20, 1995; C.B. 39, 1995; C.B. 50, 2000; C.B. 34, 2003, § 1; C.B. 38, 2005, § 1; C.B. 23, 2006, § 1; C.B. 48, 2007, § 1; C.B. 39, 2008, § 1; C.B. 62, 2008, §§ 1, 2; C.B. 47, 2010, § 1(2); C.B. 41, 2012, § 1.1; C.B. 1, 2018, § 2)

Sec. 16.1103. - Adequate school facilities.

- (a) *Requirement to Be Tested for Adequate Public School Facilities.* As a condition of subdivision or site development plan approval, all residential subdivisions and site development plans, except those listed in section 16.1107, "Exemptions," are required to pass the tests for adequate public school facilities.
- (b) *The Tests for Adequate Public Schools .* A proposed residential project will pass the tests for adequate public schools if the school capacity chart (see subsection (c), "School Capacity Chart," below) indicates that:
 - (1) The elementary school region where the proposed project will be located will be open for new residential development during the scheduled completion year of the project and any phase of a project; and
 - (2) The elementary, middle, and high schools which will serve the proposed project will be open for new residential development during the scheduled completion year of the project and any phase of a project.
- (c) *School Capacity Chart Preparation and Adoption :*

- (1) *Definition* . The school capacity chart is a chart indicating which elementary school regions and which elementary, middle, and high schools are open for new residential development and which are constrained each year for each of the following ten years, and shall be based on the definition of program capacity defined by HCPSS policy.
- (2) *Basis of chart* . The basis of the school capacity chart is the assumptions used by the Board of Education in predicting capacity utilization, such as school capacity, current enrollment, demographic and growth trends, and the housing unit allocation chart.
- (3) *Preparation and adoption of school capacity chart* . The school capacity chart is designed to work in conjunction with the housing unit allocation chart in order to provide consistency and predictability in the planning process for schools. For that reason, the school capacity chart shall be revised for consistency concurrent with any amendments to the housing unit allocation chart.

The Department of Planning and Zoning shall receive the school capacity chart, from the Board of Education, accompanied by a report that contains the following information for each school:

- (i) State and local capacities of the facility;
- (ii) The date of the last redistricting which impacted the attendance area of that school;
- (iii) For any projected increase in enrollment, an indication of what portions of the increase are attributed to sales or rental turnover of existing residential units, new development, and other factors; and
- (iv) For any school designated as open on the school capacity chart based on a capital improvement project or proposed redistricting associated with a capital improvement project:
 - a. Current and future funding assumptions for the capital improvement project(s);
 - b. Future redistricting assumptions associated with the capital improvement project; and
 - c. An explanation of any capacity utilization changes based on (a) or (b).

The school capacity chart shall be submitted to the County Council for adoption by resolution after a public hearing. Whenever the County Council adopts, amends, or updates the housing unit allocation chart, it shall concurrently adopt the school capacity chart.

- (d) *Joint Special Work Meeting on Schools Nearing Capacity*. Upon receiving written notification from the Howard County Public School System that a school or school region has reached 95 percent capacity utilization and is projected to exceed 110 percent capacity utilization within five years as well as the Board of Education's proposed solution to address the projected overcrowding, the County Council shall hold a joint special work meeting. The Council shall invite the County Executive and the Board of Education to attend the meeting and participate in a collaborative working discussion of school capacity needs and the Board's proposed solution. The Council shall give the general public three weeks' notice before the meeting to allow the public to provide written comment.
- (e) *Special Affordable Housing Opportunities*. To balance the County's policy goals to provide adequate school facilities and affordable housing in accordance with section 7-101 of the Land Use Article of the Annotated Code of Maryland and the County's General Plan, if an affordable housing project or phase of a project is located in the attendance area of a school that is closed for development due to projected enrollment in the school capacity chart, the Director of the Department of Planning and Zoning shall authorize the affordable housing project to proceed subject to all other provisions of this subtitle, provided that:
 - (1) At least 40 percent of the units shall be affordable to households earning 60 percent or less of the metropolitan statistical area median income;
 - (2) The project or phase of a project is led by or in partnership with a local nonprofit or the Housing Commission;

- (3) The project or phase of a project is seeking or has received an allocation of Low-Income Housing Tax Credits or other state or federal financial assistance for affordable housing;
- (4) The project or phase of a project has obtained a letter of support from the County Executive; and
- (5) The County Council and County Executive have approved either a Payment in Lieu of Taxes (PILOT) agreement for the project or a resolution authorizing the project to proceed. As part of the approval of the PILOT or resolution, the Council shall hold a public hearing and consider:
 - (i) The capacity utilization at the school or schools impacted by the project and at adjacent schools, including limiting the potential impact on any elementary or middle school with a capacity utilization rate greater than 115 percent unless an adjacent school with the same grade levels has a capacity utilization rate of 100 percent or less;
 - (ii) Estimated student generation from the project;
 - (iii) Any potential for the Board of Education to add capacity to the impacted school or schools through redistricting, facility expansion, or other programs; and
 - (iv) The need for affordable housing in the County, including factors such as the housing cost burden on families, the availability of housing for individuals with disabilities, and the extent of homelessness among families and school children.

(C.B. 7, 1992; C.B. 39, 1995; C.B. 50, 2000; C.B. 1, 2018, § 2)

Sec. 16.1104. - Housing unit allocation process.

(a) *Granting of Housing Unit Allocations:*

- (1) This subsection deals with the granting of housing unit allocations to conventional projects. Upon signature approval of a sketch plan, preliminary equivalent sketch plan or decision and order of the Planning Board for projects requiring Planning Board approval, tentative housing unit allocations shall be granted if available. Tentative housing unit allocations remain valid, provided the developer continues to meet all required milestones and become permanent upon recordation of the subdivision, except as provided in subsection 16.1106(h)(2). Projects not requiring subdivision shall be granted tentative housing unit allocations, if available, upon determination that the site development plan is technically complete. Tentative housing unit allocations become permanent upon signature approval of the site development plan.
- (2) This subsection deals with the granting of housing unit allocations to comprehensive projects. Upon initial application of sketch plan, preliminary equivalent sketch plan, or site development plan for comprehensive projects that do not require subdivision, tentative housing unit allocations shall be granted if available. Tentative housing unit allocations remain valid, provided the developer continues to meet all required milestones, and become permanent upon recordation of the subdivision or signature approval of the site development plan, except as provided in subsection 16.1106(h)(2) of this subtitle.
- (3) Because the time required for projects to pass through the plan review and construction process is approximately three years, the housing unit allocation chart is organized so that housing unit allocations granted in any given year are for proposed buildout three years later, unless the project is phased. For this reason, the scheduled completion year of all unphased projects and the scheduled completion year of the initial phase of phased conventional projects and comprehensive projects is the third year following the year the project passes the housing unit allocation test.

(b) *Phasing.* See section 16.1110, "Definitions," for definition of "Phasing," "Unphased Projects," and "Phased Projects."

(1) *Changing phasing schedule.* The schedule for completion of the phases of a phased project may be revised by the developer no more than once every four years during the subdivision plan approval process.

(2) *Comprehensive projects.* Comprehensive residential projects may be phased at the option of the developer, provided that housing unit allocations are available for the scheduled completion year of the initial phase of the project and for the scheduled completion years of each additional phase of the project, except as provided below.

If no allocations are available for the initial phase of a comprehensive project, or if too few allocations are available to make the initial phase viable, the developer has the option to receive all tentative allocations in future years. However, except for final development plan phased projects in Downtown Columbia which are subject to subsection 16.1102(b)(8) and that meet the phasing progression and CEPPA requirements of the Downtown Columbia plan, the Department of Planning and Zoning shall not grant more than 50 percent of the total allocations available within any region for any future year for all projects choosing this option.

(3) *Conventional projects.* Conventional residential projects may be phased if there are sufficient housing unit allocations available for the scheduled completion year of the initial phase of the project and for the scheduled completion years of each additional phase of the project.

(c) *Year of Allocation; Category of Allocation.* Except as provided in subsection (h) of this section, the Department of Planning and Zoning shall grant housing unit allocations from the housing unit allocation chart as follows:

(1) *Unphased projects.* Unphased projects shall be granted housing unit allocations for the scheduled completion years of the project.

(2) *Phased projects.* Phased projects shall be granted housing unit allocations for the scheduled completion years of each phase of the project.

(3) *Comprehensive projects.* Comprehensive projects shall receive allocations for the scheduled completion year of the project or phases of the project.

(4) *Changes to allocation categories.* Phased projects shall retain allocations granted under all previous allocation charts, but for future phases shall be assigned allocations from the appropriate new allocation category.

(d) *Additional Allocations May Be Granted.* Frequently, the number of housing units proposed to be included in the project at the time the project is tested for adequate school facilities is greater than the number of housing units which will actually be approved when the plan is finally recorded. For this reason, as it processes subdivision and site development plans, the Department of Planning and Zoning shall grant more tentative allocations than the total planning region housing unit allocations available for the initial year on the housing unit allocation chart. The County Council shall set by resolution, after public hearing, the percentage by which the Department of Planning and Zoning may exceed the regional housing unit allocations on the housing unit allocation chart. The percentage shall be based on historical data regarding the number of housing completions in relation to the number of housing unit allocations so as to meet the general plan targets.

(e) *Special Affordable Housing Opportunities:*

(1) From time to time, the County may be presented with a special affordable housing opportunity for development of either:

(i) An assisted multifamily project that:

a. Cannot generate school children, such as senior housing or age-restricted housing;

b. Is funded in whole or in part with local, State or Federal loan or grant funds or other governmental financial assistance; and

c. May lose the loan or grant or other assistance if the development is delayed; or

- (ii) An innovative moderate income housing unit development, including, without limitation, multiplexes, stacked units, or accessory apartments, that has been determined by the Department of Housing and Community Development and the Department of Planning and Zoning to:
 - a. Demonstrate a new housing product that is more affordable than existing housing products; and
 - b. Have the potential to promote housing diversity and the construction of a broader range of affordable housing.
- (2) If allocations are not currently available the County Council may, by resolution, after public hearing, authorize a special affordable housing project to proceed subject to all other provisions of this subtitle.
- (3) If the County Council approves such a resolution, the Department of Planning and Zoning shall process the project as if allocations were granted. However, the Department of Planning and Zoning shall carry the project on the list of project applications waiting for housing unit allocations.
- (4) When housing unit allocations become available to serve the project, the Director of Planning and Zoning shall assign allocations to the project. In calculating the rolling average, the project shall not be exempt and its allocations shall be included in the year in which they are assigned.
- (5) A development using allocations under this subsection shall satisfy the remaining applicable provisions of this subtitle.
- (f) *Limit on Allocations in a School District* . Except for projects exempt under subsection 16.1107(b) of this subtitle and for units in Downtown Columbia, the Department of Planning and Zoning may not grant more than 300 allocations in one year in a single elementary school district if the elementary school region within which the district is located exceeds 100 percent of capacity.
- (g) *Order of Granting Allocations*. If a project is eligible for allocations from more than one category, an allocation granted under this subtitle shall generally be granted from the appropriate geographic area, prior to granting green neighborhood allocations. The Department may grant allocations to a project in a different sequence if the grant more equitably distributes allocations among all projects waiting for allocations.

(C.B. 7, 1992; C.B. 39, 1995; C.B. 5, 2000; C.B. 50, 2000; C.B. 45, 2003, § 1; C.B. 38, 2005; C.B. 23, 2006, § 1; C.B. 39, 2008, § 2; C.B. 47, 2010, § 1(3); C.B. 41, 2012, § 1.2; C.B. 55, 2016, § 1)

State Law reference— Affordable housing ordinances, Ann. Code of Md. art. 66B, § 12.01 et seq.; applicability to County, Ann. Code of Md. art. 66B, § 1.02.

Sec. 16.1105. - Processing of plans subject to test for adequate transportation facilities and/or tests for adequate school facilities and/or test for housing unit allocations.

- (a) *When Projects Are Tested*. Unless otherwise provided in this subtitle, a project is tested at the initial plan stage, except that:
 - (1) Applications for sketch plan approval which are pending as of the effective date of this subtitle April 10, 1992, shall be tested at the sketch plan stage; and
 - (2) Applications for preliminary plan approval which are pending as of the effective date of this subtitle and which did not have sketch plan approval prior to the effective date of this subtitle, shall be tested at the preliminary plan stage.
- (b) *Processing Applications for Approval of Nonresidential Projects*:

- (1) *Review of application by Subdivision Review Committee.* Upon receipt of a complete application for approval of a nonresidential project, the Department of Planning and Zoning shall distribute the application to the Subdivision Review Committee for recommendations as to whether the project meets the requirements of the subdivision regulations and passes the test for adequate transportation facilities.
 - (2) *Approval.* If the nonresidential project meets the requirements of the subdivision regulations and passes the test for adequate transportation facilities, the Director of Planning and Zoning shall approve the project for adequate transportation facilities (see subsection (d) below).
- (c) *Processing Applications for Approval of Residential Projects and Projects Containing Residential and Nonresidential Uses:*
- (1) *Adequate transportation facilities test.* Upon receipt of a complete application for approval of a residential project or a project containing residential and nonresidential uses, the project shall be tested for adequate transportation facilities.
 - (2) *Test for allocations:*
 - (i) *Conventional residential projects.* If the conventional residential project meets the requirements of the subdivision regulations and passes the test for adequate transportation facilities, the project will then be tested for availability of housing unit allocations.
 - a. *Allocations available.* If housing unit allocations are available for the scheduled completion year for unphased projects or for the scheduled completion year for the initial and future phases for phased projects, the Director of Planning and Zoning shall assign tentative housing unit allocations.
 - b. *Allocations not available.* If housing unit allocations are not available for the scheduled completion year for unphased projects or for the scheduled completion year for the initial or future phases for phased projects, the application shall be placed on the bottom of a list of applications waiting for housing unit allocations.
 - c. *Revised housing unit allocation chart adopted.* Whenever a revised housing unit allocation chart is adopted, the Department of Planning and Zoning shall test projects on the list of applications waiting for housing unit allocations. When housing unit allocations become available to serve a project, the Director of Planning and Zoning shall assign tentative allocations.
 - (ii) *Comprehensive projects.* Upon receipt of a complete initial plan stage application for approval of a comprehensive project, the Department of Planning and Zoning shall test the project for housing unit allocations.
 - a. *Allocations available.* If housing unit allocations are available for the scheduled completion year for unphased projects or for the scheduled completion year for the initial and future phases for phased comprehensive projects, the Director of Planning and Zoning shall assign tentative housing unit allocations.
 - b. *Allocations not available.* Subject to subsection 16.1104(b)(2), if housing unit allocations are not available for the scheduled completion year for unphased projects or for the scheduled completion year for the initial or future phases for phased comprehensive projects, the application shall be placed on the bottom of a list of applications waiting for housing unit allocations.
 - c. *Revised housing unit allocation chart adopted.* Whenever a revised housing unit allocation chart is adopted, the Director of Planning and Zoning shall test projects on the list of applications waiting for housing unit allocations. When housing unit allocations become available to serve a project, or phase of a project, the Director of Planning and Zoning shall assign tentative allocations.
 - (3) *School Capacity Test .* Upon assignment of tentative housing unit allocations, the project shall be tested for adequate public schools.

- (i) *Projects passing school capacity test* . Once a project has passed the school capacity test, no further approval for adequate public facilities for that project is required during the subdivision or site development plan approval process, except as provided in subsection 16.1105(d).
 - (ii) *Projects failing school capacity test* . Paragraph (7) of this subsection shall apply if a project fails one or more components of the school capacity test for the scheduled completion year for unphased projects or for the scheduled completion year for the initial or future phases for phased projects.
- (4) *Revised School Capacity Chart Adopted* . Whenever a revised school capacity chart is adopted, the Department of Planning and Zoning shall test projects which have previously failed the school capacity test. If a project or phase of a project passes the school capacity test in an earlier year than provided in subsection (c)(3)(ii) above, the project shall be permitted to proceed with processing three years prior to the year in which it passes the school capacity test.
- (5) *Wait on Processing* . Any project not passing the test for allocations and the school capacity test shall complete the initial plan stage, but shall not proceed further through the subdivision or site development plan process until housing unit allocations are granted and the school capacity test is passed. Once allocations are granted and the school capacity test is passed, the project shall be permitted to proceed with processing three years prior to the year in which it passes the school capacity test.
- (6) *Extension of Milestone Dates* . The Director of Planning and Zoning shall extend the next milestone for projects failing the allocations test or school capacity test to correspond to the delay in processing of the project. The Department of Planning and Zoning shall notify the applicant, in writing, of the next milestone prior to the starting date of the milestone.
- (7) *Waiting Period* .
- (i) If a project or phase of a project was never on the list of applications waiting for housing unit allocations and has received housing unit allocations, then development may proceed as follows:
 - a. If the project or phase of the project passes the school capacity test in any year between and inclusive of the first consecutive retest and the fourth consecutive retest, then the project or phase of the project may proceed.
 - b. If a project or phase of a project fails the school capacity test:
 - i. For each of the next four consecutive years, the project or phase of the project shall be retested each time the County Council adopts new annual housing unit allocations and school capacity charts; and
 - ii. In the fourth retesting year, the project shall be deemed to have passed the school capacity test.
 - (ii) If a project or phase of a project is on the list of applications waiting for housing unit allocations and receives housing unit allocations within six years, then subparagraph (i) of paragraph (7) of this subsection applies subject to the following maximum waiting periods:
 - a. If a project or phase of a project has waited for three years or fewer to receive housing allocations, the combined number of years the project or phase of a project waits to receive housing unit allocations and pass the school capacity test shall not exceed six years.
 - b. If a project or phase of a project has waited for four or five years to receive housing allocations, the combined number of years the project or phase of a project waits to receive housing unit allocations and pass the school capacity test shall not exceed seven years.
 - (iii) If a project or phase of a project is on the allocation waiting list and receives allocations after six years or more of being on the list, then the project or phase of a project may

proceed upon passing a school capacity test. If the project fails the school capacity test, then it must wait one additional year to be retested. After being retested, the project shall be deemed to have passed the school capacity test.

(d) *Approvals:*

- (1) *Transportation facilities—Subdivision.* Once a subdivision has been approved for adequate transportation facilities, no further approval for adequate transportation facilities for that project is required during the subdivision or site development plan approval process, with the exception of provisions in the Howard County Design Manual pertaining to five-year monitoring studies, provided that:
 - (i) The developer continues to meet all required milestones;
 - (ii) The developer executes a major facilities agreement for any proposed mitigation;
 - (iii) The subdivision project proceeds to recordation and is recorded; and
 - (iv) The project's traffic volume in the site development plan traffic study does not exceed the project's traffic volume in the traffic study which formed the basis for passing the test for adequate transportation facilities during the subdivision plan approval process. If the traffic volume in the site development plan traffic study exceeds the traffic volume in the subdivision traffic study, the site development plan will be tested for the excess traffic only.
- (2) *Transportation facilities—Site development plan.* Once a site development plan has been approved for adequate transportation facilities, no further approval for adequate transportation facilities is required, provided that the developer executes a major facilities agreement for any proposed mitigation.
- (3) *Allocations and public school facilities.* Once a residential subdivision or site development plan has received tentative allocations and has been approved for adequate public schools, no further approval for allocations and adequate public schools is required during the subdivision or site development plan approval process, provided that:
 - (i) The developer continues to meet all required milestones; and
 - (ii) The subdivision project proceeds to recordation and is recorded.
- (4) Projects which must wait on processing pursuant to subsection (c)(5) above and which proposed to mitigate in order to pass the test for adequate road facilities may be required, at the discretion of the Director of Planning and Zoning, after consultation with the Director of Public Works, to:
 - (i) Update their traffic studies, pursuant to the Design Manual; and/or
 - (ii) Modify their approved mitigation plan to provide for a monetary payment in lieu of construction of some or all of the mitigation, provided that the total cost of the revised mitigation plan shall not exceed the total cost of the originally approved mitigation plan.

(C.B. 7, 1992; C.B. 16, 1995; C.B. 39, 1995; C.B. 50, 2000; C.B. 18, 2003, § 1; C.B. 47, 2010, § 1(4); C.B. 1, 2018, § 2)

Editor's note— C.B. 47, 2010, § 1(4), adopted Aug. 5, 2010, amended § 16.1105 title to read as herein set out. Former § 16.1105 title pertained to processing of plans subject to test for adequate road facilities and/or tests for adequate school facilities and/or test for housing unit allocations.

Sec. 16.1106. - Milestones.

(a) *Purpose and Description:*

- (1) Milestones are designed to assist in the process of planning for adequate public schools and adequate road facilities and to assure that housing unit allocations are utilized.
- (2) *Milestone* means the date, unless delayed by governmental action, by which a developer must submit the next plan stage of a subdivision to the Department of Planning and Zoning for approval.
- (3) *To submit the next plan stage* means to file a complete preliminary plan application, final plan application or site development plan application with the Department of Planning and Zoning and to pay the required fees.
- (b) *Applicability.* Milestones apply only to:
 - (1) Projects which are required, as a condition of project approval, to pass the test for adequate road facilities and/or the tests for allocations or for adequate public school facilities; and
 - (2) Projects which are conditionally exempt (see section 16.1107, "Exemptions") from the requirements to pass the test for adequate road facilities and/or the tests for allocations or for adequate school facilities.
- (c) *Calculating Milestones.* The starting date for computing the next milestone is the date the developer receives written authorization from the County to proceed to the next plan stage; except that for subdivisions with conditional exemptions, the starting date for computing the initial milestone is the effective date of this subtitle, April 10, 1992.
- (d) *Timing for Residential Projects.* For residential projects, each milestone occurs:

50 or fewer housing units	4 months after starting date
51—100 housing units	6 months after starting date
101 + housing units	9 months after starting date

- (e) *Timing for Nonresidential Projects and Downtown Columbia Revitalization.* For nonresidential projects and all Downtown Columbia Revitalization, each milestone occurs nine months after the starting date.
- (f) *Status of Projects Which Meet Milestones:*
 - (1) *Projects with approval for adequate public facilities.* Proposed subdivisions with approval for adequate facilities and tentative housing unit allocations may continue through the subdivision process only if they meet milestones.
 - (2) *Projects with conditional exemption from test(s) for adequate public facilities.* Plans which have a conditional exemption from tests for adequate road facilities or adequate public school facilities can only maintain that exemption by meeting milestones.
- (g) *Status of Projects Which Miss Milestones:*
 - (1) *Projects with approval for adequate facilities.* A subdivision plan with approval for adequate facilities which misses a milestone shall be voided, and its tentative housing unit allocations shall be voided. If there has been no change in the requirements of the subdivision regulations since the first submission of this subdivision plan, the plan may be resubmitted for approval at the last plan stage which had been approved before the milestone was missed. Otherwise, the plan may be resubmitted for approval at the sketch plan stage.
 - (2) *Projects with conditional exemption:*

- (i) A proposed subdivision with conditional exemption from the test(s) for adequate facilities which misses the milestone for submission of a preliminary plan shall be voided. The plan may be resubmitted for approval at the sketch plan stage.
 - (ii) A proposed subdivision with conditional exemption from the test(s) for adequate facilities which has preliminary plan approval and misses the milestone for submission of a final plan shall be voided unless it has approval for adequate facilities and housing unit allocations while the preliminary plan approval is still valid pursuant to the subdivision regulations in place at the time the preliminary plan approval was granted. A voided plan may be resubmitted for approval at the sketch plan stage.
 - (3) The Department of Planning and Zoning shall notify the developer whenever it voids plans or voids housing unit allocations pursuant to this subsection.
- (h) *Voided Allocations:*
- (1) *Circumstances for voiding tentative allocations.* Tentative housing unit allocations shall be voided by the Department of Planning and Zoning when:
 - (i) A subdivision plan with tentative housing unit allocations fails to meet a milestone (see subsection (g) above);
 - (ii) The number of dwelling units to be built in a subdivision is reduced between initial plan stage approval and recordation; or
 - (iii) The requirements for green neighborhood allocations established under section 16.1102(b)(7) of this subtitle are not met by projects that have received green neighborhood allocations at subsequent plan submission stages.
 - (2) *Bulk parcels.* When a residential subdivision project includes a bulk parcel(s) for apartment, single-family attached or mobile home development, the tentative housing unit allocations assigned during the subdivision process shall become permanent as set forth below and tentative allocations shall be voided under the following conditions:
 - (i) If a bulk parcel for apartment, single-family attached or mobile home development is recorded and tentative allocations have been assigned, the project must proceed with a site development plan for the project in accordance with the milestones provided for in section 16.1106(d). Upon approval of the site development plan the tentative allocations become permanent. Failure to meet a milestone will result in the voiding of allocations. Prior to development of a bulk parcel where allocations have been voided, the project must pass the test for granting housing unit allocations as provided in section 16.1104 and pass the test for adequate school facilities as provided in section 16.1103, or
 - (ii) If a bulk parcel for single-family attached or mobile home units is recorded and tentative allocations have been assigned and the bulk parcel is to be resubdivided to provide individual lots for housing units, the project must proceed with a sketch plan or preliminary equivalent sketch plan in accordance with the milestones provided for in subsection 16.1106(d) and continue to meet milestones until the resubdivision plat is recorded. Upon recordation of the resubdivision plat, the tentative allocations become permanent. Failure to meet milestones will result in the voiding of allocations. Prior to development of a bulk parcel where allocations have been voided, the project must pass the test for granting housing unit allocations as provided in section 16.1104 and pass the test for adequate school facilities as provided in section 16.1103.
 - (iii) The provisions for voiding tentative allocations pursuant to subsection (h)(2) above, shall not apply to any project which received sketch plan or preliminary equivalent sketch plan approval prior to the effective date of this amendment, July 1, 1995.
 - (3) *Number of housing unit allocations voided.* If a milestone or green neighborhood requirements are not met, all of the tentative housing unit allocations granted to the subdivision shall be voided. If the number of dwelling units in the subdivision is reduced, only the excess tentative

allocations shall be voided. In either case, the Department of Planning and Zoning shall reassign the voided allocations to another project only as provided in subsection (4) below.

- (4) *Reassignment of voided allocations.* Whenever the Department of Planning and Zoning has voided allocations, it shall reassign them by granting the allocations to projects waiting for allocations pursuant to subsection 16.1105(c)(2). Reassigned allocations shall be granted to projects waiting longest for allocations. Even though the Department of Planning and Zoning, pursuant to subsection 16.1104(d), may have initially granted more than 100 percent of the allocations available on the housing unit allocation chart for the current year, the Department of Planning and Zoning shall only reassign allocations until the total number of new and reassigned allocations granted for the current year equals 100 percent of the projected number of allocations available for the appropriate category of the housing unit allocation chart for that year.

(C.B. 7, 1992; C.B. 39, 1995; C.B. 48, 2007, § 1; C.B. 47, 2010, § 1(5))

Sec. 16.1107. - Exemptions.

(a) *Nonresidential Projects:*

- (1) *Exempt nonresidential subdivision plans.* The following nonresidential subdivisions are exempt from the requirement to pass the test for adequate road facilities as a condition of subdivision approval:

- (i) A nonresidential resubdivision (see: Subdivision regulations).
- (ii) An exempt governmental facility.
- (iii) A nonresidential final subdivision plan pending on the effective date of this subtitle, April 10, 1992, provided that the plan proceeds to recordation in accordance with the subdivision regulations.
- (iv) A subdivision that does not generate additional traffic.

(2) *Exempt nonresidential site development plans:*

- (i) A site development plan for an exempt government facility is exempt from the requirement to pass the test for adequate road facilities as a condition of site development plan approval.
- (ii) A site development plan which does not generate additional traffic is exempt from the requirement to pass the test for adequate road facilities as a condition of site development plan approval.
- (iii) If the project is on a parcel which was zoned nonresidential on the effective date of this subtitle and has not previously passed the roads test during the subdivision process, a nonresidential site development plan submitted within seven years after the effective date of this subtitle, April 10, 1992 is exempt from the requirement to pass the test for adequate road facilities as a condition of site development plan approval. However, if the floor area ratio on the lot exceeds the following:

Industrial/manufacturing/warehousing	0.45
Office/research and development	0.35
Retail/service	0.25