

The site development plan shall be required to pass the test for adequate road facilities for the excess floor area.

- (3) *Conditionally exempt nonresidential subdivision plans.* Nonresidential subdivision plans are conditionally exempt from the requirement to pass the test for adequate road facilities as a condition of plan approval, provided that the sketch plan was approved before the effective date of this subtitle, April 10, 1992. This exemption is conditional upon the project continuing to meet required milestones (see: Section 16.1106, "Milestones").

(b) *Residential Projects:*

- (1) *Exempt residential plans.* The following residential subdivisions and site development plans are exempt from the requirement to pass the test for adequate road facilities and the requirement to pass the tests for allocations and adequate public school facilities as a condition of approval:

- (i) Parcel divisions (see: Subdivision regulations).
- (ii) Subdivisions in agricultural preservation easements for dwellings of the owner or the owner's children or other dwelling lots permitted on agricultural preservation easements.
- (iii) Residential resubdivisions (see: Subdivision regulations) which do not increase the number of housing units allowed.
- (iv) Residential final subdivision plans pending on the effective date of this subtitle, provided that the plan proceeds to recordation in accordance with the subdivision regulations.
- (v) Minor subdivision plans and resubdivisions, located in RC and RR zoning districts outside of the planned service area boundary for water and sewer, which create the potential for only one additional dwelling unit from a lot existing on April 10, 1992.
- (vi) Minor subdivision plans and resubdivisions which create the potential of only one additional dwelling unit to be conveyed to an immediate family member or members from a lot existing on April 10, 1992 provided that the following conditions are met:
  - a. The property owner must have owned the property for a minimum of three years before requesting subdivision; and
  - b. The family member must be either a parent, child, or sibling. The term immediate family member does not include step-parents, step-children, or step-siblings; and
  - c. The property owner shall not seek further subdivision of the property or another family member exemption for a period of three years; and
  - d. The granting of this family member exemption shall prohibit the property owner from seeking a hardship exemption.

A maximum of three family member exemptions per year per planning area may be granted by the Department of Planning and Zoning. Subject to section 22.1000 of the County Code, the Department of Planning and Zoning shall annually prepare a home ownership report on this exemption for the Council.

- (vii) Minor subdivision plans and resubdivisions which create the potential of only one additional dwelling unit from an adjoining lot existing before April 10, 1992, for property owners with economic hardships. Upon the property owner's written request to the Department of Planning and Zoning, the County Council may approve by resolution a hardship exemption. The property owner shall state in the request to the Department of

Planning and Zoning the severe economic hardship that the property owner is sustaining and provide the following evidence, which shall be forwarded by the Department to the County Council with a recommendation concerning the exemption:

- a. Verification of ownership of the property to be subdivided for at least three years before the submittal of the economic hardship exemption request; and
- b. A recent financial statement that shows the property owner's complete assets and liabilities supported by an affidavit of the property owner; and
- c. Other information regarding the severe economic hardship that the property owner is sustaining, including but not limited to information from lenders, lien holders, creditors, attorneys, tax collectors or other third parties who have knowledge as to the economic condition of the property owner; and
- d. Any notice of foreclosure on the property; and
- e. Any medical bills that are not covered by health insurance for a medical condition/treatment of the property owner or immediate family member of the property owner. For purposes of this section, the immediate family member shall be either a spouse, parent, child, or sibling but shall not include step-parents, step-children or step-siblings; and
- f. Any other evidence that the property owner has no other reasonable means of relieving that economic hardship.

The granting of this hardship exemption shall prohibit the property owner from seeking a family member exemption.

- (2) *Partially exempt residential subdivision plans.* Minor subdivision plans are exempt from the requirement to pass the test for adequate road facilities as a condition of plan approval. However, minor subdivision plans are required to pass the tests for allocations and adequate public school facilities as a condition of subdivision approval.
- (3) *Exempt residential site development plans.* Residential site development plans for single-family attached and detached housing on recorded lots that existed on April 10, 1992 are exempt from the requirement to pass the test for adequate road facilities and the tests for allocations and adequate public school facilities as a condition of site development plan approval.
- (4) *Partially exempt mobile home park site development plans:*
  - (i) Residential site development plans for mobile home parks are exempt from the requirement to pass the test for allocations to the extent that the mobile home park site development plan is replacing units from a mobile home park abandoned or permanently closed after January 1, 2000. If the number of units in a mobile home park site development plan exceeds the number of replacement units available, the number of units exceeding the available replacement units shall be tested for allocations in accordance with section 16.1104 of this subtitle. The Department of Planning and Zoning shall keep a record of the number of mobile home park units abandoned and replaced and shall reassign the replacement units to projects, at the time of site development plan approval, in the order of site plan approval dates.
  - (ii) Residential site development plans for mobile home parks to which replacement units have been reassigned in accordance with subsection (i) above are exempt from the adequate public school facilities test for the number of replacement units reassigned if the site development plan for the mobile home park is located in the same elementary and middle school districts as the abandoned or permanently closed mobile home park from which the units were reassigned. If the number of units proposed on the site development plan exceeds the number of reassigned units available, or if the site development plan includes reassigned units from a different elementary and/or middle school district, the excess units receiving allocations as required in subsection (i) above, and the reassigned

units from a different elementary and/or middle school district, as the case may be, shall be subject to the adequate public school facilities tests. If the proposed mobile home park is located in a different elementary and/or middle school district, the site development plan must pass the appropriate adequate public school facility test(s) for all units approved on the site development plan.

- (5) *Partially exempt multifamily residential site development plans:*
- (i) *Exemption from tests for adequate public schools.* Residential site development plans for multifamily projects which cannot generate children, such as age-restricted adult housing, are exempt from the requirement to pass the tests for adequate school facilities as a condition of site development plan approval. Except as provided in subparagraph (iii) of this paragraph, these plans are required to pass the test for allocations and for adequate road facilities as a condition of site development plan approval.
  - (ii) *Exemption from tests for allocations and adequate public schools.* Nursing and residential care facilities are exempt from the requirement to pass tests for allocations and for adequate public schools as a condition of site development plan approval. These plans are required to pass the adequate road facilities test as a condition of site development plan approval.
- (6) *Conditionally exempt residential subdivision plans.* Residential subdivision plans are conditionally exempt from the requirement to pass the test for adequate road facilities and the tests for allocations and for adequate school facilities as a condition of plan approval, provided that the sketch plan was approved before the effective date of this subtitle, this exemption is conditional upon the project continuing to meet required milestones (see: Section 16.1106, "Milestones").
- (7) *Partially exempt residential redevelopment plans.* Residential redevelopment involving a subdivision plan or site development plan is exempt from the allocations, Adequate public schools, and roads tests to the extent that the redevelopment will not increase:
- (i) The number of existing housing units on the site;
  - (ii) The number of housing units allowed under paragraph (3) of this subsection; or
  - (iii) If the redevelopment is of a mobile home park licensed under subtitle 5 of this title, the number of mobile home sites permitted under the license.
- Existing units being replaced must have been occupied on a full-time basis for at least 30 days in the year prior to submission of the subdivision or site development plan for redevelopment of the site. If the number of units on the redevelopment plan exceeds the number of existing units, the additional units shall pass the allocations, adequate public schools and roads tests as a condition of plan approval.
- (8) *Partially exempt residential subdivision plans.* Except in Downtown Columbia, moderate income housing units do not require housing unit allocations. However, plans with moderate income housing units are required to pass the test for adequate road facilities and adequate public schools as a condition of approval. The number of moderate income housing units in each plan that do not require housing unit allocations subject to this exemption shall not exceed the number of moderate income housing units as required in the Howard County Zoning Regulations.
- (9) *Partially exempt urban renewal residential subdivision or site development plans; Test for adequate school facilities.* Residential units that are part of an Urban Renewal project, as designated by title 13, subtitle 11 of this Code, are exempt from the requirement to pass the test for adequate school facilities as a condition of subdivision or site development plan approval.

(C.B. 7, 1992; C.B. 6, 1994; C.B. 39, 1995; C.B. 50, 2000; C.B. 51, 2002, § 1; C.B. 45, 2003, § 1; C.B. 1, 2018, § 3; C.B. 43, 2018, § 1)

Sec. 16.1108. - Development monitoring system.

The Department of Planning and Zoning shall monitor the growth of housing and employment in Howard County and shall issue reports which indicate:

- (a) Subdivision plans and site development plans approved during the last several years, including the number of residences or the number of new employees projected for the approved subdivisions and land developments.
- (b) Subdivision plans and site development plans in process at the time of the report, including the number of housing unit allocations or the number of new employees projected for the proposed subdivisions and land development.
- (c) Building permits and certificates of occupancy issued during the last several years, indicating the number of dwelling units and the projected number of new employees for which building permits or certificates of occupancy were issued.

(C.B. 7, 1992; C.B. 39, 1995)

Sec. 16.1109. - Appeals.

A person, specially aggrieved as defined by subsection 16.103(b) of the Howard County Code, by a decision of the Director of Planning and Zoning in relation to this subtitle may appeal the decision to the Board of Appeals pursuant to its rules of procedure.

(C.B. 7, 1992; C.B. 16, 1995; C.B. 39, 1995)

Sec. 16.1110. - Definitions.

- (a) *Affordable housing unit* means a moderate or middle income housing unit as defined in the Howard County Zoning Regulations.
- (a-1) *Available housing unit allocations* are the number of housing unit allocations that the Department of Planning and Zoning may grant in any year, based on the housing unit allocation chart adopted by the County Council less housing unit allocations already granted for that year.
- (b) *Background traffic growth* is the traffic, other than traffic existing at the time of application, which will be generated by:
  - (1) Regional pass-through users; and
  - (2) Projects which are not subject to the test for adequate road facilities.
- (c) *Bulk parcel—Residential* means a residential parcel recorded for the purpose of development of apartments, single-family attached, single-family detached or mobile home units on a single lot where tentative housing unit allocations have been granted.
- (d) *Capacity* means when used in relation to road facilities, capacity means the total number of vehicles that can be accommodated by a road facility during a specified time period under prevailing roadway operating conditions.
  - (d-1) *Capacity utilization* means the ratio of a facility's enrollment to its program capacity.
- (e) *Comprehensive project* means a project in the following zoning districts:
  - (1) New Town (NT)
  - (2) Planned Golf Course Community (PGCC)
  - (3) Mixed Use (MXD)

(4) Residential: Apartments (R-A-15)

- (f) *Constrained road facility* means in the planned service area for water and sewerage, a constrained road facility means the intersection of a major collector or higher classified road with a major collector or higher classified road which has historic or environmental value which would be adversely affected by certain road improvements.

In the no-planned service area for water and sewerage, a constrained road facility means the intersection of a minor collector or higher classified road with a minor collector or higher classified road which has historic or environmental value which would be adversely affected by certain road improvements.

The County Council, by resolution, declares a road facility constrained and identifies the feature(s) which form the basis for its decision to declare the road facility constrained.

- (g) *Conventional project* means a project other than a comprehensive project.
- (h) *Downtown Columbia* means the geographic area defined as Downtown Columbia in section 103 of the Howard County Zoning Regulations.
- (i) *Exempt governmental facility* means:
- (1) A facility to be owned or operated by the Federal Government, State Government, Howard County Public Schools, or any agency thereof;
  - (2) A facility owned by Howard County or any agency thereof where essential County Government services are provided, limited to police services, fire prevention and suppression services, emergency medical services, highway maintenance, detention facilities, water treatment and supply, sewage disposal and treatment and solid waste disposal.
- (j) *Final development plan proposing Downtown Columbia Revitalization* means a drawing or series of drawings, at an appropriate scale, and related text covering all or a portion of Downtown Columbia that proposes development pursuant to section 125.E of the zoning regulations.
- (k) *Floor area ratio* means the ratio of the floor area of a structure to the lot area, where:
- (1) The floor area is calculated by measuring the exterior faces of the walls of the structure minus any area within the structure devoted to parking, driveways, atria, enclosed malls and similar areas; and
  - (2) The lot area is calculated including any adjoining lots used for required parking for the structure.
- (l) *General plan target; general plan residential growth target* means for the purposes of this subtitle, the general plan target and general plan residential growth target mean the housing unit projections established in the general plan for each planning area including the senior east set aside, and in addition 250 housing units per year for Route 1 revitalization.
- (m) *Governmental action* means the action or inaction of a governmental agency in relation to a timely filed action by a developer. For the purposes of this subtitle, governmental agency means an agency of the Federal, State, or local government, including, but not limited to, the U.S. Corps of Engineers, the Maryland Department of the Environment, the Zoning Board, and the Board of Appeals.
- (n) *Housing unit allocation or allocation* means an approval to build a housing unit.
- (1) *Tentative housing unit allocation or tentative allocation* means the temporary approval, granted during the subdivision plan process, to build a housing unit in a project which requires housing unit allocations as a condition of project approval.
  - (2) *Permanent housing unit allocation or permanent allocation* means a permanent approval, granted at recordation of a subdivision or at site development plan approval, to build a housing unit in a project which requires housing unit allocations as a condition of project approval.
- (o) *Housing unit allocation chart* means a chart indicating the projected number of housing unit allocations available to be granted in the County each year for a ten-year period. The chart divides

the available housing unit allocations into geographic areas and may provide for green neighborhood and Downtown Columbia units. In a given year, no more than 35 percent of the allocations available in the growth and revitalization region may be granted to projects in a particular planning area, as established by PlanHoward 2030, Map 6-2 "Designated Place Types". The number of housing unit allocations on the chart shall be as follows:

- (1) In the first year after the effective date of this subtitle the number of housing unit allocations on the chart for that year and each of the next two years shall equal the general plan annual target for residential completions for those years.
  - (2) In the second year after the effective date of this subtitle, the number of housing unit allocations on the chart for that year and for each of the next two years, based on the rolling average, shall be the general plan target for residential completions for the year in question minus one-third of the difference between:
    - (i) The number of housing unit allocations granted during the prior year plus the number of housing units in projects approved during the prior year which were exempt from the provisions of this subtitle pursuant to subsections 16.1107(b)(1) and (5) of this subtitle; and
    - (ii) The prior year's general plan target.
  - (3) In the third and later years after the effective date of this subtitle, the number of housing unit allocations on the chart for the current year and for each of the next two years, based on the rolling average, shall be the general plan target for residential completions for the year in question minus one-third of the difference between:
    - (i) The housing unit allocations granted during the two preceding years plus the housing units in projects approved during two preceding years which were exempt from the provisions of this subtitle pursuant to subsections 16.1107(b)(1) and (5) of this subtitle; and
    - (ii) The sum of the general plan targets for the two preceding years.
- (p) *Howard County Design Manual* means Chapter 4 of Volume III (Roads and Bridges) of the Howard County Design Manual which specifies requirements for adequate transportation facilities.
- (q) *Impact area*:
- (1) Impact area means the set of intersections to be studied. In accordance with the table below, the projected trip generation of a project shall determine the minimum number of intersections to be included in the impact area.

Net Peak Hour Site Trips	Minimum Number of Intersections in Each Direction
5—99	1
100—399	2
400—799	3
800—1500	4
>1500	5

- (2) For projects in the planned service area for public water and sewer, excluding Downtown Columbia, the standard impact area is limited to intersections within one and a half road miles in all directions from each entrance to the project. For projects outside the planned service area for public water and sewer, the standard impact area is limited to intersections within two road miles in all directions from each entrance to the project. Inside the planned service area for public water and sewer, the minimum number of intersections in each direction refers to intersections of a major collector or higher classified road with a major collector or higher classified road for the standard impact area. Outside the planned service area for public water and sewer, the minimum number of intersections in each direction refers to intersections of a minor collector or higher classified road with a minor collector or higher classified road for the standard impact area. Inside or outside the planned service area for public water and sewer, if an intersection at an entrance to the project is included in the impact area, it shall not count toward the minimum number of intersections in each direction.
- (3) If a development is projected to generate 100 peak hour trips or more for either the AM or PM study period, the developer shall request a traffic impact area scoping meeting prior to submitting the plan for the development. The Department of Planning and Zoning shall determine whether the scoping meeting will be conducted by email, phone, in-person, or virtual meeting, and shall, together with the Department of Public Works, conduct the meeting with the developer to discuss if the distance of the standard impact area should be extended or if any additional intersections should be included in the impact area. The Department of Planning and Zoning, in consultation with the Department of Public Works, shall determine the additional intersections to be studied, if any, based on intersection location, anticipated trip distribution, existing level of service, or known operational complaints and notify the developer in writing of the intersections to be studied within one week following the scoping meeting. The Department of Planning and Zoning may waive the requirement to study a certain intersection if the Department of Public Works has on file a valid traffic study of that intersection which was completed within the last year. If, during the plan review process, the peak hour trips generated by the proposed development changes by ten percent or more or by 15 trips or more, whichever is greater, a new scoping meeting will be required and the Department of Planning and Zoning, in consultation with the Department of Public Works, may require additional intersections to be studied based on intersection location, anticipated trip distribution, existing level of service, or known operational complaints.

For Downtown Columbia the impact area shall be determined in accordance with the Howard County Design Manual.

- (r) *Initial plan stage.* An initial plan stage means either (i) a sketch plan or preliminary equivalent sketch plan under the Subdivision and Land Development Regulations; (ii) a final development plan proposing downtown revitalization under the zoning regulations; or (iii) a site development plan if subdivision is not required.
- (s) *Major collector or major collector highway* means a road classified as a major collector highway on the Howard County general plan, except that in determining the impact area for site development plans, major collector also means a road, not classified as a major collector highway on the Howard County general plan, but constructed to the physical specifications set forth in the design manual for construction of a road so classified.
- (t) *Major facilities agreement* means an agreement between the County, the State, if appropriate, and the developer of a project incorporating the developer's approved mitigation plan and covering the developer's financial obligations for mitigation.
- (u) *Milestone* means the date, unless delayed by governmental action, by which a developer must submit the next plan stage of a subdivision to the Department of Planning and Zoning for approval.

- (v) *Minimum level of service for Howard County road facilities, excluding Downtown Columbia* means level of service D. minimum level of service of a State road facility means level of service E. for Downtown Columbia, the intersection standard is established in the Howard County Design Manual.
- (w) *Minor collector or minor collector highway* means a road classified as a minor collector highway on the Howard County general plan.
- (x) *Minor subdivision* means the division of a residential or agricultural parcel that has not been part of a previously recorded subdivision, into four or fewer residential lots (including buildable preservation parcels but excluding open space and nonbuildable preservation parcels), either all at one time or lot by lot.
- (x-1) *Mitigation* means the construction or the funding of improvements to off-site road facilities by a developer, as approved by the Director of Planning and Zoning, after consultation with the Director of Public Works.
- (y) *Open* :
  - (1) For a school capacity chart adopted prior to January 1, 2019, open has the following meanings:
    - (i) *School region*—Open means that the projected capacity utilization of a school region is below 115 percent of the elementary schools within the region.
    - (ii) *Elementary school*—Open means that the projected capacity utilization of the elementary school is below 115 percent of the school.
    - (iii) *Middle school*—Open means that the projected capacity utilization of the middle school is below 115 percent of the school.
  - (2) For a school capacity chart adopted after January 1, 2019, open has the following meanings:
    - (i) *School region*—Open means that the projected enrollment of a school region is below 105 percent of the program capacity of the elementary schools within the region.
    - (ii) *Elementary school*—Open means that the projected enrollment of the elementary school is below 105 percent of the program capacity of the school.
    - (iii) *Middle school*—Open means that the projected enrollment of the middle school is below 110 percent of the program capacity of the school.
    - (iv) *High school*—Open means that the projected enrollment of the high school is below 115 percent of the program capacity of the school.
- (z) *Phased project* means a project utilizing phasing.
- (aa) *Phasing* means the sequential development of portions of a subdivision pursuant to a sketch plan which includes a schedule for submission of preliminary and final plan applications for the various phases of the project and a schedule for completion of these phases.
- (ab) *Plan stage* means one of the three levels of a subdivision plan—sketch plan, preliminary plan, and final plan.
- (ac) *Planning region* means a geographic area of the County identified in the general plan that is used for forecasting housing growth.
- (ad) *Program capacity* means the capacity, as defined by the Howard County Board of Education policies, for grades kindergarten through grade 12. Program capacity does not include prekindergarten, special education and relocatable capacity.
- (ae) *Road facilities*:
  - (1) In planned service area for public water and sewer. In that portion of the County in the planned service area for public water and sewer, road facilities means at grade intersections of major collectors or higher classified roads which are beyond the boundaries of the proposed project.



- (2) In no planned service area for public water and sewer. In that portion of the County in the no planned service area for public water and sewer, road facilities means at grade intersections of minor collectors or higher classified roads which are beyond the boundaries of the proposed project.
  - (3) Road facilities does not include road improvements which a developer is required to provide pursuant to the provisions of section 16.119, "Highways, Streets, and Roads," of the subdivision regulations.
- (af) *Rolling average* means to recalculate the number of available housing unit allocations for a given year in order to maintain and achieve the general plan residential growth targets.
- (ag) *Scheduled completion year:*
- (1) *Road facilities:*
    - (i) *Nonresidential projects* means when used in relation to road facilities serving nonresidential projects, "scheduled completion year" means the year as approved on the subdivision or site development plan, for scheduled completion of the project or phases of the project.
    - (ii) *Residential projects:*
      - a. When used in relation to road facilities serving unphased residential projects, "scheduled completion year" means the third year following the year the application is submitted.
      - b. When used in relation to road facilities serving phased conventional residential projects, "scheduled completion year" of the initial phase of the project means the third year following the year the application is submitted. The scheduled completion year of subsequent phases of the project are the years indicated for scheduled completion of the phases of the project as approved on the subdivision or site development plan.
      - c. When used in relation to road facilities serving phased comprehensive residential projects, "scheduled completion year" of the phases of the project means the years indicated for scheduled completion of the phases of the project as approved on the subdivision or site development plan.
  - (2) *Schools:*
    - (i) When used in relation to schools, "scheduled completion year" of an unphased project means the third year following approval of the project for adequate school facilities.
    - (ii) When used in relation to schools, "scheduled completion year" of the initial phase of a phased conventional project means the third year following approval of the project for adequate school facilities.
    - (iii) When used in relation to schools, "scheduled completion year" of a phase of a phased conventional project beyond the initial phase means the year for completion of the phase, as shown in the application for sketch plan approval of the project.
    - (iv) When used in relation to schools, "scheduled completion year" of a phase of a comprehensive project, means the year, at least three years following the year the sketch plan application is submitted, for completion of the phase, as shown in the application for sketch plan approval of the project.
- (ah) *School capacity chart* means a chart indicating which elementary school regions and which elementary, middle, and high schools are open to new residential development and which are constrained to new residential development for each of the following ten years.
- (ai) *School capacity test* means a test to determine whether the elementary school region and elementary, middle, and high school serving a proposed project are open to new residential development in the scheduled completion year of the project or the phases of the project.

(aj) *School region* means a geographic area, determined by the Howard County Board of Education, containing a group of contiguous elementary school service areas.

(ak) *Unphased project* means a project which does not utilize phasing.

(C.B. 7, 1992; C.B. 16, 1995; C.B. 39, 1995; C.B. 5, 2000; C.B. 50, 2000; C.B. 17, 2003, § 3; C.B. 34, 2003, §§ 1, 2; C.B. 38, 2005, §§ 1—3; C.B. 47, 2010, § 1(6); C.B. 46, 2011, § 1; C.B. 41, 2012, § 1.3; C.B. 55, 2016, § 1; C.B. 1, 2018, § 2)

Sec. 16.1111. - Adequate water, sewer, stormwater, and solid waste facilities.

No development shall be approved until plans are reviewed by the Department of Planning and Zoning and the Department of Public Works to ensure that the development will be served by adequate water, sewer, stormwater, and solid waste facilities in accordance with all applicable laws and regulations including, but not limited to, the following provisions:

- (a) *Water and Sewer* . Water and sewer facilities shall be considered adequate if the approved subdivision plans and site development plans comply with all applicable requirements including, but not limited to, the standards established in the following Code provisions for water and sewer services:
  - (1) Section 16.131, Sewage disposal and water supply.
  - (2) Section 18.100A, Capital Improvement Master Plan (C.I.M.P.) for Water and Sewerage.
  - (3) Section 18.122B, Allocation of water and wastewater capacity.
- (b) *Stormwater* . Stormwater facilities shall be considered adequate if approved subdivision plans and site development plans comply with all applicable requirements including, but not limited to, the standards established in section 16.133 ("Storm drainage") and title 18 ("Public Works"), subtitles 5 ("Storm Drainage Systems") and 9 ("Stormwater Management") of the County Code.
- (c) *Solid Waste* . Solid waste facilities shall be considered adequate if approved subdivision plans and site development plans comply with all applicable requirements including, but not limited to, the Capital Improvement Master Plan for Solid Waste as defined in section 18.600A of the County Code.

(C.B. 1, 2018, § 3)

## SUBTITLE 12. - FOREST CONSERVATION<sup>1111</sup>

Footnotes:

--- (11) ---

**Editor's note**— The provisions of this subtitle are effective Dec. 31, 1992.

Sec. 16.1200. - Short title; background; purpose.

- (a) *Short Title*. This subtitle shall be known as the Forest Conservation Act of Howard County.
- (b) *Background*. This subtitle is pursuant to the requirements of the Maryland Forest Conservation Act of 1991, which requires units of local government to adopt, by December 31, 1992, a local Forest Conservation Program which meets or is more stringent than the requirements of the Natural Resources Article, §§ 5-1601 through 5-1612 of the Annotated Code of Maryland.

- (c) *Purpose.* The purpose of this subtitle is to protect and maintain forest vegetation and forest areas in Howard County by requiring certain development projects to have an approved forest conservation plan as a condition of approval of the development.

(C.B. 37, 1992)

Sec. 16.1201. - Definitions.

Words and phrases used in this subtitle have their usual meaning unless defined in the subdivision regulations [subtitle 1 of this title] or in this section:

- (a) *Afforestation* means the establishment of new forest on an area presently without forest cover, by planting in accord with the practices specified in the Forest Conservation Manual.
- (b) *Declaration of intent* means a statement signed by a landowner or developer certifying that:
- (1) A proposed development is exempt from the requirement for an approved forest conservation plan; and
  - (2) No activity requiring a forest conservation plan will occur on the site within five years of the date of the completion of the exempt activity.
- (c) *Department* means the Howard County Department of Planning and Zoning.
- (d) *Development* means the establishment of a principal use of a site; a change in a principal use of a site; or the improvement or alteration of a site by the construction, enlargement, or relocation of a structure; the provision of stormwater management or roads; the grading of existing topography; the clearing or grubbing of existing vegetation; or any other nonagricultural activity that results in a change in existing site conditions.
- (e) *Forest* means a biological community dominated by trees and other woody plants covering an area of 10,000 square feet or greater that is at least 35 feet wide. *Forest* includes:
- (1) Areas with a tree cover ratio 100 trees per acre with at least 50 percent of these trees being at least two inches in diameter at a height of four and one-half feet above ground; or
  - (2) Areas meeting the criteria above that have been cut but not cleared.

*Forest* does not include orchards, tree nurseries, Christmas tree farms or other types of forest crops.

- (f) *Forest conservation* means the retention of existing forest or the creation of new forest at the levels set by this subtitle.
- (g) *Forest Conservation Manual* means the technical manual approved by the County Council containing performance standards and guidelines for implementation of the Howard County Forest Conservation Program.
- (h) *Forest Conservation Plan* means a plan which shows the impacts of a proposed development on existing forest resources. A *forest conservation plan* includes existing forest areas to be removed or retained; the location, extent and specifications for any reforestation or afforestation required; and legal measures to protect forest resources after completion of development in accordance with section 16.1203 below.
- (i) *Forest mitigation banking* means the planting of trees, according to plans approved by the Department, to be used as credit for plantings required under this subtitle.
- (j) *Forest stand delineation* means the evaluation, pursuant to section 16.1204 of this subtitle, of existing forests and other vegetation on a site proposed for development.
- (k) *Limit of disturbance* means the boundary of permitted changes to existing site conditions due to clearing and grading, as well as other activities associated with site development such as parking of vehicles and equipment, storage of materials, and disposal of construction debris.

- (l) *Lot* means a unit of land, the boundaries of which have been established as a result of a deed or previous subdivision of a larger parcel and which will not be the subject of further subdivision, as defined by the Natural Resources Article section 5-1601, Annotated Code of Maryland, and this subtitle without an approved forest stand delineation and forest conservation plan.
- (m) *Manual* means the Forest Conservation Manual.
- (n) *Net tract area* means the total area to the nearest one-tenth acre, whether forested or not, of a proposed development, exclusive of any 100-year floodplain, utility transmission line easements, or preservation parcel as referenced in the zoning regulations. *Net tract area* is to be used in calculating any reforestation or afforestation obligations that may be created by the proposed development.
- (o) *Planned business park* means a commercial-industrial subdivision developed with an integrated plan that provides common infrastructure and protection of environmentally sensitive features.
- (p) *Planned unit development* means a development comprised of a combination of land uses or varying intensities of the same land use in accordance with an integrated plan that provides flexibility in design with at least 20 percent of the land permanently dedicated to open space.
- (q) *Reforestation* means the establishment, in accordance with the Howard County Forest Conservation Manual, of new forest cover to replace forest resources lost because of development activities.
- (r) *Scenic road* means a public road or road segment that is included in the scenic roads inventory adopted by the County Council in accordance with section 16.1403 of this Code.
- (s) *Subdivision regulations* means title 16, subtitle 1 of the Howard County Code, entitled "Subdivision and Land Development Regulations."
- (t) *Urban canopy* means tree canopy inside the planned service area for water and sewer that does not meet the definition of forest but that does provide air quality, water quality, and habitat benefits.
- (u) *Other terms* which are defined in the Natural Resources Article section 5-1601, "Definitions," Annotated Code of Maryland, COMAR 08.19.01.03, "Definitions," and COMAR 08.19.03, article II, "Forest and Tree Conservation Definitions," are incorporated by reference and shall apply to this subtitle for any terms which are not defined in this section or the Manual.

(C.B. 37, 1992; C.B. 51, 1994; C.B. 4, 1996; C.B. 10, 2014, § 1)

Sec. 16.1202. - Applicability; exemptions; declaration of intent.

- (a) *Forest Conservation Plan Required for Subdivision Plan, Site Development Plan or Grading Permit.* Unless exempted by subsection (b) of this section, any person or unit of local government developing land 40,000 square feet or greater in area shall file a forest conservation plan ("plan") with the Department. Plan approval is required prior to development and prior to approval of a:
  - (1) Subdivision plan;
  - (2) Site development plan;
  - (3) Grading permit; or
  - (4) County road and utility construction plans.
- (b) *Exemptions to Requirement for Forest Conservation Plans:*
  - (1) *Exemptions not requiring a declaration of intent.* The following development is exempt from the requirement of this subtitle:
    - (i) A subdivision, site development or grading permit for development on land which is less than 40,000 square feet;

- (ii) Development on a single lot of any size if it is in compliance with a previously approved forest conservation plan and no new obligation is created;
  - (iii) Development which has preliminary subdivision plan, site development plan or grading permit approval prior to December 31, 1992. This exemption does not apply to expansion of the limits of disturbance shown on such plans or to site development plans for build out of exempt nonresidential subdivisions unless otherwise provided in this section;
  - (iv) A planned unit development which has preliminary development plan approval and 50 percent or more of the land is recorded and substantially developed before December 31, 1992;
  - (v) A planned business park of at least 75 acres which has preliminary plan approval before December 31, 1992, and which meets the intent of this subtitle by retaining forest in high priority locations (floodplains, wetlands, wetland and stream buffers, steep slopes, and/or wildlife corridors);
  - (vi) Agricultural preservation subdivisions and any agricultural activity, including agricultural support buildings and structures built using accepted best management practice unless it involves the clearing of 40,000 square feet or greater of forest within a one-year period;
  - (vii) Resubdivisions, that do not create additional lots, exempt divisions and plat corrections as provided for in sections 16.102 and 16.103 of this title;
  - (viii) Minor subdivisions that create one additional lot and have no further subdivision potential;
  - (ix) Mining or other extractive activity exempted by State law from the forest conservation requirements;
  - (x) Routine maintenance of existing roads and public utility rights-of-way. Highway construction under capital projects and/or State funding in which one acre or more of forest is cut or cleared is exempt from this subtitle but subject to State reforestation requirements set forth in natural resources article, section 5-103, Annotated Code of Maryland; and
  - (xi) The cutting or clearing of public utility rights-of-way licensed under article 78, sections 54A and 54B or section 54-1, Annotated Code of Maryland, or land for electric generating stations licensed under article 78, sections 54A and 54B or section 54-1, Annotated Code of Maryland, if:
    - a. Required certificates of public convenience and necessity have been issued in accordance with natural resources article, subsection 5-1603(f), Annotated Code of Maryland; and
    - b. Cutting or clearing of the forest is conducted to minimize the loss of forest.
- (2) *Exemptions requiring a declaration of intent.* The following development is exempt from the requirements of this subtitle, provided that the developer files a declaration of intent with the Department as provided in subsection (c) below:
- (i) Development on an existing single lot of any size if:
    - a. The total cutting, clearing or grading of forest resources is less than 40,000 square feet; and
    - b. The forest resources affected by the development are not subject to a previously approved forest conservation plan;
  - (ii) Commercial logging and timber harvesting operations conducted subject to the forest conservation and management program under the tax-property article section 8-211, Annotated Code of Maryland;

- (iii) Any agricultural activity, including agricultural support buildings and structures built using accepted best management practice involving the clearing of 40,000 square feet or greater of forest within a one-year period; and
  - (iv) Subdivision in connection with real estate transactions to provide a security, leasehold, or other legal or equitable interest, including a transfer of title, of a portion of a lot or parcel, if:
    - a. The transaction does not involve a change in land use, or new development or redevelopment, with associated land-disturbing activities; and
    - b. Both the grantor and grantee file the declaration of intent.
- (c) *Declaration of Intent:*
- (1) A person seeking an exemption under subsection (b) above shall submit a declaration of intent to the Department to verify that the proposed activity is exempt.
  - (2) No regulated activity may occur on the area covered by the declaration of intent within five years of the completion of cutting, clearing or grading of forest resources, or in the case of real estate transactions, within five years of the effective date of the declaration of intent.
  - (3) The Department may require a person failing to file a declaration of intent or found not in compliance with a declaration of intent to:
    - (i) Meet the retention, reforestation and afforestation requirements established by this subtitle;
    - (ii) Pay a penalty fee established by fee schedules approved by resolution of the County Council per square foot of forest cut or cleared, but in no case less than the minimum set by State law;
    - (iii) Be subject to other enforcement actions appropriate under Natural Resources Article sections 5-1601—5-1612, Annotated Code of Maryland, and this subtitle; and/or
    - (iv) File a declaration of intent with the Department.

(C.B. 37, 1992; C.B. 4, 1996)

Sec. 16.1203. - Forest Conservation Manual.

The Howard County Forest Conservation Manual is the technical manual used to establish standards of performance required in preparing forest stand delineations and forest conservation plans. The Forest Conservation Manual and amendments to it are prepared by the Department of Planning and Zoning and adopted by resolution of the County Council.

The Manual includes specific standards and guidelines for:

- (a) Submission of forest conservation plans, including forest stand delineations;
- (b) Approval of forest conservation plans;
- (c) Forest retention priorities;
- (d) Reforestation and afforestation calculations, priorities and preferred methods;
- (e) Construction and maintenance agreements and financial security;
- (f) Long-term, binding forest conservation and management agreements;
- (g) Procedural variations for minor subdivisions, single lot site development plans, rural cluster subdivisions, and phased development;
- (h) Forest mitigation banking; and
- (i) Other information necessary to implement this subtitle.

(C.B. 37, 1992; C.B. 4, 1996)

Sec. 16.1204. - Forest conservation plan.

- (a) *Applicability.* Forest conservation plans, consistent with this subtitle and the Howard County Forest Conservation Manual, shall be submitted to the Department with applications for all development not exempt under subsection 16.1202(b).
- (b) *Professionally Prepared.* The forest conservation plan shall be prepared by a licensed forester, landscape architect or other qualified professional as defined in the Forest Conservation Manual.
- (c) *Forest Stand Delineation.* The forest conservation plan shall include a forest stand delineation for the property to be subdivided, developed, or graded. The forest stand delineation shall:
  - (1) Describe the extent and quality of existing forests and other vegetation and its relationship to environmentally sensitive areas on-site and to forest resources on adjacent properties.
  - (2) Be used during the review process to determine the most suitable and practical areas for forest conservation.
- (d) *Forest Conservation Plan.* A forest conservation plan shall:
  - (1) State the net tract area, area of forest conservation required and the area of forest conservation proposed on-site and/or off-site;
  - (2) Show the proposed limits of disturbance;
  - (3) Show locations for proposed retention of existing forest and/or proposed reforestation or afforestation;
  - (4) Justify the following, if existing forest cannot be retained:
    - (i) How techniques for forest retention have been exhausted;
    - (ii) Why the priority forests specified in section 16.1205 cannot be left in an undisturbed condition;
    - (iii) If priority forests and priority areas cannot be left undisturbed, where on the site in priority areas reforestation or afforestation will occur in compliance with subsection 16.1208(a);
    - (iv) How the sequence for preferred reforestation or afforestation methods will be followed in compliance with subsection 16.1208(b); and
    - (v) Why reforestation or afforestation requirements cannot reasonably be accomplished on or off-site, if the applicant proposes payments of an in-lieu fee to the forest conservation fund;
  - (5) Show proposed locations and types of protective devices to be used during construction to protect trees and forests designated for conservation;
  - (6) In the case of reforestation or afforestation, include a reforestation or afforestation plan, with a timetable, description of needed site and soil preparation, and the species, size, and spacing of plantings;
  - (7) Include a binding two-year maintenance agreement as specified in the Manual that details how the areas designated for retention, reforestation or afforestation will be maintained to ensure protection and satisfactory establishment, including a reinforcement planting provision if survival rates fall below required standards. Financial security shall be provided for the maintenance agreement as provided in section 16.1209 and the Manual. Minor subdivisions which meet forest conservation requirements entirely by forest retention are not required to have a two-year maintenance agreement;
  - (8) Include a long-term, binding forest conservation and management agreement with a plat of the forest conservation easement area, as specified in the Manual that:

- (i) Provides protection for areas of forest retention, reforestation and afforestation; and
  - (ii) Limits uses in areas of forest conservation to those uses that are designated and consistent with forest conservation, including recreational activities and forest management practices that are used to preserve forest;
- (9) Include other information the Department determines is necessary to implement this subtitle; and
  - (10) Be amended or a new plan prepared, as provided in the Manual, if required as a result of changes in the development or in the condition of the site.

(C.B. 37, 1992; C.B. 4, 1996; C.B. 13, 1999)

Sec. 16.1205. - Forest retention priorities.

- (a) *On-site Forest Retention.* The following vegetation and specific areas are considered priority for on-site retention and protection in the County. Subdivision, site development, and grading shall leave this vegetation and these specific areas in an undisturbed condition unless demonstrated, to the satisfaction of the Department, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered or that forest planting in an alternate location would have greater environmental benefit:
  - (1) 100-year floodplain and stream buffers as defined in subsections 16.108(23) and (53) and 16.116(c)(6) of the subdivision regulations;
  - (2) Forested wetlands and wetland buffers as defined in subsections 16.108(6) and 16.116(c)(6) of the subdivision regulations;
  - (3) Trees and other vegetation identified on lists of rare, threatened and endangered species of the U.S. Fish and Wildlife Service or the Department of Natural Resources, critical habitat areas, and forest corridors for wildlife movement;
  - (4) Steep slopes as defined in subsection 16.108(50) of the subdivision regulations;
  - (5) Forest not in any of the sensitive areas above, but contiguous with sensitive areas or with existing forest stands;
  - (6) Property line and right-of-way buffers, particularly adjacent to scenic roads;
  - (7) State champion trees, trees 75 percent of the diameter of State champion trees, and trees 30 inch in diameter or larger;
  - (8) Trees and other forest resources associated with an historic site;
  - (9) Isolated small forest stands or tree groves of less than 10,000 square feet that will be enlarged to meet minimum standards for forest; and
  - (10) Specimen trees not part of any of the above.
- (b) *Off-site Retention:*
  - (1) The County or a developer may provide for off-site forest retention at a ratio of two acres of forest retention for every one acre of forest conservation obligation.
  - (2) The vegetation and specific area priorities for locating off-site forest retention under this subsection are the same as provided under subsection (a) of this section.

(C.B. 37, 1992; C.B. 51, 1994; C.B. 4, 1996; C.B. 13, 1999)

Sec. 16.1206. - Reforestation.



- (a) *Requirement to Reforest Areas Which Have Been Cut or Cleared.* The forest conservation plan shall provide for:
- (1) On or off-site reforestation to replace forest which is proposed to be cut or cleared on the net tract area after reasonable efforts to minimize such cutting or clearing; or
  - (2) Payment-in-lieu of reforestation if reforestation cannot reasonably be accomplished.
- (b) *Minimum size.* Areas to be reforested shall be at least 10,000 square feet unless otherwise approved by the Department based on criteria in the Forest Conservation Manual.
- (c) *Calculating the Amount of Reforestation Required.* The amount of reforestation required depends upon the amount of forest cover existing and removed from the net tract area and the land use being developed. The reforestation requirement shall be calculated as follows:
- (1) *Reforestation threshold.* There is a reforestation threshold for all land use categories. The reforestation threshold establishes the percentage of the net tract area at which the reforestation requirement changes. Reforestation requirements for clearing forest below the threshold are greater than for clearing above the threshold. Thresholds for calculating reforestation requirements are as follows:

Land Use	Threshold
Residential: Rural Low Density (Residential lots average 5 acres or more)	50 percent
Residential Rural Medium Density (Residential lots average 1 to 4.99 acres)	25 percent
Residential Suburban (Less than 1 acre per dwelling unit)	20 percent
Commercial/Industrial/Office	15 percent
Institutional	20 percent

- (2) *Reforestation calculation.* For all existing forest cover cleared on the net tract area, measured to the nearest one-tenth acre, the reforestation requirement shall be calculated as follows:
  - (i) One quarter acre shall be reforested, for each acre or portion of an acre cleared above the threshold (one quarter to one ratio).
  - (ii) Two acres shall be reforested for each acre or portion of an acre cleared below the threshold (two to one ratio).
  - (iii) All forest acreage retained above the threshold shall be directly credited against any reforestation obligation (one by one ratio).

(C.B. 37, 1992)

Sec. 16.1207. - Afforestation.

- (a) *Requirement to Afforest.* If existing forest resources are below the following minimums, the forest conservation plan shall provide for:

- (1) Afforestation on-site or off-site; or
  - (2) Payment-in-lieu of afforestation if afforestation cannot reasonably be accomplished.
- (b) *Minimum Size.* Areas to be afforested shall be at least 10,000 square feet unless otherwise approved by the Department based on criteria in the Manual.
- (c) *Calculating the Amount of Afforestation Required.* The amount of afforestation required depends upon the amount of forest cover existing and removed from the net tract area and the land use being developed. The afforestation requirement shall be calculated as follows:
- (1) *Minimum forest cover.* For each land use, the following minimum percentage of forest cover shall be provided:

Land Use	Threshold
Residential: Rural Low Density (Residential lots average 5 acres or more)	20 percent
Residential Rural Medium Density (Residential lots average 1 to 4.99 acres)	20 percent
Residential Suburban (Less than 1 acre per dwelling unit)	15 percent
Commercial/Industrial/Office	15 percent
Institutional	20 percent

- (2) Forest cut or cleared below the required afforestation level shall be afforested at two to one ratio and added to the amount of afforestation necessary to reach the minimum required afforested level, as determined by the amount of forest existing before cutting or clearing began.

(C.B. 37, 1992)

Sec. 16.1208. - Reforestation and afforestation location priorities and preferred methods.

- (a) *Location Priorities.* The following are priority locations for reforestation and afforestation. The Department may approve lower priority locations on this list when such locations better achieve the intent of this subtitle or County land use regulations. If on-site planting would have greater environmental benefit, the Department may approve off-site reforestation or afforestation in high-priority locations within Howard County, preferable within the same subbasin or watershed:
- (1) Establish or enhance forest in 100-year floodplains and buffers to intermittent and perennial streams as defined in subsections 16.108(23) and (53) and 16.116(a) of the subdivision regulations;
  - (2) Establish or enhance forest in wetlands and 25-foot wetland buffers as defined in subsections 16.108(60) and 16.116(c)(6) of the subdivision regulations;
  - (3) Establish or enhance critical habitat buffers and forest corridors for wildlife movement, the corridors, where practical, being a minimum of 300 feet in width;

- (4) Establish plantings to stabilize slopes of 25 percent or greater and slopes of 15 percent or greater with a soil K value greater than 0.35;
  - (5) Establish forest areas adjacent to existing forests to increase the overall area of contiguous forest cover;
  - (6) Establish buffers along property lines between differing land uses when appropriate, or adjacent to highways or utility rights-of-way, particularly adjacent to scenic roads; and
  - (7) Establish forest areas between small forest and tree stands to build a forest community.
- (b) *Preferred Methods.* The following sequence of reforestation and afforestation methods is preferred. The Department of Planning and Zoning may approve less preferred methods on this list when such methods better achieve the location priorities for reforestation and afforestation, take better advantage of opportunities to consolidate forest conservation efforts, or better achieve the objectives of other County land use regulations.
- (1) Selective clearing and supplemental planting on-site;
  - (2) On-site afforestation or reforestation, if economically feasible, using transplanted or nursery stock that is greater than one and one-half inches diameter measured at four and one-half feet above the ground;
  - (3) On-site afforestation or reforestation, using whip and seedling stock;
  - (4) Landscaping of areas under an approved landscaping plan which establishes a forest that is at least 35 feet wide and 25,000 square feet in area;
  - (5) Off-site afforestation or reforestation, using transplanted or nursery stock that is greater than one and one-half inches diameter measured at four and one-half feet above the ground;
  - (6) Off-site afforestation or reforestation, using whip and seedling stock;
  - (7) Natural regeneration on-site; and
  - (8) Natural regeneration off-site.

(C.B. 37, 1992; C.B. 51, 1994; C.B. 4, 1996)

Sec. 16.1209. - Financial security for reforestation and afforestation.

- (a) *Financial Security Required.* Subject to subsection (b) of this section, a person required to provide retention, afforestation or reforestation under this subtitle shall furnish financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the County. This shall be provided prior to plat recordation if the afforestation or reforestation is required for approval of a subdivision; prior to site development plan approval if the afforestation or reforestation is required for site development plan approval; and prior to grading permit issuance if the afforestation or reforestation is required for issuance of a grading permit. The surety shall:
- (1) Assure that the afforestation, reforestation, and the associated maintenance agreement are implemented in accordance with the approved forest conservation plan;
  - (2) Be in an amount equal to the estimated cost, as approved by the County, of reforestation and afforestation; and
  - (3) Be in a form and of a content approved by the County.
- (b) *Exception for Minor Subdivisions.* Minor subdivisions that meet forest conservation requirements entirely by forest retention are not required to provide financial security.
- (c) *Reduction of Financial Security.* After one growing season following the afforestation or reforestation the County may, at the written request of the person required to file financial security, reduce the

amount of the bond or other financial security. The request shall provide a justification for reducing the bond or other financial security amount, in accordance with criteria by the County.

- (d) *Release of Financial Security.* If, after two growing seasons following the afforestation or reforestation or as provided in the maintenance agreement, the plantings associated with the afforestation or reforestation meet or exceed the standards of the Manual, the amount of the bond, letter of credit, or other security shall be returned or released.
- (e) *Default and Lien.* If, after two growing seasons or as provided in the maintenance agreement, the plantings do not meet the aforesaid standards, the County shall have the right to draw on the security according to its terms and use the sums withdrawn for the costs incurred by the County in achieving the afforestation or reforestation standards required by the plan and manual. Any costs incurred by the County in excess of the security amount shall be charged against the developer and, unless they are paid or appealed to the Board of Appeals within 30 days after billing by the County, shall become a final lien against the property being developed and shall in every respect be treated as County real estate taxes.

(C.B. 37, 1992; C.B. 4, 1996)

Sec. 16.1210. - Fee-in-lieu of afforestation or reforestation.

(a) *Fee-In-Lieu Authorized:*

- (1) The Department may approve the payment of a fee-in-lieu of afforestation or reforestation:
  - (i) When afforestation or reforestation requirements cannot be reasonably accomplished on-site or off-site based on criteria in the Manual; or
  - (ii) When a landowner requests a modification of a recorded forest conservation easement.
- (2) The fee-in-lieu shall be calculated on a square-foot basis at a rate established in the fee schedule adopted by resolution of the County Council, but in no event shall it be less than the minimum set by State law.

(b) *Timing—Payment of Fee-In-Lieu* Fee-in-lieu of payments shall be paid to the County:

- (1) For a project not subject to a recorded forest conservation easement, prior to plat recordation of a subdivision, prior to approval of a site development plan or, if none, prior to issuance of a grading permit; or
- (2) When a landowner requests a modification of a recorded forest conservation easement, prior to the recordation of the revised subdivision plat or plat of forest conservation easement.

(C.B. 37, 1992; C.B. 13, 1999)

Sec. 16.1211. - Forest conservation fund.

- (a) *Fund Established.* The Director of Finance shall establish an account to be known as the forest conservation fund. No monies deposited in this account may revert to the general fund.
- (b) *Source of Moneys in Forest Conservation Fund.* Fees paid in-lieu of reforestation or afforestation under section 16.1210 of this subtitle and noncompliance fees paid pursuant to subsection (c) of this section shall be deposited in the forest conservation fund. Interest earned by money in the forest conservation fund shall remain in the fund.
- (c) *Noncompliance Penalties.* The noncompliance penalty is a fine per square foot of forest cut, cleared or graded which may be assessed against violators of this subtitle as specified in section 16.1212 of this subtitle. The amount of the noncompliance penalty is set by resolution of the County Council, and in no event shall it be less than the minimum set by State law.

(d) *Use of Forest Conservation Fund:*

- (1) The minimum in-lieu-of fees established by the State may be expended by the County:
  - (i) For afforestation or reforestation within Howard County, including site identification, acquisition, and preparation;
  - (ii) For acquisition of forest retention easements;
  - (iii) For maintenance of existing forests; and
  - (iv) For creating urban canopy.
- (2) In-lieu-of fees above the State minimums and noncompliance penalties may be used by the County for any purposes related to implementation of the County Forest Conservation Program.

(C.B. 37, 1992; C.B. 13, 1999; C.B. 10, 2014, § 1)

Sec. 16.1212. - Enforcement; penalties.

The provisions of this subtitle may be enforced with any or all of the following measures:

- (a) *Revocation of Exemption.* The Department may revoke an exemption for properties that are in violation of the conditions of exemption set forth in subsection 16.1202(b) above and may require compliance with the retention, reforestation and afforestation requirements of this subtitle. Prior to revocation, the Department shall notify the violator in writing and provide an opportunity for a response.
- (b) *Revocation of Approved Forest Conservation Plan.* The Department may revoke an approved forest conservation plan for cause, including any of the following conditions. Prior to revocation, the Department shall notify the violator in writing and provide an opportunity for a response.
  - (1) Noncompliance with this subtitle or with conditions of an approved forest conservation plan;
  - (2) Obtaining approval of the plan through fraud, misrepresentation, a false or misleading statement, or omission of a relevant or material fact.
- (c) *Stop-Work Order.* The County may issue a stop-work order against any violator of this subtitle, the Manual, an order, an approved forest conservation plan, the associated two-year maintenance agreement and long-term conservation and management agreement, or a declaration of intent.
- (d) *Injunction.* The County may seek an injunction requiring a violator to cease the violation and take corrective action to restore or reforest an area.
- (e) *Noncompliance Penalties.* The County may assess a noncompliance penalty as defined in section 16.1211 above, against a violator of this subtitle, the Manual, an order, an approved forest conservation plan, an associated two-year maintenance agreement, a long-term conservation and management agreement or a declaration of intent.
- (f) *Civil Penalties.* In addition to and concurrent with all other remedies, the Department of Planning and Zoning may enforce the provisions of this subtitle or an approved forest conservation plan with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation shall be a Class A offense. Each day a violation continues is a separate violation.

(C.B. 37, 1992)

Sec. 16.1213. - Mitigation by County.

In the event that any person develops land in violation of this subtitle without an approved forest conservation plan and any other required development approvals and permits, the County shall, after first giving the developer the opportunity to comply, have the right to enter upon the property being developed

and afforest or reforest the property in accordance with the thresholds and standards of this subtitle and the Manual. The County may instead undertake off-site afforestation or reforestation if this would better serve the purposes of this subtitle. In either case, the County shall charge all afforestation and reforestation costs incurred by it against the developer, including but not limited to consultant fees and overhead and administrative costs. Unless the charges are paid or appealed to the Board of Appeals within 30 days after billing by the County, they shall become a final lien on the property being developed and shall in every respect be treated as County real estate taxes. The County's right to mitigate and recover its costs shall be in addition to the fines and other sanctions it may impose under section 16.1212 of this subtitle.

(C.B. 37, 1992)

Sec. 16.1214. - Appeals.

Any person specially aggrieved, as defined by subsection 16.103(b) of the Howard County Code, by an administrative decision of the Director of Planning and Zoning in relation to this subtitle may, within 30 days of the decision, appeal the decision to the Howard County Board of Appeals according to its rules of procedure.

(C.B. 37, 1992)

**Cross reference**— Board of Appeals, § 16.300 et seq.

Sec. 16.1215. - Waivers.

- (a) The Department may grant waivers to the requirements of this subtitle in accordance with the standards and procedures of subsection 16.103(c) of the subdivision regulations, provided that the Department must find that granting of the waiver will not adversely affect water quality.
- (b) Notice of a request for a waiver shall be given by the Department of Planning and Zoning to the Maryland Department of Natural Resources within 15 days of receipt of a request for a waiver.

(C.B. 37, 1992)

Sec. 16.1216. - Forest mitigation banking.

- (a) *Opportunity to Create a Forest Mitigation Bank.* The Howard County Department of Recreation and Parks or a private property owner with the Department of Planning and Zoning's approval, may establish a forest mitigation bank. Mitigation bank easement rights may be purchased by a developer when the Department of Planning and Zoning determines that all or a portion of a project's reforestation or afforestation obligations can be met off-site and that the mitigation bank has met all requirements.
- (b) *Minimum Size.* Mitigation banks shall be at least one acre in area unless otherwise approved by the Department.
- (c) *Location Priorities.* Forest mitigation banks shall be located in accordance with the highest five reforestation and afforestation priorities specified in subsection 16.1208(a)(1) through (5) of this subtitle.
- (d) *Preferred Methods.* Forest mitigation banks shall be planted using nursery stock, whips, or seedlings, but not natural regeneration.
- (e) *Approval Procedure.* Private forest mitigation bank applicants shall submit for the Department's approval the proposed location and a forest planting plan, prepared by a qualified professional, with

a timetable, description of needed site and soil preparation, and the species, size, and spacing of planting. Upon completion of all forest planting, the qualified professional shall certify compliance with the approved forest conservation plan.

- (f) *Long-Term, Binding Forest Conservation and Management Agreement.* At the end of two years, or longer if required, a qualified professional shall certify that the survival rates specified in the Manual have been achieved. The Applicant shall record a forest conservation easement plat and long-term binding forest conservation and management agreement in accordance with procedures outlined in the Manual.

(C.B. 4, 1996)

Sec. 16.1217. - Severability.

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

(C.B. 37, 1992)

#### SUBTITLE 13. - CEMETERY PRESERVATION

Sec. 16.1300. - Short title; background; purpose.

- (a) *Short Title.* This subtitle shall be known as the Cemetery Preservation Act of Howard County.
- (b) *Background.* This subtitle arose out of the attempted development of a particular cemetery in Howard County, which highlighted the need for greater protection for old cemeteries and burial grounds from development.
- (c) *Purpose.* The purpose of this subtitle is to foster preservation of cemeteries and burial grounds in Howard County.

(C.B. 13, 1993)

Sec. 16.1301. - Definitions.

*Cemetery* means any land or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container or their placement in a columbarium shall not constitute the creation of a cemetery. The term *cemetery* shall include the terms *graveyards* and *burial grounds*.

(C.B. 13, 1993)

Sec. 16.1302. - Cemetery Preservation Advisory Board.

- (a) *Establishment.* There is hereby established a Cemetery Preservation Advisory Board to carry out the purposes of this subtitle.
- (b) *Membership and Appointment:*
  - (1) *General provisions.* General provisions applicable to this board are set forth in [section 6.336 of] subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.

- (2) *Number of members.* The Board shall have a membership of seven persons.
- (3) *Qualifications:*
  - (i) Five members of the Board shall be residents of Howard County.
  - (ii) One of the members shall be a member of the development-building industry.
  - (iii) One of the members shall be a representative of the religious community.
  - (iv) One of the members shall be a member of the funeral-cemetery business.
  - (v) Two of the remaining members shall be qualified by special interest, knowledge, or training in such fields as history, architecture, preservation, genealogy, and urban design, and who have knowledge of and demonstrated an interest in the preservation of old burial grounds and cemeteries.
  - (vi) Two members shall represent the general public.

(C.B. 13, 1993)

Sec. 16.1303. - Inventory of cemeteries.

- (a) *Establishment of Inventory.* The Department of Planning and Zoning, in cooperation with the Cemetery Preservation Advisory Board, shall propose, and the County Council shall establish, an inventory of all known cemeteries in the County, together with a description of the geographical location of each and a record of the owners of each burial ground.
- (b) *Maintenance of Cemetery Inventory Map.* The Department of Planning and Zoning shall maintain a current map which depicts the location of all known cemeteries in the County based on the above inventory.

(C.B. 13, 1993)

Sec. 16.1304. - Development or subdivision in a cemetery.

- (a) *Accommodation.* When a property owner proposes to develop a property, through submission of a subdivision sketch plan, preliminary equivalent sketch plan, or a site development plan, on which is located a cemetery which is shown on the inventory map, the property owner shall:
  - (1) Accommodate the cemetery with the development, by placing the cemetery in a nonbuildable lot with a cemetery designation, by dedicating the cemetery to a homeowner's association or a preservation, conservation or religious organization, by providing that the cemetery be used as a cemetery in perpetuity, and by providing public access to the cemetery. Any land placed in a nonbuildable cemetery lot designation pursuant to this section may be counted towards open space requirements. Alternatively, a property owner may leave the deed to the cemetery in the private ownership and care of a family.
  - (2) Conduct a title search of the parcel extending back to the original patent to ascertain whether covenants relating to the cemetery had been executed.
  - (3) Establish the boundaries of the cemetery as approved by the Department of Planning and Zoning whenever the cemetery boundaries are either not well defined or in dispute, using any or all of the following methods:
    - (i) Historical documentation;
    - (ii) Professional archaeology;
    - (iii) Ground-penetrating radar;



- (iv) Oral history, claims of descendants, vital records;
  - (v) Proton magnetometry; and/or
  - (vi) Other approved nondestructive techniques.
- (b) *Accommodation at Preliminary or Final Plan.* If a cemetery is discovered after the approval of sketch plan or preliminary equivalent sketch plan or if a sketch plan is not required to be submitted, then all the requirements of [this] section 16.1304 shall apply to the submission of a preliminary subdivision plan or a final subdivision plan for a property that contains a cemetery.
- (c) *Submission of Cemetery Boundary Documentation and Accommodation Plan.* Once the property owner determines the boundaries of the cemetery using one or more of the foregoing methods, the property owner shall submit to the Department of Planning and Zoning the documentation of the boundaries of the cemetery, and a plan showing how the cemetery will be accommodated with the development and how public access to the cemetery will be provided, in accordance with subsection (a) above.
- (d) *Meeting.* The Department of Planning and Zoning shall forward the information provided in subsections (a) and (c) above to the Planning Board. The Board shall consider this information at a regular Planning Board meeting.
- (e) *Recommendation—Decision.* The Planning Board shall make a recommendation to the Department of Planning and Zoning on the property owner's plan. The Department of Planning and Zoning shall expeditiously make a final decision on the matter. In the event that the Department of Planning and Zoning determines that an accommodation of the cemetery with the development cannot reasonably be accomplished without denying the property owner reasonable use of its entire property, then the Department of Planning and Zoning shall require the property owner to develop, and it shall approve, a plan for appropriate treatment of the cemetery in accordance with State law.

(C.B. 13, 1993)

Sec. 16.1305. - Discovery of cemetery.

- (a) *Discovery.* If any person discovers the existence of previously unknown human remains, tombstones, funerary objects, or other evidence of a cemetery which reasonably indicates the presence of a cemetery in the course of grading, construction or work of any kind, that person shall stop work immediately in the discovered area and shall give notice of its discovery within 24 hours to the State's attorney, the County Health Officer, the Department of Planning and Zoning, the Department of Public Works, and the Department of Inspections, Licenses and Permits. All permits issued by the Department of Inspections, Licenses and Permits relating to the discovered area shall be suspended and the property owner shall stop all work in the discovered area until a determination is made pursuant to subsection (b) of this section.
- (b) *Determination.* The Department Planning and Zoning, in consultation with the Cemetery Preservation Advisory Board, shall determine if the discovered area provided in subsection (a) above is a cemetery. In making this determination, the Department of Planning and Zoning, in consultation with the cemetery preservation advisory board, may require the property owner to comply with subsection 16.1304(a)(2) and (3). If it is determined that the area is not a cemetery, the stop-work order shall be lifted and the suspended permits released by the Department of Inspections, Licenses and Permits.
- (c) *Cemetery protection.* If it is determined that the discovered area is a cemetery, the property owner shall comply with the requirements of section 16.1304 of this subtitle. However, the Department of Planning and Zoning, in consultation with the Cemetery Preservation Advisory Board, may waive these requirements in a discovery situation, on a case-by-case basis, based on the criteria for waivers of the subdivision regulations contained in section 16.104 of the Howard County Code.

(C.B. 13, 1993)

Sec. 16.1306. - Removal prior to development.

If a property owner removes human remains from a cemetery prior to entering the development or subdivision process, then any subsequent development of the area formerly occupied by the cemetery shall be prohibited.

(C.B. 13, 1993)

Sec. 16.1307. - Appeal.

Any person specially aggrieved by any decision of a County agency made under this subtitle may, within 30 days thereof, appeal the decision to the Board of Appeals of Howard County.

(C.B. 13, 1993)

Sec. 16.1308. - Enforcement.

Where there is any violation of this subtitle or any action taken thereunder Howard County shall institute appropriate action to compel compliance with the provisions of this subtitle. In addition to and concurrent with all other remedies, Howard County may enforce the provisions of this subtitle with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation shall be a Class A offense.

(C.B. 13, 1993)

Sec. 16.1309. - Severability.

If any portion of this subtitle is held invalid or unconstitutional, the invalidity or unconstitutionality of that portion shall not affect the remaining portions of the subtitle.

(C.B. 13, 1993)

SUBTITLE 14. - SCENIC ROADS

Sec. 16.1401. - Short title; purpose; components.

- (a) *Short Title.* This subtitle shall be known as "The Scenic Roads Act."
- (b) *Purpose.* The scenic roads act is established to protect the character of certain roads or road segments in the County which have outstanding scenic or historic value and pass through areas of the County where forest, agricultural or historic features are predominant.
- (c) *Three Components of Scenic Roads Program.* This subtitle is part of a scenic roads program which has three components: Designation of scenic roads; development of land abutting scenic roads; and improvements to scenic roads.
  - (1) *Designation of scenic roads.* This subtitle provides for the designation of scenic roads through the adoption of a scenic roads inventory by the County Council.
  - (2) *Development of land abutting scenic roads.* The second component of the scenic roads program ensures that new development abutting a scenic road is designed to minimize impacts on scenic views from the road while allowing for development of land as permitted by the zoning

regulations. This is accomplished through requirements and guidelines of the zoning, subdivision and land development, and forest conservation regulations, using mechanisms such as lot clustering, open space, forest conservation, protection of slopes, wetlands and streams, and landscaping.

- (3) *Improvements to scenic roads.* The third component addresses features of the road itself that contribute to the road's scenic character, such as width, alignment, and vegetation or slopes within the right-of-way. The County's development regulations, capital project procedures, and road design standards require that improvements within the right-of-way of scenic roads be designed to preserve the character of the road while providing safe conditions for traffic.

(C.B. 51, 1994)

Sec. 16.1402. - Characteristics of scenic roads.

- (a) *Definition.* Scenic roads are public roads in the County which have one or more of the following characteristics:
  - (1) Pass through an area of outstanding natural environmental features providing views of scenic elements such as forests, steep topography, and stream or river valleys;
  - (2) Provide outstanding views of rural, agricultural landscapes including scenic elements such as panoramic or distant views, cropland, pastures, fields, streams, ponds, hedgerows, stone or wooden fences, farm buildings and farmsteads;
  - (3) Follow historic road alignments and provide views of historic resources; or
  - (4) A large proportion of the road provides frontage for properties that are in a historic district or subject to perpetual or long-term agricultural, environmental or historic easements.
- (b) *Features of Scenic Road Rights-of-Way.* The rights-of-way of scenic roads also have features which contribute to scenic character, such as narrow pavement width, embankments, road alignments which conform closely to natural topography, hedgerows, mature trees or forest along the edges of the roadway, and other features by which the road reflects and is related to the surrounding landscape.

(C.B. 51, 1994)

Sec. 16.1403. - Scenic roads inventory.

- (a) *Adoption by Council resolution.* The County Council may, by resolution, adopt a scenic roads inventory which designates certain roads or road segments in the County as scenic roads. After initial adoption of the scenic roads inventory, roads or road segments may be added or deleted by County Council resolution.
- (b) *Road Must Meet Definition.* The County Council may include a road or road segment in the scenic roads inventory if it finds that the road has one or more of the characteristics listed in subsection 16.1402(a) above.
- (c) *Contents of Inventory.* The scenic roads inventory shall:
  - (1) Identify all scenic roads;
  - (2) Describe in general terms the scenic elements of views from the road; and
  - (3) Describe in general terms the features of the road right-of-way.

(C.B. 51, 1994)

Sec. 16.1404. - Alterations to scenic road rights-of-way.

(a) *County Maintained Scenic Roads:*

- (1) *Standards.* The road design manual adopted pursuant to section 18.210 of this Code shall include standards for scenic roads. The standards shall protect the features of the scenic road right-of-way that contribute to the scenic character of the road when necessary road improvements are made.
- (2) *Protecting scenic character.* Scenic roads may be altered to make necessary safety, access, drainage, or road capacity improvements, including improvements to meet the requirements of the adequate public facilities act (title 16, subtitle 11) or to install pull-offs or utility, water or sewage systems. Projects which alter the appearance of a scenic road, including maintenance, capital projects and improvements required through the subdivision or development process, shall be designed to protect to the maximum extent possible the features of the road right-of-way that contribute to the scenic character of the road.

(b) *State Maintained Scenic Roads.* State maintained scenic roads are not subject to design standards and other County regulations governing alterations to the road right-of-way. The County will seek to work cooperatively with the State Highway Administration in the design of alterations to State roads.

(c) *Effect of Adequate Public Facilities Act.* Scenic roads are subject to the requirements of the adequate public facilities ordinance (title 16, subtitle 11). To limit alterations to an intersection involving a scenic road under the provisions of the adequate public facilities ordinance, such an intersection may be designated a "constrained road facility" by the County Council in accordance with subsections 16.1101(f)(4) and 16.1110(e) of this Code. Restrictions on improvements to a constrained road facility shall not be grounds for denial of subdivision plans or site development plans that would otherwise be subject to required road improvements under the adequate public facilities ordinance.

(C.B. 51, 1994)

SUBTITLE 15. - DESIGN ADVISORY PANEL

Sec. 16.1500. - Short title; purpose.

- (a) *Short Title.* This subtitle shall be known as the Design Advisory Panel Act.
- (b) *Purpose.* There shall be a Howard County Design Advisory Panel ("panel") in order to encourage excellence in architecture and site design, to improve design compatibility with surrounding development, to promote revitalization, and to enhance property values.

(C.B. 24, 2008, § 6; C.B. 42, 2009, § 1; C.B. 15, 2010, § 1; C.B. 51, 2015, § 1)

Sec. 16.1501. - Duties.

- (a) *Generally .* The Design Advisory Panel shall review and provide design advice on new development and redevelopment projects:
  - (1) On parcels located the U.S. Route 1 Corridor that are zoned CE, CAC, OR TOD, or that adjoin the Route 1 right-of-way and that are subject to the Route 1 Manual;
  - (2) On parcels located within the Route 40 Corridor as defined in the Route 40 Design Manual;
  - (3) On parcels on which age-restricted adult housing is to be constructed pursuant to a conditional use;

- (4) On redevelopment parcels located in New Town Village Centers with boundaries proposed by a property owner or established by the Zoning Board or County Council;
- (5) On parcels included within the boundaries of the Downtown Columbia Plan;
- (6) On parcels on State Route 108, between Guilford Road and Trotter Road, that are within the boundaries of the Clarksville Pike Streetscape Plan and Design Guidelines;
- (7) In other areas for which a design manual is adopted by the County Council; and
- (8) As provided by the zoning regulations, on parcels located in the following zoning districts including, without limitation:
  - (i) Section 111.1: R-H-ED (Residential: Historic—Environmental District);
  - (ii) Section 112.1: R-APT (Residential: Apartments);
  - (iii) Section 117.0: BRX (Business Rural Crossroads) District;
  - (iv) Section 121.0: CEF (Community Enhancement Floating) District;
  - (v) Section 121.1: CR (Community Redevelopment) Overlay District; and
  - (vi) Section 128.0: Supplementary Zoning District Regulations for non-conforming uses in the CLI (continuing Light Industrial)—Overlay District.

(b) *Downtown Columbia* . Related to Downtown Columbia, the panel shall provide advice to:

- (1) The Zoning Board and the Planning Board regarding plans for New Town Village Center Redevelopments in which Village Center Boundaries have been proposed by a property owner or established by the Zoning Board or by the County Council;
- (2) The County Council in amending Downtown-Wide Design Guidelines;
- (3) The Planning Board regarding the consistency of the Downtown Neighborhood Design Guidelines to the Downtown-Wide Design Guidelines; and
- (4) The Planning Board regarding the consistency of site development plans submitted for approval to the Neighborhood Design Guidelines.

(C.B. 24, 2008, § 6; C.B. 42, 2009, § 1; C.B. 15, 2010, § 1; C.B. 38, 2010, § 1; C.B. 51, 2015, § 1)

Sec. 16.1502. - Membership; staff, records; meetings.

- (a) *General Provisions* . General provisions applicable to the panel are set forth in subtitle 3, "Boards and Commissions" of title 6, "County Executive and the Executive Branch" of this Code.
- (b) *Number of Members; Method of Appointment* . The panel shall consist of seven members who shall be appointed by the County Executive and confirmed by the County Council.
- (c) *Qualifications*:
  - (1) Each member must be a professional in architecture, civil engineering, landscape architecture, urban planning, or a related field.
  - (2) At least two members shall be architects who are licensed in Maryland;
  - (3) At least one member shall be a civil engineer who is licensed in Maryland;
  - (4) At least one member shall be a landscape architect who is licensed in Maryland; and
  - (5) At least one member shall be an urban planner.
- (d) *Reappointment* . A panel member shall be eligible for reappointment in accordance with section 404 of the Howard County Charter.

- (e) *Executive Secretary* . The Director of the Department of Planning and Zoning, or the Director's designee, shall, serve as the Executive Secretary to the panel.
- (f) *Maintenance of Records* . The records of all proceedings and the basis for all findings shall be maintained in the normal course of business.
- (g) *Meetings*. The panel shall meet at least twice a month and, if necessary, more frequently meeting notice shall include posting notice on the Howard County web site.

(C.B. 24, 2008, § 6; C.B. 51, 2015, § 1)

Sec. 16.1503. - Guidelines and principles.

- (a) The panel is to apply architectural, landscape architecture, and urban design principles in order to achieve the following objectives in a proposed plan:
  - (1) Site planning which creates attractive visual and functional relationships of the on-site design elements and between the site and the surrounding area;
  - (2) Buildings and other structures which are spatially and visually integrated into and suitable for the site and surrounding area;
  - (3) Architectural features which articulate the structures, create an identity for the development while being in harmony with the adjacent and surrounding built environment, and are consistent with the:
    - (i) Design requirements and recommendations of the Route 1 Manual;
    - (ii) Design requirements and recommendations of the Route 40 Design Manual;
    - (iii) Criteria of a conditional use, as applicable;
    - (iv) New Town Village Center design guidelines, as applicable;
    - (v) Downtown-wide Design Guidelines, as applicable;
    - (vi) Downtown Neighborhood Design Guidelines, as applicable; or
    - (vii) Design requirements and recommendations of the Clarksville Pike Streetscape Plan and Design Guidelines.
  - (4) Open space which provides visual functional integration of the streetscape, public spaces, and pedestrian connections and transportation connections;
  - (5) Landscaping which enhances the architectural and site design, works with the natural features of the site, provides adequate screening, and defines spaces on the site; and
  - (6) Design objectives in the Route 1 Manual, the Route 40 Design Manual, compatibility criteria for age-restricted adult housing set forth in section 131.N.1 of the Howard County Zoning Regulations, the design guidelines for the appropriate New Town Village Center, the Clarksville Pike Streetscape Plan and Design Guidelines, the Downtown-wide Design Guidelines, or the Downtown Neighborhood Design Guidelines for Downtown Columbia Revitalization.
- (b) Notwithstanding any provision of this Subtitle to the contrary, for reviews pursuant to the requirements of the Zoning Regulations, the Panel may use:
  - (1) Principles and general guidelines included in this section;
  - (2) Any principle or guideline as set forth in the Zoning Regulations; and
  - (3) General professional principles and practices current within the industry.
- (c) Panel members are encouraged to draw from a wide array of relevant design principles and practices in formulating design advice and making formal recommendations, especially for those applications that are not the subject of an adopted design manual or guidelines.

(C.B. 24, 2008, § 6; C.B. 42, 2009, § 1; C.B. 15, 2010, § 1; C.B. 38, 2010, § 1; C.B. 51, 2015, § 1)

Sec. 16.1504. - Review required; recommendations; condition of decision.

- (a) *Recommendations*. The panel shall make recommendations consistent with the Route 1 Manual, the Route 40 Design Manual, compatibility criteria for age-restricted adult housing, New Town Village Center Design Guidelines, Clarksville Pike Streetscape Plan and Design Guidelines, Downtown-wide Design Guidelines or Downtown Neighborhood Design Guidelines for Downtown Columbia Revitalization regarding:
- (1) The design for buildings, vehicular circulation and access, pedestrian access and linkages, parking, loading, dumpsters, exterior mechanical units, existing trees, landscaping, and walls and fences;
  - (2) Building scale and massing in relation to and compatible with the surrounding area;
  - (3) Building architectural style, materials, entrances, windows, roof design, and colors;
  - (4) Open space on the site including pathways, public spaces, amenity areas, and similar features;
  - (5) The design of exterior lighting devices and potential disturbances to the public and adjacent properties; and
  - (6) The location, size, and design of the exterior signs.
- (b) *Recommendations of the Panel*. When this title, the zoning regulations, or any other law require the panel to review plans for development or redevelopment, panel recommendations may be considered by the:
- (1) Zoning board;
  - (2) Planning board;
  - (3) Hearing authority when making a final decision on a conditional use or as a condition of conditional use approval for age-restricted adult housing;
  - (4) Department of Planning and Zoning; and
  - (5) County Council.

(C.B. 24, 2008, § 6; C.B. 42, 2009, § 1; C.B. 15, 2010, § 1; C.B. 38, 2010, § 1; C.B. 51, 2015, § 1)

Sec. 16.1505. - Timing of recommendations; subsequent submittals; further review; appeal.

- (a) *Recommendations Prior to Initial Submission*. The panel shall consult with and make recommendations to the Director of the Department of Planning and Zoning prior to the initial submission for a conditional use or of a development plan as set forth in the subdivision and land development regulations.
- (b) *Recommendations within 45 Days*. Unless a delay was caused by the failure of an applicant to submit information requested by the panel, the panel shall make a recommendation within 45 days of acceptance of a plan. If a delay was not caused by the applicant and the panel fails to make a recommendation within 45 days of acceptance of the plan, further panel review is not required. A development plan may then be submitted to the Department of Planning and Zoning in accordance with the subdivision and land development regulations.
- (c) *Subsequent Submittals*. The panel may require the applicant to provide up to one subsequent submittal for review and advice. Subsequent review shall be completed and a recommendation shall be made within 30 days of the panel's receipt of the subsequent submittal.

- (d) *Phased Review Requested by Applicant.* At the time of plan submittal and depending on the scale and phasing of the proposed development, an applicant may request that the panel review a plan in a series of two or more steps.
- (e) *Appeal.* The decision of the Director of the Department of Planning and Zoning is final and can be appealed in accordance with section 16.105 of the Howard County Code.

(C.B. 24, 2008, § 6)

Sec. 16.1506. - Rules of procedure.

The Design Advisory Panel shall adopt rules of procedure necessary for the discharge of its duties that shall include provisions for notice to the public of the panel's meetings, a procedure for the public to provide written comments to the panel, and a procedure for the distribution of meeting minutes to those who have provided written comments.

(C.B. 24, 2008, § 6)

Sec. 16.1507. - Fees.

The Director of the Department of Planning and Zoning may recommend fees for review by the Design Advisory Panel that shall be adopted by resolution of the County Council.

(C.B. 24, 2008, § 6)

SUBTITLE 16. - ENFORCEMENT OF THE HOWARD COUNTY SUBDIVISION AND LAND DEVELOPMENT REGULATIONS AND THE ZONING REGULATIONS<sup>121</sup>

Footnotes:

--- (12) ---

**State Law reference**— Enforcement of zoning, subdivision and land development regulations, Ann. Code of Md. art. 66B, §§ 1.02, 14.02, 7.06.1.

Sec. 16.1600. - Definitions.

Terms in this subtitle have the meanings indicated:

- (a) *Alleged violator* means a person to whom a citation or notice of violation has been issued for an alleged violation of the subdivision and land development regulations set forth in Subtitle 1 of this title or the Howard County Zoning Regulations.
- (b) *Citation* means a citation for a violation of the subdivision and land development regulations set forth in subtitle 1 of this title or the Howard County Zoning Regulations issued under section 16.1603 of this subtitle.
- (c) *Director* means the Director of the Department of Planning and Zoning or the Director's designee.
- (d) *Notice of violation* means a notice of violation issued under section 16.1602 of this subtitle for a violation of the subdivision and land development regulations set forth in subtitle 1 of this title or the Howard County Zoning Regulations.



(C.B. 3, 2008, § 5)

Sec. 16.1601. - Authority of the County; nature of equitable relief.

- (a) *County Authority.* In addition to any other remedy authorized by law, the County may:
- (1) Enforce the subdivision and land development regulations set forth in this Code, subtitle 1 of title 16, and the Howard County Zoning Regulations in accordance with the procedures set forth in this subtitle;
  - (2) Abate a violation of the subdivision and land development regulations set forth in this Code, subtitle 1 of title 16, or the Howard County Zoning Regulations as provided in this subtitle; and
  - (3) Maintain an action in a court of competent jurisdiction for an injunction; or
  - (4) File a petition for equitable relief in the District Court.
- (b) *Nature of Equitable Relief.* The County may request the court to:
- (1) Enjoin a violation;
  - (2) Require the restoration of a property, to the extent possible, to its condition before the violation, including the removal of the source of the violation; and
  - (3) Order other relief as may be necessary to remedy a violation.

(C.B. 3, 2008, § 5)

Sec. 16.1602. - Notice of violation.

- (a) *Duty to Investigate.* The Director shall investigate an alleged violation to determine whether a violation exists or has occurred.
- (b) *Authority to Issue Notice of Violation.* After investigation, if the Director believes that a violation of the subdivision and land development regulations set forth in subtitle 1 of this title or the Howard County Zoning Regulations exists or has occurred, the Director may issue a notice of violation to the alleged violator.
- (c) *No Requirement to Issue.* The Director is not required to issue a notice of violation:
- (1) For a repeated violation for which a citation under section 16.1603 of this subtitle has been issued; or
  - (2) If a notice of violation is not required by law or regulation.
- (d) *Contents of Notice of Violation.* A notice of violation:
- (1) Shall be in writing;
  - (2) Shall contain the name and address of the alleged violator;
  - (3) Shall contain the time when the violation occurred and the place;
  - (4) Shall include certification by the inspector, attesting to the best of the inspector's knowledge, that a violation exists or has occurred;
  - (5) Shall describe with particularity the nature of the violation, including a reference to the Code or County provision allegedly violated, and the manner of abatement;
  - (6) Shall include a reasonable time to abate the violation or prevent future violations;
  - (7) May include an order to stop work and abate any violations; and

- (8) Shall include a statement that failing to comply with the notice may result in one or all of the following:
  - (i) Civil penalties; and
  - (ii) A lien on the property for civil penalties and costs of compliance if the County corrects the violation.
- (e) *Service of Notice of Violation.* A notice of violation shall be served in one of the following methods:
  - (1) Personal service;
  - (2) Certified or registered mail, restricted delivery, return receipt requested;
  - (3) First class mail to the last known address of the alleged violator; or
  - (4) When service cannot be obtained by one of these methods, a copy of the notice of violation may be posted in a conspicuous place on the property.
- (f) *Time for Correction.* An alleged violator shall make the correction within the time required by the notice of violation.
- (g) *Notice of Violation Not Appealable.* An alleged violator may not appeal a notice of violation issued under this section.

(C.B. 3, 2008, § 5)

Sec. 16.1603. - Citation.

- (a) *Authority to Issue.* The Director may issue a citation to an alleged violator:
  - (1) After the issuance of a notice of violation if the violation continues after the reasonable time stated in the notice of violation has passed; or
  - (2) If law or regulation does not require the issuance of a notice of violation, when the Director determines that a violation of the subdivision and land development regulations set forth in subtitle 1 of this title or the Howard County Zoning Regulations exists or has occurred.
- (b) *Content of Citation.* A citation shall:
  - (1) Be in writing;
  - (2) Include certification by the inspector, attesting to the best of the inspector's knowledge, that a violation exists or has occurred;
  - (3) Contain the name and address of the alleged violator;
  - (4) Describe in particularity the nature of the violation, including a reference to the Code or County provision allegedly violated;
  - (5) Contain the time when the violation occurred and the place;
  - (6) Include any fine to be assessed including a statement that a lien may be placed on the property for civil fines and costs of compliance if the County corrects the violation;
  - (7) Contain the manner, location, and time in which a fine may be paid; and
  - (8) Include a statement that the alleged violator has the opportunity to be heard before the Hearing Examiner.
- (c) *Service of Citation.* A citation shall be served in the same manner as a notice of violation as set forth in subsection 16.1602(e) of this subtitle.
- (d) *Director to Retain Copy.* The Director shall retain a copy of a citation.

(C.B. 3, 2008, § 5)

Sec. 16.1604. - Authority of the Hearing Examiner; Board of Appeals.

- (a) *Authority.* The Hearing Examiner shall consider a citation issued under this subtitle for a violation of the subdivision and land development requirements set forth in subtitle 1 of this title or the Howard County Zoning Regulations.
- (b) *Board of Appeals.* The Hearing Examiner has all of the powers and authority of the Board of Appeals as set forth in:
  - (1) Title 2, subtitle 2 of this Code; and
  - (2) Subtitle 3 of this title, including the authority to issue subpoenas under section 16.303 of this title.

(C.B. 3, 2008, § 5)

Sec. 16.1605. - Hearing.

- (a) *Hearing Scheduled.* The Hearing Examiner shall schedule a hearing on a citation issued under section 16.1603 of this subtitle if:
  - (1) A hearing is requested by the alleged violator or the Department; or
  - (2) The alleged violator fails to pay any fine assessed in the citation.
- (b) *Procedures.* A hearing under this subtitle shall be held in accordance with the procedures set forth in subsection 2.210(a) and section 16.303 of this Code.
- (c) *Notice.* Notice of a hearing shall be served in the same manner as a notice of violation as set forth in subsection 16.1602(e) of this subtitle.
- (d) *Burden of Proof.* In an appeal of a citation issued under section 16.1603 of this subtitle, the burden of proof is on the County to show, by a preponderance of the evidence, that the alleged violator has violated the laws or regulations in question. However, it is the alleged violator's burden to provide all affirmative defenses, including the defense of nonconforming use.

(C.B. 3, 2008, § 5)

Sec. 16.1606. - Inspections.

On request of an alleged violator, the Director shall:

- (a) Make any material or information in the custody of the County available to the alleged violator; and
- (b) Allow the alleged violator to inspect and copy:
  - (1) Any portion of a document that contains a statement or the substance of a statement made by the alleged violator to an inspector that the inspector intends to use at a hearing; and
  - (2) Each written report or statement made by an expert whom the inspector expects to call as a witness at the hearing.

(C.B. 3, 2008, § 5)

Sec. 16.1607. - Final order.

- (a) *Requirement to Issue.* After the conclusion of a hearing, the Hearing Examiner shall issue a written final order.
- (b) *Contents.* A final order may include:
  - (1) A requirement to abate a violation including a requirement to stop work or restore the property to a lawful condition;
  - (2) A requirement to reimburse the County for any fees or costs incurred; and
  - (3) A civil fine in accordance with section 16.1608 of this subtitle.

(C.B. 3, 2008, § 5)

Sec. 16.1608. - Civil fines.

- (a) *Amount of Fine.* A civil fine for a violation of the subdivision and land development regulations set forth in subtitle 1 of this title or the Howard County Zoning Regulations shall be \$250.00 or more per violation and shall not exceed \$500.00 per violation.
- (b) *Basis for Fine.* A fine imposed under this subtitle is within the discretion of the Hearing Examiner and may not be grossly disproportional to the gravity and severity of the offense.
- (c) *Payment of Fine.* All fines:
  - (1) Are due and payable by the date indicated in the citation; and
  - (2) Are payable to the Director of Finance of Howard County.
- (d) *Continuing Violations.* Each day that a violation continues after the issuance of a notice of violation or citation is a separate offense and an inspection that indicates that a violation continues to exist is prima facie proof of a continuing violation.
- (e) *Deferral or Conditions of Fine.* The Hearing Examiner may suspend or defer assessment of a fine or may set conditions for the suspension or deferral of a fine.

(C.B. 3, 2008, § 5)

Sec. 16.1609. - Appeal to the Board of Appeals.

- (a) *Appeal.* A final order issued by the Hearing Examiner may be appealed by the alleged violator to the Board of Appeals in accordance with section 16.304 of this title.
- (b) *Penalties Stayed.* If an alleged violator appeals the final order of the Hearing Examiner, the alleged violator may request the stay of any civil fine imposed by a final order pending the final resolution of an appeal.

(C.B. 3, 2008, § 5)

Sec. 16.1610. - Security.

- (a) *Security.* If a final order of the Hearing Examiner includes a civil fine and the order is appealed to the Board of Appeals, the alleged violator shall post security in the amount of the civil fine to the Director in a form acceptable to the Director.
- (b) *Refund of Security.* After all appeals are exhausted, if a civil fine:
  - (1) Is reduced or vacated:
    - (i) The security shall be reduced proportionately;

- (ii) Any surplus shall be returned to the alleged violator; and
  - (iii) Any balance shall be used to satisfy the civil fine; or
- (2) Is not reduced or vacated, the security shall satisfy the fine assessed and accrue to the benefit of the County.

(C.B. 3, 2008, § 5)

Sec. 16.1611. - Failure to comply with a final order.

- (a) *Failure to pay.* If a final order issued by a Hearing Examiner assesses a civil fine and the alleged violator does not pay the fine within the time required by the order, the Hearing Examiner shall certify to the Director of Finance the amount owned that shall:
- (1) Be a lien on the property on which the violation existed;
  - (2) Accrue penalties at the same rate and in the same manner as the accrual of interest and penalties for unpaid real property taxes; and
  - (3) Be collectible in the same manner as any civil money judgment or debt may be collected.
- (b) *County to Complete Work-Court Order.* If an alleged violator fails to comply with a final order or an order of the Board of Appeals issued under section 2.211 of this Code, the County may seek a court order authorizing entry onto the property to correct the violation in accordance with section 16.1612 of this subtitle.

(C.B. 3, 2008, § 5)

Sec. 16.1612. - County to secure compliance.

- (a) *Notice.* Notice that the County may undertake measures provided for in subsection (b) of this section shall be included in:
- (1) An order of abatement;
  - (2) An injunction or other order for equitable relief issued by the court;
  - (3) A final order issued by the Hearing Examiner; or
  - (4) An order of the Board of Appeals affirming or modifying a finding of the Hearing Examiner.
- (b) *County to Secure Compliance.* Subject to the notice requirements set forth in subsection (a) of this section, if an alleged violator fails to comply with an order to correct a violation within the time provided in the order, the County may seek a court order authorizing entry on to the property to correct the violation and may procure the performance of the work by County employees or by contract to correct the violation.
- (c) *Cost.* The cost and expense of work performed under this section:
- (1) Shall be:
    - (i) Certified to the Director of Finance;
    - (ii) A lien on the property on which the violation exists;
    - (iii) Collectible in the same manner as any civil money judgment or debt may be collected; and
  - (2) Shall accrue penalties at the same rate and in the same manner as the accrual of interest and penalties for unpaid real property taxes.

- (d) *Liability.* Work performed by or for the County under this section does not relieve the alleged violator from responsibility or liability for any work performed by the alleged violator or for a violation committed by the alleged violator.
- (e) *Authority to enter property.* In accordance with a court order, a County employee or contractor authorized by the County may enter on private lands for the purpose of correcting a violation.
- (f) *Prohibited Conduct.* An owner, occupant, or agent may not obstruct or impede any employee or contractor or their agents or employees in the performance of work under this section.

(C.B. 3, 2008, § 5)

#### SUBTITLE 17. - DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS

##### Sec. 16.1700. - Purpose.

The purpose of this subtitle is to protect the public health, safety, and welfare by enacting the authority granted by Section 13.01 of Article 66b of the Annotated Code of Maryland relating to development rights and responsibilities agreements and establishing procedures for such agreements in accordance with the provisions of the State Code.

(C.B. 4, 2010, § 1)

##### Sec. 16.1701. - Definitions.

In this subtitle the following words have the meanings indicated:

- (a) *Agreement* means a development rights and responsibilities agreement.
- (b) *Development rights and responsibilities agreement* means an agreement between a governmental body of a jurisdiction and a person or legal entity having a legal or equitable interest in real property for the purpose of establishing conditions under which development may proceed for a specified time.
- (c) *Development* means development as defined in the Howard County Subdivision and Land Development Regulations.
- (d) *Parties* means the County Executive on behalf of the County and the petitioner.
- (e) *Petitioner* means a person or legal entity having a legal or equitable interest in real property subject to the agreement, or the person's representative or successors in interest.
- (f) *Plan* means a general plan or master plan as defined in the State Code.
- (g) *Planning Board* means the Howard County Planning Board.
- (h) *State Code* means Article 66b Section 13.01 of the Annotated Code of Maryland.
- (i) *Successors in interest* means, including but not limited to, a person's or legal entity's affiliates, all successor owners or assigns, and all purchasers of equity interests or assets.

(C.B. 4, 2010, § 1)

##### Sec. 16.1702. - Applicability.

Any petitioner may petition the County Executive to enter into an agreement. The County Executive shall exercise the authority of the public principal granted by the State Code to negotiate, execute and enforce agreements, except that the County Council shall act as the public principal for purposes of

conducting the public hearing on a proposed agreement and either approving or rejecting an agreement or an amendment to an executed agreement. In the suspension or termination of executed agreements the County Executive and County Council shall act together as the public principal under State Code authority as provided herein.

(C.B. 4, 2010, § 1)

Sec. 16.1703. - Contents of development rights and responsibilities agreements.

(a) An agreement shall include:

- (1) A legal description of the real property subject to the agreement;
- (2) The names of the persons having a legal or equitable interest in the real property subject to the agreement;
- (3) The duration of the agreement;
- (4) The permissible uses of the real property;
- (5) The density or intensity of the use of the real property;
- (6) The maximum height and size of structures to be located on the real property;
- (7) A description of the permits required or already approved for the development of the real property;
- (8) A statement that the proposed development is consistent with the Plan and Development Regulations of Howard County;
- (9) A description of the conditions, terms, restrictions, or other requirements determined by the Governing Body of Howard County to be necessary to ensure the public health, safety, or welfare; and
- (10) To the extent applicable, provisions for the:
  - (i) Dedication of a portion of the real property for public use;
  - (ii) Protection of sensitive areas;
  - (iii) Preservation and restoration of historic structures; and
  - (iv) Construction or financing of public facilities.

(b) An agreement may:

- (1) Fix the time frame and terms for development and construction on the real property; and
- (2) Provide for other matters consistent with this subtitle.

(C.B. 4, 2010, § 1)

Sec. 16.1704. - Procedures.

(a) The petitioner shall petition the County Executive to negotiate and execute an agreement. The petition shall include key elements of the proposed agreement. Within ten days of submitting a petition to the County Executive the petitioner shall provide a copy of the petition to the County Council. The County Executive shall first review the petition to determine whether to accept the petition and initiate the negotiation process.

(b) An agreement may be executed by the County Executive only after:

- (1) A pre-submission community meeting conducted using the same procedures established in subsections 16.128(b)—(g) of the Subdivision and Land Development Regulations, unless within one year of the scheduled meeting a pre-submission community meeting has already been held for the same development project that is all or part of the property that is the subject of the proposed agreement;
  - (2) A public meeting before the Planning Board and an advisory determination by the Planning Board that the proposed agreement is consistent with the plan; and
  - (3) A public hearing before the County Council and approval of a resolution authorizing the execution of the agreement.
- (c) The County Council may approve or reject the proposed agreement or may encourage the parties to submit a revised version.

(C.B. 4, 2010, § 1)

Sec. 16.1705. - Amendments to executed agreements.

Amendments to executed agreements shall be governed by the same procedures as provided in section 16.1704 for the consideration of initial agreements.

(C.B. 4, 2010, § 1)

Sec. 16.1706. - Termination of agreements; suspension; time limitations.

- (a) The parties to an agreement may terminate the agreement by mutual consent, provided the County's consent shall be expressed by a resolution of the County Council recommended by the County Executive.
- (b) If the County Executive recommends and the County Council determines by resolution that suspension or termination is essential to ensure the public health, safety, or welfare, the County may suspend or terminate an agreement after a public hearing.
- (c) An agreement shall be void five years after the day on which the parties execute the agreement unless the duration of the agreement is:
  - (1) Otherwise established in the agreement; or
  - (2) Extended by amendment under section 16.1705 of this subtitle.

(C.B. 4, 2010, § 1)

Sec. 16.1707. - Applicable laws, regulations, and policies.

- (a) Except as provided in subsection (b) of this section, the laws, rules, regulations, and policies governing the use, density, or intensity of the real property subject to the agreement shall be the laws, rules, regulations, and policies in force at the time the parties execute the agreement.
- (b) If the County determines that compliance with laws, rules, regulations, and policies enacted or adopted after the effective date of the agreement is essential to ensure the health, safety, or welfare of residents of all or part of the County, an agreement may not prevent Howard County from requiring a person to comply with those laws, rules, regulations, or policies.

(C.B. 4, 2010, § 1)



Sec. 16.1708. - Recording.

- (a) The petitioner shall record an agreement in the Land Records of Howard County within 20 days after the day on which the parties executed the agreement and an agreement that is not recorded within 20 days is void.
- (b) The parties to the agreement and their successors in interest are bound to the agreement after the agreement is recorded.

(C.B. 4, 2010, § 1)

Sec. 16.1709. - Enforcement by interested parties.

Unless the agreement is terminated under section 16.1706 of this subtitle, the parties to an agreement or their successors in interest may enforce the agreement.

(C.B. 4, 2010, § 1)

TITLE 17 - PUBLIC PROTECTION SERVICES

SUBTITLE 1. - FIRE AND RESCUE SERVICES<sup>111</sup>

Footnotes:

--- (1) ---

**Editor's note**— C.B. 153, 1991 amended subtitle 1 to read as set out in §§ 17.100—17.108. The subtitle was formerly titled "Fire Protection" and consisted of §§ 17.100A—17.114. Sections 17.100A, 17.100B were renumbered §§ 17.100, 17.101; § 17.108(a), (j) were renumbered 17.102; § 17.108(b)—(i) were redesignated § 17.103; and §§ 17.100—17.107, 17.109—17 were repealed and reenacted to read as set out in §§ 17.104—17.108. The following legislation was used in the former subtitle: 1945, ch. 195; 1947, ch. 459, §§ 198B—198H; 1955, ch. 199; 1961, ch. 106, § 1, ch. 825, § 17; 1967, ch. 330; C.B. 28, 1970; C.B. 7, 1972; C.B. 4, 1979; C.B. 5, 1980; C.B. 42, 1980; C.B. 92, 1981; C.B. 32, 1985; C.B. 61, 1985; C.B. 62, 1988; C.B. 117, 1989.

Sec. 17.100. - Department of Fire and Rescue Services.

- (a) *General Provisions.* General provisions applicable to this department are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Head.* The Director of Fire and Rescue Services shall head the Department of Fire and Rescue Services. The Director of Fire and Rescue Services shall also be known as the Fire Chief.
- (c) *Qualifications of Director of Fire and Rescue Services.* The Director of Fire and Rescue Services shall have the minimum qualifications, experience, and education as established by the Classification Plan of Howard County.
- (d) *Duties and Responsibilities:*
  - (1) The Department of Fire and Rescue Services shall be responsible for the administration of the affairs of the County in:
    - (i) Fire suppression and prevention.

- (ii) Fire training.
  - (iii) Arson investigation.
  - (iv) Rescue services.
  - (v) Emergency medical services.
  - (vi) Community risk reduction.
  - (vii) Fire and safety public education.
  - (viii) Plans review for fire safety.
  - (ix) Fire Code development and enforcement.
  - (x) Hazardous materials mitigation.
- (2) *Other duties and responsibilities.* The Department of Fire and Rescue Services shall perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 153, 1991; C.B. 83, 2006, § 1; C.B. 8, 2016, § 1; C.B. 10, 2018, § 1)

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

Sec. 17.101. - Reserved.

**Editor's note**— C.B. 12, 2019, § 1, adopted May 13, 2019, repealed § 17.101, which pertained to Fire and Rescue Services Board and derived from C.B. 153, 1991; C.B. 83, 2006, § 1; C.B. 10, 2018, § 1.

Sec. 17.102. - Fire and rescue tax.

- (a) *Purpose of Tax.* The purpose of the fire and rescue tax is to fund the operating and capital costs to provide fire and emergency services in the County.
- (b) *Definitions.* In this section, the following terms have the meanings indicated:
  - (1) *LOSAP* means the length of service award program for volunteer firefighting/emergency medical service personnel.
  - (2) *Volunteer member benefit costs* mean the costs to the County, other than the payments to the volunteer fire corporations, of volunteer members, including but not limited to, LOSAP payments, life insurance, and workers' compensation insurance.
- (c) *Fire and Rescue Tax Authorized.* There is a fire and rescue tax. All assessable property in the County is subject to the fire and rescue tax.
- (d) *Rate:*
  - (1) The tax shall be sufficient, together with other available revenues specifically dedicated to fire and rescue activities to fund the County's total costs for fire and rescue services. A portion of those costs are based on the following:
    - (i) Payments to the volunteer fire corporations; and
    - (ii) Volunteer member benefit costs.
  - (2) When the County Council adopts the annual budget and appropriation ordinance, it shall levy the fire tax on all assessable property subject to the fire tax and set the rate for real property (except operating real property defined in Section 8-109 of the Tax-Property Article of the Annotated Code of Maryland) subject to the fire tax.

- (e) The taxes authorized under the provisions of subsection (a) shall be collected in the same manner as other County taxes are collected.
- (f) If a property owner fails to pay the fire tax when due and payable, the unpaid tax:
  - (1) Shall be a lien on all real property belonging to the person required to make payment;
  - (2) Shall be collectible in the same manner as any civil money judgment or debt maybe collected; and
  - (3) Shall accrue penalties at the same rate and in the same manner as the accrual of interest and penalties for unpaid real property taxes.

(C.B. 11, 1993; C.B. 23, 1998; C.B. 18, 1999; C.B. 17, 2001; C.B. 9, 2012, § 1)

**Editor's note**— Prior to its repeal and reenacting by C.B. 11, 1993, § 17.102 gave the boundaries of the County fire districts and was derived from C.B. 153, 1991. See § 17.103(i).

**Note**— Section 2 of C.B. 18, 1999, declared the bill effective July 3, 1999.

Sec. 17.103. - Payments to volunteer fire corporations.

- (a) The County recognizes six volunteer fire corporations in the County, as follows:
  - (1) The Elkridge Volunteer Fire Department, Inc.
  - (2) The Ellicott City Volunteer Firemen's Association, Inc.
  - (3) The West Friendship Volunteer Fire Department, Inc.
  - (4) The Lisbon Volunteer Fire Company, Inc.
  - (5) The Fifth District Volunteer Fire Department, Inc.
  - (6) The Savage Volunteer Fire Company, Inc.
- (b) The County Executive of Howard County is authorized and empowered to grant, annually to the volunteer fire corporations in Howard County, support for operating and maintenance expenses.
- (c) The volunteer fire corporations shall file with the County Executive (in the form and at the time prescribed by the Budget Officer) a budget for the ensuing fiscal year detailing their anticipated revenues, operating expenses and capital expenditures from fire taxes and transfer tax for fire suppression, prevention and related functions, and emergency medical services, for which they are responsible. The budget shall be accompanied by a current fiscal financial report.
- (d) The County Executive shall determine what amounts are required to provide fire suppression, prevention and related functions, and emergency medical services and to fund the additional requirements of the volunteer fire corporations and shall include those amounts in his budget submitted to the County Council.
- (e) Grants to the volunteer fire corporations shall be made as the County Executive deems proper.
- (f) The County Council is authorized to conduct periodic audits of any or all of the volunteer fire corporations of Howard County, and to employ or contract any certified public accountant or firm to conduct the audits. The County Executive is authorized to establish rules and procedures regulating the method(s) of keeping books of account in accordance with proper accounting procedures. The County Executive is authorized to require the bonding of any member or employee of a volunteer fire corporation entrusted with goods or moneys or both.
- (g) The County recognizes the Howard County Volunteer Firefighter's Association, Inc., as the organization empowered to represent any or all of the volunteer fire corporations, listed in subsection (a) of this section. The Howard County Volunteer Firefighter's Association, Inc., may enter into

legally binding agreements on behalf of any or all of the volunteer fire corporations listed in subsection (a) of this section, as so designated by any or all of these volunteer fire corporations. The County, at times, may enter into Memorandums of Understanding and agreements directly with a volunteer fire corporation.

- (h) *Length of service award program for volunteer firefighting/EMS personnel.*
- (1) *Definitions.* Words and phrases used in this section shall have their usual meaning, except as specifically defined in this subsection.
    - (i) *Creditable points* means points which may be credited pursuant to paragraph (9), "Active Service Standards," of this subsection.
    - (ii) *EMS* means emergency medical services.
    - (iii) *Length of service awards program (LOSAP)* is a program defined by the internal revenue service that allows the County to award monthly payments after a certain number of years of certified active service to volunteers.
    - (iv) *Year of certified active service* means a period from January 1 to December 31 during which 50 creditable points have been accumulated according to the criteria set forth in this subsection and listed by the Director of Fire and Rescue Services as further set forth in this subsection.
    - (v) *Volunteer/volunteers* means firefighting/EMS personnel unpaid for their training or work, who donate their time and services to a volunteer fire corporation listed in subsection (A) of this section or to the Howard County Department of Fire and Rescue Services.
  - (2) *Establishment of length of service awards program (LOSAP)* means in recognition of their extensive volunteer service to the citizens of Howard County, the Howard County Government shall make a length of service award program (LOSAP) available to volunteers.
  - (3) *Eligibility* means in order to qualify for a LOSAP payment a volunteer shall have:
    - (i) Attained the age of 50;
    - (ii) Completed a total of 25 years of certified active service in Howard County; and
    - (iii) Submitted a written request for the LOSAP payment to the Director of Fire and Rescue Services or the director's designee.
  - (4) *Payments:*
    - (i) *Base payment.* Effective January 1, 2015, the LOSAP payment provided to a volunteer who has met the conditions for eligibility as specified in paragraph (3) of this subsection shall be equal to one percent of the current annual starting salary of a trainee in the Department of Fire and Rescue Services per month for life, subject to the limitations set forth in paragraph (5) of this subsection.
    - (ii) The LOSAP payments shall begin the month following verification of eligibility.
    - (iii) For volunteers who continue to meet minimal operational requirements, in addition to the base payment provided for in subparagraph (i) of this paragraph, the sum of \$10.00 per month shall be added for each full year of certified active service over 25 years.
    - (iv) Increases in the base payment attributable to increases in the starting salary of a trainee in the Department of Fire and Rescue Services shall apply to all present and future recipients.
  - (5) *Limitations on base payments.*
    - (i) Except as provided in subparagraph (v) of this paragraph, the lump sum equivalent of the base payment shall not exceed the amount accumulated through an accrual of \$3,000.00 per year plus deemed earnings credited at five percent per annum;

- (ii) For purposes of sub-paragraph (i) of this paragraph, equivalency shall be determined based on the RP-2000 Combined Healthy Mortality Table (75 percent of the male annuity factor and 25 percent of the female annuity factor) and an interest rate of five percent per annum, compounded annually.
  - (iii) If an increase in the starting salary of a trainee in the Department of Fire and Rescue Services causes the lump sum equivalent of the base payment for a test volunteer to exceed the limitation described in subparagraph (i) of this paragraph, the increase in the starting salary will not be recognized for purposes of determining the base payment of any volunteer.
  - (iv) For purposes of subparagraph (iii), a test volunteer is a volunteer whose certified active service began at age 25, who earned 25 consecutive years of certified active service between ages 25 and 50, and who begins receiving the base payment at age 50.
  - (v) If section 457(e)(11)(B)(ii) of the Internal Revenue Code is amended in a manner that increases the limitation on accruals for length of service award programs, the new limitation shall be substituted for the phrase "an accrual of \$3,000 per year" in subparagraph (i) of this paragraph, without the requirement of a specific amendment.
- (6) *Benefits.* If a qualified volunteer dies after January 1, 2015:
- (i) A burial benefit of \$5,000.00 shall be paid to:
    - A. The beneficiary or beneficiaries designated by the volunteer to receive such benefit and such designation may be changed from time to time by the volunteer by filing a new designation; or
    - B. If there is no designated beneficiary, the burial benefit shall be provided in accordance with section 1.448a(b) of the Howard County Code.
  - (ii) A survivor benefit equivalent to the total of six months LOSAP payment shall be paid to:
    - A. The beneficiary or beneficiaries designated by the volunteer to receive such benefit and such designation may be changed from time to time by the volunteer by filing a new designation; or
    - B. If there is no designated beneficiary, the survivor benefit shall be provided in accordance with section 1.448a(b) of the Howard County Code.
- (7) *Funding* means LOSAP payments shall be paid from the fire and rescue tax fund.
- (8) *Administration:*
- (i) The President and Chief of each Volunteer Fire Corporation and the designee for volunteers of the Howard County Department of Fire and Rescue Services shall submit to the Director of Fire and Rescue Services or the Director's designee, each month, a list of those volunteers who have qualified for points during the previous month, a summary of the points earned in each category during the previous month and the total points earned in each category year to date. The list shall be certified as an accurate report of the points earned by each volunteer on the list by the President and Chief of the Volunteer Fire Corporation and by the designee for volunteers of the Howard County Department of Fire and Rescue Services.
  - (ii) From the information furnished by the Volunteer Fire Corporations insofar as their volunteers are concerned, and from accumulated information insofar as volunteers of the Howard County Department of Fire and Rescue Services are concerned, the Director of Fire and Rescue Services shall provide to the President and Chief of each volunteer corporation a yearly report indicating the number of points credited to each individual during the previous year no later than January 31 of each year.
  - (iii) A volunteer may appeal the number of points credited to him/her by filing a written appeal with the Director of Fire and Rescue Services by March 31. The appeal shall contain

sufficient detail to permit the Director of Fire and Rescue Services to rule on the matter. The Director of Fire and Rescue Services shall issue a written decision within 60 days of receiving the appeal. A volunteer may appeal the decision of the Director of Fire and Rescue Services to the Board of Appeals in accordance with its rules and procedures.

(9) *Active service standards:*

- (i) To receive credit for a year of active service, a volunteer must have accumulated at least 50 creditable points during the year.
- (ii) Points shall be credited for the period from January 1 through December 31 and shall not be transferrable from one year to the next.
- (iii) Volunteers who also serve as career or contingent firefighting/EMS personnel of the Howard County Department of Fire and Rescue Services shall not be credited with points for activities performed during County-assigned work periods.
- (iv) Points must be earned from a minimum of two of the categories contained in subparagraph (v) of this paragraph.
- (v) Points shall be credited as follows:
  - a. *Training course.* Twenty-five points maximum per year:
    - 1. Five points per course for courses under 20 hours' duration, including one-day courses, seminars, cardio-pulmonary resuscitation and similar training courses.
    - 2. Ten points per course for courses of 20 to 45 hours' duration, including regional fire schools and similar courses.
    - 3. Fifteen points per course for courses of over 45 hours' duration, including University of Maryland fire-related courses, emergency medical care courses, fire science courses of any accredited college or university and similar courses.
  - b. *Drills.* Twenty points maximum per year. One point for each minimum two-hour drill.
  - c. *Sleep-in or standby.* Thirty points maximum per year.
    - 1. One point for each full night sleep-in.
    - 2. One point for each standby which is an on-duty activity which consumes at least four hours and does not fall into any other category.
  - d. *Elected or appointed position.* Fifty points maximum per year. Points will be awarded on a monthly basis for the time served. Points may not be concurrently credited for this category and under subparagraph e. below for attending meetings within Howard County. Points will be awarded in only one of the categories below. However, individuals serving in more than one category may be awarded 12 additional points (one point per month) for each other Office/Committee position held.

Office	Maximum Annual	Points per Month
Chief, President, Treasurer, Secretary	50	4.16
All other elected corporate, County or State association offices	25	2.08
Committees	25	2.08

Uniformed service	50	4.16
-------------------	----	------

- e. *Attendance at meetings.* Twenty points maximum per year. One point per meeting.
- f. *Responses.* Forty points maximum per year. One-half point for each response, regardless of its nature.
- g. *Uniformed service.* A maximum of four years creditable service may be acquired for military service as provided in this item. Up to 50 points per year shall be credited if volunteer service is interrupted by uniformed service, provided the volunteer:
  - I. Is an active member in good standing;
  - II. Has at least one year of prior volunteer service;
  - III. Provides official orders or proof of service; and
  - IV. Is discharged or released from uniformed service under honorable conditions.
- h. *Permanent disability.* Fifty points per year shall be credited to any volunteer who is found to be permanently and totally disabled by an administrative body or court of competent jurisdiction authorized to make such a determination in the line of duty as a volunteer.

(C.B. 153, 1991; C.B. 11, 1993; C.B. 12, 1995; C.B. 21, 1995; C.B. 18, 1999; C.B. 32, 2000; C.B. 61, § 3; C.B. 37, 2008, § 1; C.B. 9-2012, § 1; C.B. 39, 2014, § 1; C.B. 10, 2018, § 1; C.B. 12, 2019, § 1)

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

**Editor's note**— Section 2 of Council Bill No. 39-2014 states that LOSAP payments shall be computed through December 31, 2014 in accordance with § 17.103 as it was in effect on July 7, 2014.

Sec. 17.104. - Howard County Fire Prevention Code.<sup>[2]</sup>

- (a) *Adoption of National Codes:* Except as provided in subsection (b) of this section, the NFPA 1, Fire Code 2015 edition (published by the National Fire Protection Association), is adopted as the Howard County Fire Prevention Code as if the National Code is set out in full in this subtitle.
- (b) The county may adopt regulations to administer the provisions of this subtitle.
- (c) *Local amendments to the Howard County Fire Prevention Code :* The following amendments modify certain provisions of the adopted Code:
  - (1) *General:*
    - (i) The term *Code Official* , *Enforcement Officer* , or *Fire Official* shall mean the Director, Chief or AHJ of the Department of Fire and Rescue Services or the Chief's authorized designee.
    - (ii) Wherever the name of the municipality is to be indicated, insert "Howard County, Maryland".

- (iii) Wherever the term "this Code" is used, it refers to this subtitle, which shall be known as the Howard County Fire Prevention Code.
  - (iv) The term *Code Enforcement Agency* shall mean the Department of Fire and Rescue Services.
- (2) *Subsection 1.1.1(2).*  
Delete this subsection and substitute the following:  
  
Investigation of fires, explosions, potentially explosive devices, hazardous material incidents, and other related emergency incidents. These duties may be performed in conjunction with other public agencies.
- (3) *Subsection 1.1.1(3).*  
Delete this subsection and substitute the following:  
  
In conjunction with the department of planning and zoning, review of site development plans for adequate access, water supply, and other life safety issues. In conjunction with the Department of Inspections, Licenses and Permits, the review of design and construction drawings, plans, and specifications for life safety systems, fire protection systems, and other fire and life safety issues.
- (4) *Subsection 1.1.1(5).*  
Delete this subsection and substitute the following:  
  
The inspection of existing occupancies, structures, and areas. In conjunction with the Department of Inspections, Licenses, and Permits, the inspection of the construction and design of new buildings and alterations and additions to existing buildings.
- (5) *Subsection 1.1.1(6).*  
Delete this subsection and substitute the following:  
  
The maintenance and testing of existing fire protection systems and equipment and, in conjunction with the Department of Inspections, Licenses and Permits, the design, alteration, modification, and installation of new and existing fire protection systems and equipment.
- (6) *Subsection 1.1.1(16).*  
Delete this subsection and substitute the following:  
  
In conjunction with the Department of Inspections, Licenses and Permits, the arrangement, design, construction and alteration of new and existing means of egress.
- (7) *Subsection 1.3.3.1.*  
Delete this subsection and substitute the following:  
  
When this Code and any other referenced codes or code sections have conflicting requirements, the most restrictive requirement shall apply. The AHJ may accept alternative features or requirements that provide the same level of fire safety as the requirements of this Code. The AHJ's acceptance of alternatives shall be in writing.
- (8) *Subsection 1.3.3.1.1.*  
Add new subsection 1.3.3.1.1 after subsection 1.3.3.1 as follows:



If sections of this Code are less restrictive than the latest adopted version of the Maryland State Fire Prevention Code, the applicable provisions of the Maryland State Fire Prevention Code shall apply.

(9) *Section 1.4.2.*

Delete this section and substitute the following:

The AHJ may accept alternate methods of satisfying intent of this Code if the material, method, or work is at least the equivalent of that required by this Code in quality, effectiveness, durability, and safety and meets or exceeds the intent of this Code.

(10) *Section 1.7.1.*

Delete this section and substitute the following:

Administration. The provisions of this Code and sections 17.105, 17.106, 17.107, and 17.111 of the Howard County Code shall apply without restriction, unless specifically exempted.

(11) *Section 1.7.5.*

Insert the following at the end of this section:

In addition to the enforcement authority of the AHJ and the enforcement authority granted to the Department of Police by section 1.7.4 and section 65.1.3 of this Code, the Director of the Department of Inspections, Licenses and Permits, or the Director's authorized designee, may enforce the provisions of this Code when:

- (i) Reviewing plans for or inspecting new construction;
- (ii) Requested to conduct specific inspections authorized by the AHJ; or
- (iii) Inspecting commercial or residential buildings, structures, sites, or areas.

(12) *Subsection 1.7.7.1.*

Delete this subsection and substitute the following:

The AHJ shall designate persons authorized to inspect all buildings, structures, sites, or areas, including single-family dwellings where required by this Code, for the purposes of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with firefighting operations, endanger life or any violations of the provisions or intent of this Code or any other ordinance affecting fire safety.

(13) *Subsection 1.7.7.1.1.*

Add new subsection 1.7.7.1.1 after subsection 1.7.7.1 as follows:

Personnel performing inspections may document inspections through any appropriate means including the use of photography and video recording.

(14) *Subsection 1.7.7.7.*

Add new subsection 1.7.7.7 after subsection 1.7.7.6 as follows:

A person who refuses to allow an inspection of a building, structure, site, or area when the inspection is authorized by this Code is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a Fire Official may enforce this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subsection is a Class A offense. Each day that a violation continues is a separate offense.

(15) *Subsection 1.7.9.1.*

Add new subsection 1.7.9.1 after section 1.7.9 as follows:

A person interfering or causing a condition that would interfere with the enforcement of this Code is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a Fire Official may enforce this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subsection is a Class A offense. Each day that a violation continues is a separate offense.

(16) *Subsection 1.7.10.1.*

Add new subsection 1.7.10.1 after section 1.7.10 as follows:

A person impersonating a Fire Official is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a Fire Official may enforce this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subsection is a Class A offense. Each day that a violation continues is a separate offense.

(17) *Subsection 1.7.11.1.*

Delete this subsection and substitute the following:

Authority. The AHJ may investigate the origin, cause, and circumstances of any fire, explosion, potentially explosive device, hazardous materials incident, or other emergency situation. These duties may be performed in conjunction with other public agencies.

(18) *Subsection 1.7.11.1.1.*

Add new subsection 1.7.11.1.1 after subsection 1.7.11.1 as follows:

To the extent permitted by law, the County may pursue legal action to seek reimbursement of costs for emergency services provided in response to an arson from the person or persons who commit the arson.

(19) *Subsection 1.7.11.2.*

Delete this subsection and substitute the following:

Evidence. The AHJ may take custody of all physical evidence relating to the cause of a fire, explosion, hazardous materials incident, or other emergency situation.

(20) *Subsection 1.7.11.5.*

Add new subsection 1.7.11.5 after subsection 1.7.11.4 as follows:

A person interfering or causing a condition that would interfere with an investigation is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a Fire Official may enforce this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subsection is a Class A offense. Each day that a violation continues is a separate offense.

(21) *Subsection 1.7.13.1.*

Delete this subsection and substitute the following:

When requested by the Department of Inspections, Licenses, and Permits, the Department of Fire and Rescue Services shall assist the Department of Inspections, Licenses and Permits with the inspection of new construction, alterations, or the installation of processes or equipment covered by this Code.

(22) *Subsections 1.7.13.2 through 1.7.13.4.*

Delete these subsections.

(23) *Subsection 1.7.15.1.*

Add new subsection 1.7.15.1 after section 1.7.15.

Work subject to a stop work order by the AHJ shall immediately stop. The AHJ may rescind a stop work order after the situation has been corrected and inspected by the AHJ or an inspection by the Department of Inspections, Licenses and Permits deems the building is safe.

(24) *Subsection 1.7.15(4).*

Add new subsection 1.7.15(4) after subsection 1.7.15(3) as follows:

The AHJ may order the evacuation of a building or structure if the fire detection or suppression system is not in working order, the building or structure is overcrowded, or there is a violation of this Code that creates a hazardous condition, emergency, or imminent danger.

(25) *Subsection 1.7.15(5).*

Add new subsection 1.7.15(5) after subsection 1.7.15(4) as follows:

In addition to any other enforcement action, a person failing to obey an order to stop work, abate a condition, cease a use, or immediately evacuate a building, structure, site, or area is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a fire official may enforce this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subsection is a Class A offense. Each day that a violation continues is a separate offense.

(26) *Subsection 1.7.17.4.*

Add new subsection 1.7.17.4 after subsection 1.7.17.3 as follows:

Individuals designated as standby fire personnel (fire watch) must:

- (i) Have a functional knowledge of the building layout and the building's systems;
- (ii) Be able to operate valves, climb stairs, dial phones, and speak calmly and clearly in a stressful situation;
- (iii) Manage people in an emergency; and
- (iv) Operate a fire extinguisher.

(27) *Subsection 1.7.17.4.1.*

Add new subsection 1.7.17.4.1 after subsection 1.7.17.4 as follows:

Standby fire personnel shall walk the entire building at least one time each hour in order to check for smoke or fire and to ensure that all means of egress are accessible and unobstructed.

(28) *Subsection 1.7.17.4.2.*

Add new subsection 1.7.17.4.2 after subsection 1.7.17.4.1 as follows:

Standby fire personnel may also be required to operate a fire extinguisher. However, the primary responsibility of standby fire personnel is the evacuation and safety of the building's occupants.

(29) *Subsection 1.7.17.4.3.*

Add new subsection 1.7.17.4.3 after subsection 1.7.17.4.2 as follows:

Standby fire personnel shall not have any other duties while they are serving as standby fire personnel.

(30) *Subsection 1.7.17.4.4.*

Add new subsection 1.7.17.4.4 after subsection 1.7.17.4.3 as follows:

The standby fire personnel shall have the ability to communicate with the Howard County Police Department, Division of Communications (911 Center).

(31) *Subsection 1.7.17.4.5.*

Add new subsection 1.7.17.4.5 after subsection 1.7.17.4.3 as follows:

Standby fire personnel shall maintain a log every hour and shall note the area checked, the time it was checked and by whom. The log shall be maintained on the premises.

(32) *Subsection 1.7.17.4.6.*

Add new subsection 1.7.17.4.6 after subsection 1.7.17.4.5 as follows:

The property owner shall designate the lesser of either (1) one person per 100,000 sq. ft. of building space; or (2) one person for every five floors. The AHJ may require additional standby fire personnel. When multiple personnel are required, they shall have the ability to communicate with each other.

(33) *Subsection 1.7.17.4.7.*

Add new subsection 1.7.17.4.7 after subsection 1.7.17.4.6 as follows:

In the event of an emergency, the standby fire personnel shall:

1. Evacuate the occupants;
2. Call 911 and report the emergency and provide an exact building address and location of smoke or fire;
3. Notify other standby fire personnel;
4. Activate the impaired fire alarm and/or sprinkler system if possible; and
5. Direct responding fire personnel to the smoke/fire area.

(34) *Subsection 1.7.17.5.*

Add new subsection 1.7.17.5 after subsection 1.7.17.4 as follows:

A person failing to provide approved standby fire personnel (fire watch) or failing to carry out the duties of standby fire personnel is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a fire official may enforce this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this section is a Class A offense. Each day that a violation continues is a separate offense.

(35) *Subsection 1.8.1.1.*

Add new subsection 1.8.1.1 after subsection 1.8.1 as follows:

The incident commander has additional powers set forth in section 17.105 of the Howard County Code.

(36) *Section 1.9.3.*

Delete this section and substitute the following:

Any suit brought against the AHJ or any other individual who the AHJ has delegated the authority to enforce this Code because of an act or omission performed in the enforcement of this Code or other pertinent law implemented through the enforcement of this Code or enforced by the AHJ shall be defended by Howard County in accordance with Maryland law and title 23, subtitle 1 of the Howard County Code.

(37) *Section 1.10.*

Delete this section in its entirety.

(38) *Section 1.11.1.*

At the end of this section add "and the Maryland Public Information Act."

(39) *Section 1.11.2.*

At the end of this section add "and the Howard County Records Retention Policy."

(40) *Subsection 1.12.1.1.*

Add subsection 1.12.1.1 after subsection 1.12.1 as follows:

The AHJ may adopt regulations governing the issuance of any permit, certificate, or approval required by law. A permit required by a state or other County agency shall be obtained and a permit required by the Howard County Department of Inspections, Licenses and Permits shall be obtained for the construction, renovation, or alteration of any building, structure, area, or fire protection equipment.

(40A) *Section 1.12.8 .*

Delete this subsection and substitute the following:

A permit for a hazardous material is required in accordance with Table 1.12.8(a) through Table 1.12.8(d), and for a hazardous material identified in Section 60.1.1.1 of this Code.

(41) *Section 1.13.2.*

Delete "mandatory" and replace "shall" with "may".

(42) *Section 1.14.1.*

Delete this section and substitute the following:

When requested by the Department of Inspections, Licenses and Permits, the AHJ shall assist in the review of new construction, modifications, alterations, and the installation of equipment.

(43) *Section 1.14.2 through section 1.14.5.*

Delete these sections.

(44) *Subsection 1.15.1.1.*

Add new subsection 1.15.1.1 after subsection 1.15.1 as follows:

The AHJ may require review by an independent third party with expertise in the matter to be reviewed, at the person's expense, when:

- (i) A person requests an equivalent method, alternative, or modification to a Code requirement; or
- (ii) There is insufficient evidence of compliance with the Code on technical matters, uses, operations, or equipment.

(45) *Section 1.16.1.*

Delete this section and substitute the following:

Nothing in this section shall prevent enforcement of this Code using any other means provided by law, including equitable and criminal enforcement. Except in the case of a Class A offense and as set forth in subsection 1.16.1.1 of this Code, if the AHJ determines that a violation of this Code exists, the AHJ shall issue a written notice of violation to the property owner. Any violation that has not been abated within the time specified by the AHJ shall be a Class A violation for failure to abate, pursuant to subsection 17.104(b)(25) of this section.

(46) *Subsection 1.16.1.1.*

Add new subsection 1.16.1.1 after subsection 1.16.1 as follows:

Where a notice of violation is required, it may be served in one of the following methods:

- (1) Personal service;
- (2) Certified or registered mail, restricted delivery, return receipt requested;
- (3) First class mail to the last known address of the alleged violator; or
- (4) When service cannot be obtained by one of these methods, a copy of the notice of violation may be posted in a conspicuous place on the property.

(47) *Subsection 1.16.1.2.*

Add new subsection 1.16.1.2 after subsection 1.16.1.1 as follows:

The fire official may issue a citation authorized by title 24 of the Howard County Code without issuing a notice of violation first for any Class A offense. Without limitation, a violation of any of the following provisions of this Code is a Class A offense:

- (i) Section 1.7.7, Inspections;
- (ii) Section 1.7.9, Interference with enforcement;
- (iii) Section 1.7.10, Impersonation;
- (iv) Section 1.7.11, Investigation;
- (v) Section 1.7.15, Stop work or evacuation;
- (vi) Section 1.7.16, Imminent danger;
- (vii) Section 1.7.17, Standby fire personnel;
- (viii) Section 4.4.3, Means of egress;
- (ix) Section 10.2.7, Reckless endangerment;
- (x) Sections 13.1.2, 13.1.7, and 13.1.13, Regarding fire protection systems;
- (xi) Section 14.4, Means of egress reliability;

- (xii) Section 20.1.5.8.3, Regarding exceeding occupancy limits;
- (xiii) Section 60.1, Hazmat permitting; or
- (xiv) Chapter 65, Regarding explosives, fireworks, flame effects before audience and model rocketry.

(48) *Subsection 1.16.4.2.*

Delete this subsection.

(49) *Section 1.16.6.*

Add new section 1.16.6 after section 1.16.5 as follows:

When there is any violation of this subtitle, this Code, or any action taken under this Code, the fire official may institute appropriate action to prevent, enjoin, abate, or remove the violation. Alternatively and in addition to and concurrent with all other remedies provided by law, the fire official may enforce this subtitle and this Code by the use of civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this Code is a Class C offense except as otherwise specified in this Code.

(50) *Subsection 1.16.6.1.*

Add new subsection 1.16.6.1 after section 1.16.6 as follows:

If a person refuses or fails to comply with any provision of this subtitle, or to correct a violation within the time specified in the notice of violation, or an imminent danger exists, the Fire Official may petition the court for an order permitting entry upon the property to abate the violation at the owner's expense or to take custody of unlawful hazardous materials.

(51) *Section 1.17.*

Add new section 1.17 after section 1.16 as follows:

Authority to adopt fees. The County Council may adopt by resolution a schedule of fees for services performed by the AHJ including, without limitation, issuing permits and performing inspections, and for other services performed pursuant to this Code.

(52) *Section 2.1.*

Delete this section and substitute the following:

General. The documents listed in this chapter are requirements of this Code as if they were fully set forth in this Code, except for the:

- (i) NFPA 5000, Building Construction and Safety Code 2015 Edition;
- (ii) NFPA 54, National Fuel Gas Code, 2015 Edition; and
- (iii) NFPA 70, National Electric Code, 2014 Edition.

(53) *Section 2.1.1.*

Add new section 2.1.1 after section 2.1 as follows:

Except for specific text extracted from NFPA 1, a reference in this Code to "NFPA 5000, Building Construction and Safety Code 2015 Edition" means the Howard County Building Code adopted in title 3, subtitle 1 of the Howard County Code.

(54) *Section 2.1.2.*

Add new section 2.1.2 after section 2.1.1 as follows:

Except for specific text extracted from NFPA 1, a reference in this Code to "NFPA 54, National Fuel Gas Code, 2015 Edition" means the Howard County Plumbing and Gasfitting Code adopted in title 3, subtitle 3 of the Howard County Code.

(55) *Section 2.1.3.*

Add new section 2.1.3 after section 2.1.2 as follows:

Except for specific text extracted from NFPA 1, a reference in this Code to "NFPA 70, National Electrical Code, 2014 Edition" means the Howard County Electrical Code adopted in title 3, subtitle 2 of the Howard County Code.

(56) *Section 2.2.*

Add the referenced publication NFPA 1124 Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 Edition.

(57) *Section 3.2.2.*

Delete this section and substitute the following:

Authority having jurisdiction (AHJ). For the purposes of this Code the authority having jurisdiction is the Howard County Department of Fire and Rescue Services.

(58) *Section 3.2.8.1.*

Add new subsection 3.2.8.1 after subsection 3.2.8. as follows:

May. May is permissive and discretionary. When this Code states "the AHJ may require" indicates a requirement, provision, or practice that can be mandated by the AHJ depending upon the situation or circumstances.

(59) *Section 3.3.2.*

At the end of this section, add the following:

The AHJ shall specify the type of box or device.

(60) *Subsection 3.3.20.A.*

Add new subsection 3.3.20.A. after section 3.3.20 as follows:

Barbecue grill. Equipment used for outdoor cooking that uses electricity, charcoal, liquid propane gas, natural gas, or other fuel for its heat source.

(61) *Section 3.3.34.A.*

Add new section 3.3.34.A. after section 3.3.34 as follows:

Bulkhead door. A type of door assembly covering an opening in the ground that provides direct access to a basement, the floor of which is not more than eight feet below ground level. The door consists of either a single rigid leaf or two overlapping rigid leaves, or covers that need to be pushed or lifted upward in order to be opened. After opening the door, a person can walk up a series of steps to escape to the outside. A bulkhead door is also called a hurricane door.

(62) *Subsection 3.3.53.2.*

Delete "2.2 and substitute "2.1.3".

(63) *Subsection 3.3.53.3.*

Delete this subsection and substitute the following:



A reference in this Code to the "Mechanical Code" means the International Mechanical Code adopted pursuant to title 3, subtitle 1 of the Howard County Code.

(64) *Subsection 3.3.53.4.*

Delete "2.2" and substitute "2.1.2".

(65) *Subsection 3.3.68.A.*

Add subsection 3.3.68.A. after section 3.3.68

Consumer fireworks retail sales area. The portion of a consumer fireworks retail sales facility or store, including the immediately adjacent aisles, where consumer fireworks are located for the purpose or retail display and sale to the public.

(66) *Section 3.3.117.*

At the end of this section add "a use-in-common driveway, access place road, or fire department apparatus access road serving more than one single family dwelling may be considered a fire department access road or fire lane."

(67) *Section 3.3.122.*

Delete this section and substitute the following:

Fire lane. A fire department access road, curb, or roadway that is designated by the AHJ as required for access by emergency vehicles and that is marked with approved signs or other notices in accordance with this Code.

(68) *Subsection 3.3.125.A.*

Add new subsection 3.3.125.A. after subsection 3.3.125:

Fireworks. Any composition or device for the purpose of producing a visible or audible effect for entertainment purposes by combustion, deflagration or detonation, and that meets the definition of consumer fireworks or display fireworks as set forth in NFPA 1124 Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 Edition, and as referenced in Public Safety Article, § 10-101, annotated Code of Maryland and are subject to the requirements of chapter 65 of this Code and the Maryland State Fire Prevention Code.

(69) *Section 3.3.154.*

Delete this section and substitute the following:

Imminent danger. A condition or practice in an occupancy, structure, site, or area that poses a danger that could reasonably be expected to cause death, physical injury, or damage to property.

(70) *Section 3.3.164.A.*

Add new section 3.3.165.A. after section 3.3.165 as follows:

Lock-up. Except in a detention or correctional occupancy, an area where occupants are restrained and mostly incapable of self-preservation because of security measures that are not under the occupant's control.

(71) *Subsection 3.3.183.6.*

Delete this subsection.

(72) *Subsection 3.3.183.7.*

Delete "four or more".

(73) *Subsection 3.3.183.7.A.*

Add new subsection 3.3.183.7.A. after subsection 3.3.183 as follows:

Family day-care home. A day-care home, generally within a dwelling unit, in which eight or fewer clients receive care, maintenance, and supervision by an individual other than a relative or legal guardian for less than 24 hours per day.

(74) *Subsection 3.3.183.7.B.*

Add new subsection 3.3.183.7.B. after subsection 3.3.183.7.A. as follows:

Group day-care home. A day-care home, generally within a dwelling unit, in which not less than nine, but not more than 12, clients receive care, maintenance, and supervision by an individual other than a relative or legal guardian for less than 24 hours per day.

(75) *Subsection 3.3.183.7.C.*

Add new subsection 3.3.183.7.C. after subsection 3.3.183.7.B. as follows:

Day care center. A day care occupancy in which more than 12 clients receive care, maintenance, and supervision by an individual other than a relative or legal guardian, for less than 24 hours per day.

(76) *Subsection 3.3.183.16.*

Delete this subsection and substitute the following:

Lodging or rooming house. A building or portion of a building that:

- (i) Does not qualify as a one- or two-family dwelling;
- (ii) Provides sleeping accommodations for six or more people but not more than 16 people on a transient or permanent basis;
- (iii) Does not provide personal care services;
- (iv) May or may not provide meals; and
- (v) Does not have separate cooking facilities for individual occupants.

(77) *Subsection 3.3.183.22.*

Delete "not more than three" and substitute not more than five".

(78) *Subsection 3.3.183.25.*

Delete this subsection and substitute the following:

Residential board and care occupancy. A building or portion of a building that is used for lodging and boarding of six or more residents, not related by blood or marriage to the owner or operator, for the purpose of providing personal care services.

(79) *Subsection 3.3.198.A.*

Add new subsection 3.3.198.A. after section 3.3.199 as follows:

Person:

- (i) An individual, corporation, firm, partnership, association, organization, or any other group acting as a unit; or

- (ii) An executor, administrator, trustee, receiver, or other representative appointed according to law.

(80) *Section 3.3.217.*

Delete this section and substitute the following:

Recreational fire. The outside open burning of any material for pleasure, religious, ceremonial, cooking, or similar purposes that is subject to the rules and regulations set forth by the AHJ.

(81) *Subsection 4.4.3.1.4.*

Add new subsection 4.4.3.1.4 after subsection 4.4.3.1.3 as follows:

Visual obscuration systems associated with security or burglar alarm systems are not permitted.

(82) *Subsection 10.1.2.1.*

Add new subsection 10.1.2.1 after subsection 10.1.2 as follows:

When provisions of the Life Safety Code (NFPA 101) conflict with this Code, the requirements of this Code shall apply.

(83) *Section 10.2.7.*

Add new section 10.2.7 after section 10.2.6 as follows:

Reckless endangerment. Any person who recklessly engages in conduct, in violation of any provision of this Code, that creates a substantial risk of death or serious physical injury is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, or in addition to and concurrent with all remedies provided by law or equity, the fire official may enforce this section with civil penalties pursuant to title 24 of the Howard County Code. A violation of either section is a Class A offense. Each day that a violation continues is a separate offense.

(84) *Section 10.4.1.*

Delete section 10.4.1 and substitute the following:

Whenever a fire or emergency occurs in a building or there is a reason to believe a fire or emergency exists in a building, the building shall be immediately evacuated and may not be reoccupied without permission of the fire official in charge. If the building is provided with a manual fire warning system, a person who has knowledge of the fire or emergency shall activate the manual fire warning system. Complete evacuation is not required when alternative procedures have been detailed in a fire plan, including a plan to shelter in place that has been approved by the AHJ.

(85) *Section 10.9.5.*

Add new section 10.9.5 after section 10.9.4 as follows:

In addition to the requirements set forth in this section and requirements for specific occupancies as set forth in this Code, the requirements of title 12, subtitle 6 of the Howard County Code shall apply.

(86) *Section 10.10.1.*

Delete this section and substitute the following:

Except for cooking and recreational fires that meet the requirements of section 12.108 of the Howard County Code, open fires are prohibited.

(87) *Subsection 10.10.1.1.*

Delete this subsection and substitute the following:

Unless open flame devices or candles meet the following requirements, a person shall not use or allow to be used, open flames or burning candles in connection with any public meeting or gathering for the purpose of deliberation, entertainment, amusement, instruction, education, recreation, display, or similar purpose in any occupancy open to the public, including assembly, business, educational, daycare and or mercantile occupancies. Candles or open flame devices not meeting the following requirements may be used in connection with a worship service in any place of worship if it is used in such a manner as not to create a hazardous condition, emergency, or imminent danger. For a candle or device to be approved by the AHJ, the candle or device shall meet the requirements set forth below and all referenced and applicable codes.

- (i) Candles, disposable or refillable fuel cartridges, or other open-flame decorative lighting shall not use Class I, II, or IIIA liquids or liquefied petroleum gases (LPG). Examples include, but are not limited to the following:
  - a. Class I: gasoline, alcohol, turpentine;
  - b. Class II: diesel fuel, kerosene;
  - c. Class IIIA: mineral oil, linseed oil, oil based paints; and
  - d. Liquefied petroleum gases: propane, butane, butylenes, propylene.
- (ii) Except for candles, liquid or solid fueled lighting devices shall have a self-extinguishing captive-free floating snuffing device and shall not leak fuel at a rate of more than one-quarter teaspoon per minute if tipped over.
- (iii) Devices or holders shall be constructed to prevent the spilling of liquid fuel or wax at the rate of more than one-quarter teaspoon per minute when the device or holder is not in an upright position.
- (iv) Except for units that self-extinguish and do not spill fuel or wax at the rate of more than one-quarter teaspoon per minute if tipped over, devices or holders shall be designed to return to the upright position after being tilted to an angle of 45 degrees.
- (v) Except where openings on the sides are not more than three-quarter of an inch in diameter, flames of candles, disposable or refillable fuel cartridges, or other open-flame decorative lighting shall be enclosed. The opening on the top and the distance to the top shall be such that a single layer of tissue paper placed on the top will not ignite in ten seconds and the fuel container shall have no means of adjusting the height of the flame.
- (vi) Except where an open flame device self-extinguishes if the device is tipped over, chimneys shall be made of noncombustible material and shall be securely attached to the open-flame device.
- (vii) Disposable or refillable liquid fuel cartridges shall not be under pressure and shall be safely sealed for storage. The fuel container shall be sealed so that it cannot be refilled on the premises and so that the burner assembly cannot be removed from the fuel container.
- (viii) Chimney shades, if used, shall be made of noncombustible materials and securely attached to the open-flame device holder or chimney. The base, device, or holder and any decoration around or near the base must be noncombustible. Devices must be located so as to avoid ignition of any combustibles.

(88) *Subsections 10.10.1.2, 10.10.1.3 and 10.10.1.4.*

Delete these subsections.

(89) *Subsection 10.10.2.*

Add "sky lanterns," after "candles,"

(90) *Subsection 10.10.4.5.*

Add new subsection 10.10.4.5 after subsection 10.10.4.4 as follows:

Fuel for the fire shall consist only of seasoned dry firewood and shall be ignited with something other than a flammable liquid such as a small quantity of paper.

(91) *Subsection 10.10.4.6.*

Add new subsection 10.10.4.6 after subsection 10.10.4.5 as follows:

If severe winds are prevalent (greater than 10 MPH), the fire may not be ignited.

(92) *Subsection 10.10.6.1.*

Delete this subsection and substitute the following:

Barbecue grills, hibachis, gas-fired grills, charcoal grills, chimineas, luminaries, firepits, or other similar devices used for cooking, heating, or any other purpose, shall not be used or kindled on a balcony, under an overhanging portion of a building or structure, or within 15 feet of a building or structure. The AHJ may approve electric grills that do not use an alternative fuel. Chimineas, luminaries, fire pits, and similar devices that are part of the approved original construction shall be equipped with spark arrestors and the fire area shall not exceed three feet in diameter.

(93) *Section 10.10.7.*

Delete this section and substitute:

Patio heaters with an open flame shall not be within five feet of an exit or opening or used in a structure or enclosed area. Patio heaters with an open flame shall be secured, maintained, and kept away from combustibles. Propane fueled patio heaters shall also meet requirements in 69.3.11 of the NFPA 1.

(94) *Section 10.11.1.*

Delete this section and substitute the following:

The owner of a structure shall display Arabic numbers designating the address assigned to the structure by the Howard County Department of Planning and Zoning.

- (i) Numbers shall be at least three inches high for single-family detached and attached residences and six inches high for commercial, industrial, and multi-family structures.
- (ii) Numbers shall be posted on a contrasting background and displayed in a conspicuous place that is unobstructed and clearly visible from the street named in the official address of the structure.
- (iii) In addition to the numbers required on a structure, where the structure has more than one address or where more than one structure share a common entry driveway, numbers shall designate the addresses in sequence on a sign posted at the entry or common driveway.
- (iv) The AHJ may require address identification to be located on more than one side of the structure.
- (v) Address numbers at least six inches in height shall be installed on the rear access doors to all commercial establishments. Those doors which are located inside of a mall, office building or similar space with assigned suite numbers shall have their suite numbers posted with numerals or alphabet letters at least two and one-half inches tall.

(95) *Subsection 10.11.1.2.*

Delete this subsection.

(96) *Subsection 10.11.1.3.*

Delete this subsection.

(97) *Subsection 10.11.3.1.*

Delete this subsection and substitute the following:

Stairs serving three or more stories shall comply with 10.11.3.1.1 through 10.11.3.1.16.

(98) *Subsection 10.11.3.1.1.1.*

Add new subsection 10.11.3.1.1.1 after subsection 10.11.3.1.1.

Stairways serving three or more stories shall mark interior stairway doors to identify the stair designation and the floor number.

(99) *Subsection 10.12.2.1.*

Delete subsection 10.12.2.1.

(100) *Section 10.12.4.*

Add new section 10.12.4 after section 10.12.3 as follows:

A building or structure is a fire hazard if the building or structure or any portion of the building or structure is vacant and unsecured.

(101) *Section 10.12.5.*

Add new section 10.12.5 after section 10.12.4 as follows:

The AHJ may require all utilities to be disconnected in a vacant building or structure.

(102) *Section 10.12.6.*

Add new section 10.12.6 after section 10.12.5 as follows:

The AHJ may require the vacant or abandoned structure to be marked with symbols provided by the AHJ at the structure's front door that shall indicate one of the following:

- (i) Vacant—Normal stability at time of marking;
- (ii) Vacant—Interior hazards exists to such a degree that interior operations may be conducted only after examination, and with extreme caution; or
- (iii) Vacant—Every effort must be made to conduct operations from the exterior. When absolutely necessary to enter the building, adhere to the following:
  - a. Approval by the Officer in command is required;
  - b. Examination must be conducted before unit is committed;
  - c. Operating force and interior operational time to be kept to a minimum.

(103) *Subsection 10.13.1.1.*

Add the following at the end of subsection 10.13.1.1:

"And in accordance with the guidelines of the office of the Maryland State Fire Marshal or the AHJ".

(104) *Subsection 10.13.1.2.*

Add new subsection 10.13.1.2 after subsection 10.13.1 as follows:

The AHJ shall: Approve the placement of a natural cut or balled tree; limit the number of natural cut or balled trees displayed; and order the removal of any tree if the tree possesses a hazard to life or safety.

(105) *Subsection 10.13.3.1.*

Delete "by the manufacture as being fire retardant" with "by a testing laboratory recognized by the office of the state fire marshal or the AHJ".

(106) *Subsection 10.13.10.1.*

Insert the following at the end of this subsection:

In accordance with section 17.106 of the Howard County Code.

(107) *Section 10.15.1.*

Delete this section and substitute the following:

Outside storage of combustible or flammable material shall not be located within 15 feet of a property line, building, or structure. The volume of material shall not exceed 2,500 cubic feet.

(108) *Subsection 10.15.1.1.*

Add new subsection 10.15.1.1 after section 10.15.1 as follows:

The AHJ may require the area of outside storage be enclosed by a security fence at least six feet in height.

(109) *Subsection 10.15.1.2.*

Add new subsection 10.15.1.2 after subsection 10.15.1.1 as follows:

Outside storage of flammable material which exceeds 2,500 cubic feet in volume shall meet the requirements in this Code for the storage of the specific material.

(110) *Section 10.15.2.*

Delete this section.

(111) *Section 10.15.3.*

Add the following at the end of this section:

The separation distance may be increased where the AHJ determines that a hazard to the adjoining property exists.

(112) *Section 10.18.1.*

Delete this section and substitute the following:

Combustible materials shall be stored:

- (i) Orderly; and
- (ii) Thirty-six inches or more from heat producing equipment; or
- (iii) In accordance with the manufacturer's recommendation.

(113) *Section 10.18.7.*

After "building" insert "or on a patio, balcony, or deck".

(114) *Subsection 11.1.1.1.*

Add new subsection 11.1.1.1 after section 11.1.1 as follows:

An electrical appliance, fixture, or consumer product shall not be sold or used unless it is clearly labeled, marked, or stamped with the symbol of an electrical testing laboratory that is certified by the Maryland Office of the State Fire Marshal.

(115) *Subsection 11.1.1.2.*

Add new subsection 11.1.1.2 after subsection 11.1.1.1 as follows:

A minimum clear space of 36 inches shall be maintained in front of all electrical service equipment. The clear space shall be maintained on all sides of the equipment if access to these areas is required. Where the electrical service equipment is wider than 36 inches, the working space shall not be less than the width of the equipment. Nothing shall be stored within designated working spaces except as follows:

- (i) Where other dimensions are required or permitted by NFPA 70.
- (ii) Access openings in attics or under-floor areas which provide a minimum clear opening of 22 inches by 30 inches.

(116) *Subsection 11.1.7.3.1.1.*

Add new subsection 11.1.7.3.1.1 after subsection 11.1.7.3.1 as follows:

Doors into electrical control panel rooms shall be marked with a plainly visible and legible sign stating "electrical room" or similar approved wording. The disconnecting means for each service, feeder, or branch circuit originating on a switchboard or panel board shall be legibly and durably marked to indicate its purpose unless such purpose is clearly evident.

(117) *Subsection 11.2.1.1.*

Add new subsection 11.2.1.1 after subsection 11.2.1 as follows:

All push button type HVAC shutoffs shall be blue in color and shall include signage to indicate the type of shutoff.

(118) *Section 11.3.1.*

- (a) In subsection 11.3.6.3.1, delete "shall" and substitute "may".
- (b) In subsection 11.3.6.3.1.3, delete "shall" and substitute "may".
- (c) In subsection 11.3.6.3.1.5, delete the first "shall" and substitute "may".

(119) *Subsection 11.3.6.1.1.*

Delete the second sentence and replace with the following:

Keys for new elevators shall be cut to a uniform key code to comply with the Maryland State Elevator Code.

(120) *Subsection 11.5.2.4.*

Add new subsection 11.5.2.4 after subsection 11.5.2.3 as follows:

Kerosene heaters are prohibited in the following occupancies: educational, daycare, hotels and motels, places of assembly, health care, board and care, rooming and lodging, multi-family residential, and other occupancies or situations where the use or operation of kerosene heaters could create an emergency or imminent danger.



(121) *Section 11.9.1.*

Replace "approved by the Fire Department" with "approved by the AHJ".

(122) *Section 12.1.*

At the end of this section, insert "This Code requires that the building construction, fire protection, and life safety features be maintained by the owner to function as intended".

(123) *Subsection 12.3.3.1.1.*

Add new subsection 12.3.3.1.1 after subsection 12.3.3.1 as follows:

Missing ceiling tiles shall be replaced. Penetrations or openings in ceiling, wall, and floor assemblies shall be sealed to eliminate the possible spread of smoke or fire.

(124) *Section 13.1.2.*

Before "testing" insert "installation,".

(125) *Subsection 13.1.3.1.*

Add new subsection 13.1.3.1 after subsection 13.1.3 as follows:

Unless otherwise approved by the AHJ, a fire department connection for fire protection systems shall be:

- (i) Located on the side of the structure displaying the address or approved by the AHJ;
- (ii) Marked in the manner required by this Code; and
- (iii) Located within 100 feet of a fire hydrant.

(126) *Section 13.1.4.*

Delete this section and substitute the following:

Except for fire hydrants in a public right-of-way, a minimum clear space of 15 feet in diameter (seven and one-half feet on all sides) shall be maintained outside of a building or structure to permit access to and operation of fire protection equipment, fire department inlet connections, or fire protection system control valves. A minimum clear space of three feet shall be maintained on interior valves and equipment. An obstruction or condition that deters or hinders access by the AHJ is prohibited.

(127) *Subsection 13.1.5.1.*

Add new subsection 13.1.5.1 after subsection 13.1.5 as follows:

Each licensed company working on fire safety equipment shall forward to the AHJ, on the prescribed form or system, a separate certificate of inspection, along with the appropriate fees, for each fire suppression system that the licensed company may inspect, test or maintain. This certificate of inspection shall be submitted when the inspection is performed and shall verify that the AHJ standards and specifications regarding the inspection, testing or maintenance have been met and any deficiencies noted at the time of the annual inspection, testing or maintenance shall be noted, with any corrective action taken.

(128) *Section 13.1.13.*

Add new section 13.1.13 after section 13.1.12 as follows:

Except for a person performing installation, maintenance, and repair, a person shall not tamper with or render inoperable any fire protection or life safety system.

(129) *Subsection 13.1.14.*

Add new subsection 13.1.14 after section 13.1.13 as follows:

Unless otherwise approved by the AHJ, the following provisions shall apply to a fire department connection for fire protection systems:

- (i) A fire department connection for fire protection systems shall be located:
  - a. On the side of the structure displaying the address clearly visible to responding fire department units;
  - b. Within 100 feet of a fire hydrant.
- (ii) The appropriate sign shall be mounted on the building's wall between eight and 12 feet above the fire department connection.
- (iii) A free-standing fire department connection shall have the sign mounted on a pole directly behind the connection approximately six feet high.
- (iv) If required by the AHJ, signs shall have a white reflective background with a red reflective border, red reflective letters and a red reflective arrow. The border shall have a three-eighth-inch stroke. The letters shall be six inches high with a one-inch stroke. The arrow shall have a stroke not less than two inches. The overall sign measurements shall be 12 inches by 18 inches.
- (v) Any obstruction or condition that deters or hinders access to a fire department connection is prohibited. A minimum clear space of 15 feet (seven and one-half feet on all sides) shall be maintained.

(130) *Section 13.1.15.*

Add new section 13.1.15 after section 13.1.14 as follows:

A violation of either section 13.1.7 or 13.1.13 is a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, or in addition to and concurrent with all remedies provided by law or equity, the fire official may enforce this section with civil penalties pursuant to title 24 of the Howard County Code. A violation of either section is a Class A offense. Each day that a violation continues is a separate offense.

(131) *Subsection 13.2.2.1.*

Delete this subsection and substitute the following:

Where required by this Code, the Building Code, or the referenced codes and standards listed in chapter 2, standpipe systems shall be installed in accordance with section 13.2.1.

(132) *Subsection 13.2.2.2.*

Add the following at the end of this subsection:

"(6) In an automobile parking garage where the AHJ determines there is inadequate fire service access."

(133) *Subsection 13.2.3.1.*

Add the following at the end of this subsection:

"Standpipes do not have to be equipped with hose and nozzle for fire department use. However, if provided, the hose and nozzle shall be tested and maintained."

(134) *Subsection 13.3.1.2.*

Add the following at the end of this subsection:

Exception: for new ceiling installations, drop-out ceilings as referenced in NFPA 13, subsection 15.15, are prohibited.

(135) *Subsection 13.3.1.2.1.*

Add new subsection 13.3.1.2.1 after subsection 13.3.1.2 as follows:

The AHJ may require doors to sprinkler control rooms be marked in an approved manner.

(136) *Subsection 13.3.2.2.*

Delete this subsection and substitute the following:

In a new nonresidential building, a basement that is 2,500 square feet or more shall be protected throughout by an approved automatic sprinkler system. In an existing nonresidential building, a basement exceeding 2,500 square feet shall contain an automatic sprinkler system when a life safety evaluation is completed and the AHJ determines, based on the life safety evaluation that an imminent danger exists.

(137) *Subsection 13.3.2.7.2.*

Delete "more than 300" and substitute "100 or more".

(138) *Subsection 13.3.2.7.3.*

Delete this subsection and substitute the following:

The requirements of 13.3.2.7.2 shall not apply to the following:

- (i) An assembly occupancy that is less than 5,000 square feet in area and that has an occupant load of less than 100 persons;
- (ii) A gymnasium, skating rink, or swimming pool that is less than 5,000 square feet in area and that is used exclusively for participant sports with audience facilities for less than 100 persons;
- (iii) In an enclosed stadium or arena that is less than 5,000 square feet and that has an occupant load of less than 100 persons; or
- (iv) In an unenclosed stadium or arena:
  - a. In press boxes containing less than 1,000 square feet in area;
  - b. In storage facilities containing less than 1,000 square feet in area if the area is enclosed with more than 1-hour fire resistance rated construction; or
  - c. In enclosed areas underneath a grandstand if the area is enclosed with more than 1-hour fire resistance rated construction.

(139) *Subsections 13.3.2.7.5.2 and 13.3.2.7.5.3.*

Delete these subsections.

(140) *Subsection 13.3.2.8.1.*

Delete this subsection and substitute the following:

Where the occupant load exceeds 100, the AHJ may require the occupancy protected throughout by an approved supervised automatic sprinkler system in accordance with NFPA 13.

(141) *Subsection 13.3.2.8.2.*

Delete "15,000" and substitute "5,000".

(142) *Subsection 13.3.2.8.5.4.*

Add subsection 13.3.2.8.5.4 after section 13.3.2.8.5.3 as follows:

The AHJ may require sprinklers for existing stages and under existing stages when the AHJ determines, based on a life safety evaluation, that an imminent danger exists.

(143) *Subsection 13.3.2.9 through 13.3.2.18.6.*

Delete these subsections and substitute the following:

Subsection 13.3.2.9. A new educational occupancy, health care facility, detention or correctional facility, hotel, dormitory, or apartment building shall meet the requirements of the building code. The AHJ may require installation of an approved automatic sprinkler system in an existing educational occupancy, health care occupancy, detention or correction facility, hotel, dormitory, or apartment building when:

- (i) A life safety evaluation is completed and the AHJ determines, based on the life safety evaluation, that an emergency, or imminent danger exists; or
- (ii) Required by NFPA 101, Life Safety Code.

(144) *Subsection 13.3.2.19.1.*

Delete this subsection and substitute the following:

Except as provided in subsection 13.3.2.19.2, a new lodging or rooming house serving six or more residents shall be protected throughout by an approved automatic sprinkler system. An automatic sprinkler system may be required in an existing lodging or rooming house serving six or more residents when:

- (i) A life safety evaluation is completed and the AHJ determines, based on the life safety evaluation, that an emergency, or imminent danger exists; or
- (ii) Required by NFPA 101, Life Safety Code.

(145) *Subsection 13.3.2.19.2.*

Delete this subsection and substitute the following:

In a building containing less than 5,000 square feet in gross floor area and designed for fewer than six residents, an automatic sprinkler system is not required where every sleeping room has a door opening directly:

- (i) To the outside of the building at street or ground level; or
- (ii) To the outside leading to an exterior stairway.

(146) *Subsection 13.3.2.20.1.*

Add at the end "in accordance with the Howard County Building Code."

(147) *Subsection 13.3.2.21.1.1.*

Delete this subsection and substitute the following:

A building with an occupant load of six or more residents shall be protected throughout by an approved automatic sprinkler system.

(148) *Subsection 13.3.2.21.2.2.*

Delete this subsection and substitute the following:

In a conversion, an automatic sprinkler system shall not be required in a board and care home that serves five or fewer residents when all occupants have the ability to move as a group to a point of safety within three minutes.

(149) *Subsection 13.3.2.22.1.1.*

Add the following at the end.

An automatic sprinkler system may be required in an existing facility when a life safety evaluation is completed and the AHJ determines, based on the life safety evaluation, that an imminent danger exists.

(150) *Subsection 13.3.2.23.1(2).*

Delete this subsection and substitute the following:

Throughout a new mercantile occupancy exceeding 5,000 square feet in gross area

(151) *Subsection 13.3.2.23.1.*

Add new paragraph (5) as follows:

An automatic sprinkler system may be required in an existing mercantile occupancy when a life safety evaluation is completed and the AHJ determines, based on the life safety evaluation that an imminent danger exists.

(152) *Section 13.3.2.24.1.*

Add (5) at the end as follows:

(5) The gross floor area is more than 5,000 square feet and has an occupant load of 50 or more persons.

(153) *Subsection 13.3.2.25.1.*

Add new subsection 13.3.2.25.1 after subsection 13.3.2.25 as follows:

An automatic sprinkler system may be required in an existing underground or windowless structure when a life safety evaluation is completed and the AHJ determines, based on the life safety evaluation, that an imminent danger exists.

(154) *Subsection 13.3.2.26.2.3.*

Delete this subsection and substitute the following:

The AHJ shall determine a completion date for the installation of an approved automatic sprinkler system that does not exceed 12 years from the date of the approval of the intent to comply.

(155) *Subsection 13.3.2.27.*

Delete the title and substitute "new and existing storage occupancies".

(156) *Subsection 13.3.2.27.2.*

Delete this subsection and substitute the following:

General storage. An automatic sprinkler system shall be installed throughout all new storage occupancies with a gross floor area greater than 5,000 square feet.

(157) *Subsection 13.3.2.27.2.1.*

Add new subsection 13.3.2.27.2.1 after subsection 13.3.2.27.2 as follows:

An automatic sprinkler system may be required in an existing storage occupancy when a life safety evaluation is completed and the AHJ determines, based on the life safety evaluation, that an imminent danger exists.

(158) *Subsection 13.3.2.27.5.*

Delete "20,000" and substitute "2,500".

(159) *Subsection 13.3.2.29.1.*

Add new subsection 13.3.2.29.1. After subsection 13.3.2.29 as follows:

An existing day care home with 12 or fewer clients is not required to be protected by an automatic sprinkler system.

(160) *Subsection 13.3.2.29.2.*

Add new subsection 13.3.2.29.2 after subsection 13.3.2.29.1 as follows:

A new day care occupancy with more than 12 clients shall be protected throughout by an approved automatic sprinkler system.

(161) *Subsection 13.3.2.29.3.*

Add new subsection 13.3.2.29.3 after subsection 13.3.2.29.2 as follows:

An automatic sprinkler system may be required in an existing day care occupancy serving more than 12 clients when a life safety evaluation is completed and the AHJ determines, based on the life safety evaluation, that an imminent danger exists.

(162) *Subsection 13.3.3.3.1.*

Add new subsection 13.3.3.3.1 after subsection 13.3.3.3 as follows:

For new ceiling installations, drop-out ceilings as referenced in NFPA 13, subsection 8.14.13, are prohibited.

(163) *Subsection 13.4.1.1.1.*

Add new subsection 13.4.1.1.1 after subsection 13.4.1.1 as follows:

Unless approved by the AHJ, fire pump components, including pumps, drivers, or controllers, shall not be installed in below-ground vaults or pits.

(164) *Subsection 13.6.1.1.*

Delete this subsection and substitute the following:

Unless the AHJ approves alternative feature or requirement that provides the same level of protection or fire safety as this Code, the installation, maintenance, selection, and distribution of a portable fire extinguisher shall be in accordance with NFPA 10, standard for portable fire extinguishers, section 13.6 and the Public Safety Article of the Annotated Code of Maryland.

(165) *Table 13.6.1.2.*

Add the following to the end: "unless otherwise permitted by the AHJ".

(166) *Subsection 13.7.1.7.7.1.*

Add new subsection 13.7.1.7.7.1 after subsection 13.7.1.7.7 as follows:

The AHJ shall approve any device installed to prevent false alarms that is added to a manual fire alarm box or pull station.

(167) *Subsection 13.7.1.8.11.*

Add new subsection 13.7.1.8.11 after subsection 13.7.1.8.10 as follows:

A single station or multiple station smoke alarm shall meet the requirements set forth in the Public Safety Article of the Annotated Code of Maryland and the Building Code.

(168) *Subsection 13.7.1.8.12.*

Add new subsection 13.7.1.8.12 after subsection 13.7.1.8.11 as follows:

Electrical installation: Smoke alarms shall be installed and maintained in accordance with the electrical code and the most recently adopted edition of NFPA Standard 72.

(169) *Subsection 13.7.1.8.13.*

Add new subsection 13.7.1.8.13 after subsection 13.7.1.8.12 as follows:

The owner or owner's agent shall install all smoke alarms and shall annually inspect and maintain all smoke alarms in accordance with the manufacturer's warranty and suggested maintenance. The owner or owner's agent shall maintain a record of the maintenance schedule. Upon notification by a tenant that a smoke alarm is missing or inoperative, the owner or owner's agent shall repair or replace the smoke alarm. Notification shall be given by certified mail and first-class mail. If the tenant personally notifies the owner or the owner's agent of a mechanical failure of a smoke alarm, the owner or owner's agent shall provide a written, dated receipt acknowledging the notification.

(170) *Subsection 13.7.1.8.14.*

Add new subsection 13.7.1.8.14 after subsection 13.7.1.8.13 as follows:

Where a smoke alarm is required, a person shall not remove or render any smoke alarm inoperative.

(171) *Subsection 13.7.1.8.15.*

Add new subsection 13.7.1.8.15 after subsection 13.7.1.8.14 as follows:

Except for smoke alarms in a hotel or motel, an owner or owner's agent may require a tenant to pay a refundable deposit for smoke alarms, not to exceed the value of the smoke alarm.

(172) *Subsection 13.7.1.8.16.*

Add new subsection 13.7.1.8.16 after subsection 13.7.1.8.15 as follows:

A dwelling unit occupied by a person who is deaf or hearing impaired shall be equipped with a smoke alarm that, when activated, shall provide a signal that is approved by a nationally recognized testing laboratory for electrical appliances and is sufficient to warn a deaf or hearing-impaired person. An owner or their agent shall provide this type of smoke alarm upon the written request of the deaf or hearing impaired tenant.

(173) *Subsection 13.7.1.8.17.*

Add new subsection 13.7.1.8.17 after subsection 13.7.1.8.16 as follows:

Any battery operated smoke alarm replaced is required to be a ten-year-type detector with a sealed battery.

(174) *Subsection 13.7.1.10.5.*

Add new subsection 13.7.1.10.5 after subsection 13.7.1.10.4 as follows:

Where the fire alarm system does not provide for emergency forces notification in accordance with subsection 13.7.1.4.11, approved signs to provide instruction for emergency forces notification shall be provided and permanently affixed and maintained at each manual fire alarm box.

(175) *Subsection 13.7.2.13.1.3.*

At the end of the subsection add the following:

Standards governing smoke alarms shall be in accordance with title 9, subtitle 1 of the Public Safety Article of the Annotated Code of Maryland.

(176) *Subsection 13.7.2.14.5.3.*

Delete this subsection and substitute the following:

In lodging and rooming houses built prior to July 1, 1990, smoke alarms shall be hard wired to the building's power supply. In lodging and rooming houses built after July 1, 1990, smoke alarms shall have an integral battery backup power supply or an approved emergency power supply.

(177) *Subsection 13.7.2.14.5.4.*

Add new subsection 13.7.2.14.5.4 after subsection 13.7.2.14.5.3 as follows:

Except in a building protected by an automatic sprinkler system, smoke alarms are required in an interior corridor serving rooms of lodging and rooming houses. These alarms shall be connected to the building fire alarm.

(178) *Subsection 13.7.2.16.1.*

Add the following at the end of this subsection:

Single station smoke alarms shall be hard-wired directly to the building's power supply. Individual guestroom alarms shall not be connected to the building alarm system.

(179) *Subsection 13.7.2.16.5.2.*

- (i) After "permitted" insert "in hotels and dormitories built prior to July 1, 1990"; and
- (ii) At the end of this subsection add "In a hotel, motel, or dormitory built after July 1, 1990, smoke alarms shall have an integral battery backup power supply or an approved emergency power supply."

(180) *Subsection 13.7.2.16.5.3.*

Add new subsection 13.7.2.16.5.3 after subsection 13.7.2.16.5.2 as follows:

Except in a building protected by an automatic sprinkler system, smoke alarms are required in an interior corridor serving a guestroom of a hotel, motel, or dormitory. These alarms shall be connected to the building alarm system.

(181) *Subsection 13.7.2.16.5.4.*

Add new subsection 13.7.2.16.5.4 after subsection 13.7.2.16.5.3 as follows:

Single station smoke alarms shall be installed in each sleeping area of a hotel, motel, or dormitory. Single-station smoke detectors shall be hard-wired directly to the building's power



supply. Smoke alarms shall be installed in every room through which a person must pass to get from the sleeping area to the door leading from the guestroom or suite. Individual guestroom alarms shall not be connected to the building's alarm system.

(182) *Subsection 13.7.2.16.5.5.*

Add new subsection 13.7.2.16.5.5 after subsection 13.7.2.16.5.4 as follows:

A hotel or motel shall have available at least one smoke alarm for the deaf or hearing impaired for each 50 units (or portion thereof). The owner or owner's agent of the hotel or motel may require a refundable deposit, not to exceed the cost of the smoke alarm, for the use of a deaf or hearing impaired smoke alarm. The owner or owner's agent of a hotel or motel shall post, in a conspicuous place at the registration desk or counter, a permanent sign stating the availability of smoke alarms for the hearing impaired.

(183) *Subsection 13.7.2.18.1.3.*

Add new subsection 13.7.2.18.1.3 after subsection 13.7.2.18.1.2 as follows:

A dwelling unit in a multifamily residential building shall meet the following requirements:

- (i) A unit built before January 1, 1989, shall have smoke alarms hard-wired to the building's power supply.
- (ii) A unit built between January 1, 1989 and July 1, 1990, shall meet the requirements of paragraph (i), and, except in an attic, smoke alarms shall be installed on each level of a multilevel individual dwelling unit, including in a basement. All smoke alarms shall be interconnected so that all will sound if one smoke alarm is activated.
- (iii) A unit built after July 1, 1990, shall meet the requirements of paragraph (i) and (ii) and smoke alarms shall have an integral battery backup power supply.
- (iv) A unit built after October 10, 2001, shall meet the requirements of paragraph (i), (ii), and (iii) and smoke alarms shall be placed in each sleeping area.

(184) *Subsection 14.5.3.3(11).*

Add the following at the end: "The central control point shall be approved by the AHJ."

(185) *Section 14.5.3.1.1(3).*

Add new subsection 14.5.3.1.1.(3)(e) after subsection 14.5.3.1.1(3)(d) as follows:

The request to increase the delay from 15 seconds to 30 seconds must be submitted to the AHJ in writing.

(186) *Subsection 14.5.3.4.5.*

Add new subsection 14.5.3.4.5 after subsection 14.5.3.4.4 as follows:

In lockups, as referenced in section 22.4.5.1.4 of NFPA 101 Life Safety Code, the release time for doors or other physical restraints shall not exceed 30 seconds.

(187) *Subsection 16.2.2.2.*

Delete this subsection and substitute the following:

Trash, debris, rubbish, and building materials shall not be burned on the premises.

(188) *Subsection 18.1.3.1.*

Delete "fire department" and substitute "AHJ".

(189) *Subsection 18.1.3.2.*

Delete "fire department" and substitute "AHJ".

(190) *Subsection 18.2.2.1.*

Delete the last sentence and replace with: the type of access box or system shall be specified by the AHJ.

(191) *Subsection 18.2.3.2.1.1.*

Delete this subsection.

(192) *Subsection 18.2.3.2.2.1.*

Delete this subsection.

(193) *Subsection 18.2.3.3.1.*

Add new subsection 18.2.3.3.1 after subsection 18.2.3.3 as follows:

Multiple access roads may be required when a development contains more than 100 residential units.

(194) *Subsection 18.2.3.4.1.1.*

Delete this subsection and substitute the following:

Except for use-in-common driveways fire department access roads shall have an unobstructed width of not less than 20 feet, unless approved by the AHJ. Use-in-common driveways shall comply with the Howard County design manual.

(195) *Subsection 18.2.3.4.2.*

Add the following to the end of the subsection:

The access road surface must be approved by the AHJ.

(196) *Subsection 18.2.3.4.6.1.*

Delete this subsection and substitute the following:

Grade. The maximum allowable grade is 15 percent with the durable and sustained grade of eight percent. The transition from the road to the driveway shall not exceed eight percent.

(197) *Subsection 18.2.3.5.3.*

Add new subsection 18.2.3.5.3 after subsection 18.2.3.5.2 as follows:

The AHJ may:

- (i) Designate part of any public or private roadway, driveway, or curb as a fire lane; and
- (ii) Designate how the fire lane shall be marked or established.

(198) *Subsection 18.2.3.5.4.*

Add new subsection 18.2.3.5.4 after subsection 18.2.3.5.3 as follows:

In determining where and how a fire lane shall be established, the AHJ shall consider the following:

- (i) The width of the roadway or driveway;

- (ii) The ability of any necessary emergency equipment to have ingress and/or egress to the occupancy or property;
- (iii) The size and turn radius of any necessary emergency vehicle or equipment;
- (iv) Access to fire hydrants fire connections, and fire exits;
- (v) Location of buildings or structures; and
- (vi) The potential or likelihood that a person would park a vehicle in the area.

(199) *Subsection 18.2.3.5.5.*

Add new subsection 18.2.3.5.5 after subsection 18.2.3.5.4 as follows:

Regarding fire lane designation, the AHJ may:

- (i) Conduct a site visit of the property to determine whether and/or how a fire lane should be designated; and
- (ii) Require a fire lane to be designated by the placement of fire lane signs, a red painted curb, a red hatched pattern, or any combination thereof.

(200) *Subsection 18.2.3.5.6.*

Add new subsection 18.2.3.5.6 after subsection 18.2.3.5.5 as follows:

For any fire lane that the AHJ determines shall be marked with fire lane signs:

- (i) All signs shall comply with the most recently adopted State Highway Administration Standard Sign Book;
- (ii) Signs shall be placed at the termination points of the fire lane;
- (iii) Signs shall be placed at least every 200 feet; and
- (iv) Signs shall be placed in such a way and in a location so that the signs shall not interfere with pedestrian or traffic movement.

(201) *Subsection 18.2.3.5.7.*

Add new subsection 18.2.3.5.7 after subsection 18.2.3.5.6 as follows:

For any fire lane that the AHJ determines shall be marked by a painted curb:

- (i) All curbs shall be painted with red traffic paint;
- (ii) The red painted marking shall be at least six inches wide; and
- (iii) Letters stating "NO PARKING FIRE LANE" shall be stenciled onto the red painted marking at each end and every 20 feet of the painted area. The letters shall be stenciled using white paint and shall be three inches high and located on the top surface of the curb as designated by the AHJ.

(202) *Subsection 18.2.3.5.8.*

Add new subsection 18.2.3.5.8 after subsection 18.2.3.5.7 as follows:

For any fire lane that the AHJ determines shall be marked by a red painted cross-hatching pattern:

- (i) The area shall be marked by red paint applied in a hatch pattern composed of parallel diagonal stripes running at a 30 to 60 degree angle across the width of the fire lane;
- (ii) The striping used to create the cross hatch pattern shall be at least six inches wide and the stripes placed at a maximum of 72 inches apart; and

(iii) Letters stating "NO PARKING FIRE LANE" shall be stenciled using white paint within the cross hatch pattern; and

(iv) The size of the letters may vary depending on the size of the fire lane marking.

(203) *Subsection 18.2.3.5.9.*

Add new subsection 18.2.3.5.9 after subsection 18.2.3.5.8 as follows:

The AHJ shall notify a property owner that a particular area is to be designated as a fire lane. The property owner shall, within 30 days of receipt of notification from the AHJ, install fire lane markings or signs in the location and by the method directed by the AHJ.

(204) *Subsection 18.2.3.5.10.*

Add new subsection 18.2.3.5.10 after subsection 18.2.3.5.9 as follows:

A property owner who fails to install or maintain fire lanes, fire lane markings or signs, or both markings and signs, in accordance with this section is guilty of a misdemeanor, and upon conviction is subject to a fine of up to \$1,000.00. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a Fire Official may enforce the provisions of this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. Each day that a violation continues is a separate offense.

(205) *Subsection 18.2.4.1.5.*

Add new subsection 18.2.4.1.5 after subsection 18.2.4.1.4 as follows:

Use in common driveways, or roads with similar names that provide access to structures may be considered a fire department access road.

(206) *Subsection 18.5.1.1.1.*

Add new subsection 18.5.1.1.1 after subsection 18.5.1.1 as follows:

All new fire hydrants shall be public unless the AHJ approves the use of private fire hydrants.

(207) *Subsection 18.5.2(2).*

Delete "800 feet" and substitute "500 feet".

(208) *Subsection 18.5.3(2).*

Delete "500 feet" and substitute "350 feet".

(209) *Subsection 18.5.5.1.1.*

Add new subsection 18.5.5.1.1 after subsection 18.5.5.1 as follows:

Any replacement private fire hydrants must meet Howard County standards as contained in the Howard County Design Manual.

(210) *Subsection 18.5.7.1.*

Delete "36 in" and substitute "60 in".

(211) *Subsection 18.5.10.3.1.*

Add new subsection 18.5.10.3.1 after subsection 18.5.10.3 as follows:

Private fire hydrants shall be painted yellow, reclaimed water hydrants shall be painted purple, and gray water hydrants shall be painted green.

(212) *Subsection 19.2.1.4.*

Delete "with an individual capacity of 1.5 yd<sup>3</sup> or more" and substitute "10 feet to 15 feet".

(213) *Subsection 20.1.4.9.*

Add new subsection 20.1.4.9 after subsection 20.1.4.8 as follows:

A temporary special amusement occupancy or attraction that is occupied for less than 60 days, including, but not limited to, a haunted house, maze, or special amusement, shall meet the standards set forth by the AHJ and this Code.

(214) *Subsection 20.1.5.2.4(3).*

Delete this subsection and substitute the following:

Candles shall comply with section 10.10.1 of this Code.

(215) *Subsection 20.1.5.2.4(6).*

Insert new subsection 20.1.5.2.4(6) after subsection 20.1.5.2.4(5) as follows:

- (i) All devices in connection with the preparation of food shall be installed and operated to avoid hazard to the safety of occupants. These devices shall be of an approved type and shall be installed in an approved manner.
- (ii) It is recommended that only electric devices be utilized.
- (iii) Chafing dishes using an open flame must be designed for food warming operations only. Only devices (such as Sterno cans) designed for use with chafing dishes shall be used. Chafing dish containers for the devices must be in place. A snuffing device designed for use with the chafing dish container shall be kept in close proximity to the serving area.
- (iv) Extra fuel containers shall be kept at a location remote from the serving area.
- (v) Combustible materials or decorations shall not be used near the serving dishes.
- (vi) A responsible person shall be identified to ensure the devices are completely extinguished at the end of the event prior to disposal. Devices shall not be disposed of until cool to touch.
- (vii) A "flaming sword" or other equipment involving open flames and flamed dishes shall comply with this section.

(216) *Subsection 20.1.5.3.*

Add the following to the end of this subsection:

- (7) Open flame devices used for cooking and pyrotechnic displays shall be approved by the AHJ. A permit for pyrotechnic displays shall be obtained from the Office of the State Fire Marshal.

(217) *Subsection 20.1.5.5.4.12.*

Add at the end of the first sentence, delete "20.1.5.5.4.12.5" and substitute "20.1.5.5.4.12.10".

(218) *Subsection 20.1.5.5.4.12.6.*

Add new subsection 20.1.5.5.4.12.6 after subsection 20.1.5.5.4.12.5 as follows:

The person who caused the vehicle to be displayed shall provide a name and a 24 hour telephone number for a responsible person for the vehicle. This information shall be kept with the vehicle, the security office and the management office.

(219) *Subsection 20.1.5.5.4.12.7.*

Add new subsection 20.1.5.5.4.12.7 after subsection 20.1.5.5.4.12.6 as follows:

An ignition key and door key shall be made available and may be kept with the security office or the management office.

(220) *Subsection 20.1.5.5.4.12.8.*

Add new subsection 20.1.5.5.4.12.8 after subsection 20.1.5.5.4.12.7 as follows:

At no time shall the placement of the vehicle impede or otherwise block any exit or exit access.

(221) *Subsection 20.1.5.5.4.12.9.*

Add new subsection 20.1.5.5.4.12.9 after subsection 20.1.5.5.4.12.8 as follows:

Electric and hybrid vehicles follow the same requirements as this section.

(222) *Subsection 20.1.5.5.4.12.10.*

Add new subsection 20.1.5.5.4.12.10 after subsection 20.1.5.5.4.12.9 as follows:

LNG and LPG vehicles compressed flammable gases are not allowed. The Office of the Fire Marshal may permit limited use of flammable gases under AHJ approval.

(223) *Subsection 20.1.5.6.2.*

Delete this subsection and substitute the following:

The crowd manager shall receive training, approved by the AHJ, in crowd management techniques.

(224) *Subsection 20.1.5.8.3.*

Delete this section and substitute the following:

When the Code Official finds an overcrowded condition, obstruction in or to the means of egress, a locked exit door, or any other hazard to life safety, the event shall be stopped until the situation is corrected. The crowd manager, supervisor, and owner shall ensure that the number of patrons in the occupancy (building, structure, site, or area) does not exceed the posted occupant load. The responsible person in charge of the assembly occupancy shall:

- (a) Immediately prior to the beginning of the event point out the number and location of exits;
- (b) State or display the following: "notice. For your safety, look for your nearest exit. In case of an emergency—walk, do not run, to that exit" which shall be stated or displayed in one of the following methods:
  1. An oral announcement at the beginning of the event;
  2. Showing the notice on the motion picture screen;
  3. Printing the notice in bold letters not less than one-quarter inch in height on the back of the event program (nothing but the notice shall be placed on the back of the program); or
  4. Having a fixed sign or signs displaying the notice that can be easily read from each point in the assembly room;
- (c) Make an inspection before the event to verify that the doors are unlocked and that the means of egress are free of obstructions;
- (d) Correct any deficiencies found prior to the start of the event; and

- (e) Prevent overcrowding by blocking admittance of any person beyond the posted occupant load.

(225) *Subsection 20.1.5.9.1.*

Delete this section and substitute:

Smoking shall meet the requirements in section 12.606 of the Howard County Code.

(226) *Subsection 20.1.5.9.2.*

Delete this subsection.

(227) *Subsection 20.1.5.10.4.1.*

Delete this subsection and substitute the following:

Each room or space of assembly shall be posted with an approved legible sign in contrasting colors and conspicuously located near the main exit from the room or space stating the maximum number of occupants permitted within the space. The posting location shall be determined by the AHJ. The maximum number of occupants shall be determined in accordance with the most recently adopted edition of the NFPA Life Safety Code. An assembly room or space, which has a multiple-use capacity, shall be posted for all uses. The owner or manager of the occupancy shall install and maintain the signs. Signs shall be supplied by the AHJ.

(228) *Subsection 20.1.5.10.4.2.*

Delete this subsection.

(229) *Subsection 20.1.5.10.4.3.*

Delete this subsection.

(230) *Subsection 20.2.4.2.3.*

Delete this subsection and substitute the following:

Fire emergency egress drills for educational occupancies shall be conducted in accordance with regulations adopted pursuant to the Maryland State Fire Prevention Code and the Code of Maryland Regulations 29.06.01.07T.

(231) *Subsection 20.3.4.1.1.*

Delete this subsection and substitute the following:

A family day-care home shall meet the following requirements:

- (i) The family day-care home shall not serve more than eight clients;
- (ii) A child shall be counted as a client served if the child:
  - a. Is under the age of two years; and
  - b. Is the child of the day-care home owner or operator, or of an employee of the family day-care home;
- (iii) There shall not be more than four children under the age of two years; and
- (iv) For children under the age of two years, an adult to child ratio of at least one adult to every two children shall be maintained at all times.

(232) *Subsection 20.3.4.1.1.1.*

Add new subsection 20.3.4.1.1.1 after subsection 20.3.4.1.1 as follows:

A group day-care home shall meet the following requirements:

- (i) The home shall not serve more than 12 clients;
- (ii) A child shall be counted as a client served if the child:
  - a. Is under the age of two years; and
  - b. Is the child of the day-care home owner or operator, or of an employee of the group day-care home;
- (iii) There shall not be more than four children under the age of two years;
- (iv) The minimum staff to client ratio shall not be less than two staff for up to 12 clients or one adult for every six children; and
- (v) For children under the age of two years, an adult to child ratio of at least one adult to every two children shall be maintained at all times.

(233) *Subsection 20.3.4.1.7.*

Add new subsection 20.3.4.1.7 after subsection 20.3.4.1.6 as follows:

A day-care center is governed by the requirements for an educational occupancy if the day-care center provides day care for school-age children before and after school hours and provides care in a building which is in use as a public or private school.

(234) *Subsection 20.3.4.2.2.3.*

Add new subsection 20.3.4.2.2.3 after subsection 20.3.4.2.2.2 as follows:

A bulkhead door shall not be a primary means of emergency egress.

(235) *Subsection 20.3.4.2.2.4.*

Add new subsection 20.3.4.2.2.4 after subsection 20.3.4.2.2.3 as follows: A sliding door used as a required means of egress shall meet the following requirements:

- (i) The sliding door shall have only one, easily operated locking device that does not require special knowledge, effort, or tools to operate;
- (ii) There shall not be draperies, screens, or storm doors that could impede egress;
- (iii) The sill or track height may not exceed ½ inch above the interior finish floor;
- (iv) The surface onto which an exit is made shall be an all-weather surface, such as a deck, patio, or sidewalk;
- (v) The floor level outside the door may be one step lower than the inside, but not more than eight inches lower;
- (vi) The sliding door shall be open to a clear open width of at least 28 inches;
- (vii) Each day before day-care use, the sliding door shall be unlocked and tested to the full required width; and
- (viii) During periods of snow or freezing rain, the door track shall be kept clear of snow or freezing rain and the door opened periodically throughout the day in order to ensure proper operation.

(236) *Subsection 20.3.4.2.2.5.*

Add new subsection 20.3.4.2.2.5 after subsection 20.3.4.2.2.4 as follows:

If a deadbolt lock is provided with an approved interior latch, the deadbolt lock shall be of a captured key design from which the key cannot be removed from the interior side of the lock



when in the locked position. The lock shall be unlocked at all times when the home is occupied for the family day-care use, except that a double keyed, deadbolt lock may be used on the secondary means of egress if the key is readily accessible and the lock is unlocked when the day-care is in operation.

(237) *Subsection 20.3.4.2.3.5.4.*

Insert the following at the end of this subsection: except in day care homes with three or fewer clients for overnight lodging.

(238) *Subsection 25.1.3.6.*

Add new subsection 25.1.3.6 after subsection 25.1.3.5 as follows:

If artificial lighting is provided in the tent, then emergency lighting is required in the event that the artificial lighting fails.

(239) *Subsection 25.1.3.7.*

Add new subsection 25.1.3.7 after subsection 25.1.3.6 as follows:

A tent shall not block any exit from a structure or create a situation where the building occupants will exit through the tent to get to a safe area.

(240) *Subsection 25.1.3.8.*

Add new subsection 25.1.3.8 after subsection 25.1.3.7 as follows:

All tents shall have a minimum of one exit. Tents with a capacity of greater than 49 persons shall have two exits. Egress doors shall be of contrasting color. Exit signs shall be provided. Draperies, hangings or curtains used on exits shall comply with NFPA 1 section 14.10.2.

(241) *Subsection 25.1.9.3 1.*

Add new subsection 25.1.9.3.1 after subsection 25.1.9.3 as follows:

Portable distribution or termination boxes shall be designed so no live wires are exposed. Where installed outdoors, the boxes shall be weatherproof and mounted not less than six inches above the ground.

(242) *Subsection 25.1.9.4.*

Add new subsection 25.1.9.4 after subsection 25.1.9.3 as follows:

All electrical devices, wiring, and generators may be used if inspected and issued a permit by the Department of Inspections, Licenses and Permits prior to use.

(243) *Subsection 25.1.10.1.4.*

Add new subsection 25.1.10.1.4 after subsection 25.1.10.1.3 as follows:

Electric heating units used inside a tent shall be approved. Fuel fired devices shall be located on the exterior of the tent and air ducted to the tent.

(244) *Subsection 25.1.10.1.5.*

Add new subsection 25.1.10.1.5 after subsection 25.1.10.1.4 as follows:

Propane cylinders must be located not less than five feet from any tent. Tanks shall be secured in an upright position and protected from vehicle traffic.

(245) *Subsection 25.2.1.3.*

Add new subsection 25.2.1.3 after subsection 25.2.1.2 as follows:

Any tent over 120 ft<sup>2</sup> requires a permit from Howard County Department of Inspection, License and Permits. Tents and canopies used for food service require a permit from the Howard County Health Department. Tents shall be permitted on a temporary basis.

(246) *Subsection 25.2.1.4.*

Add new subsection 25.2.1.4 after subsection 25.2.1.3 as follows:

Tents and canopies shall not be set up inside a building unless approved by the AHJ.

(247) *Subsection 25.2.2.2(3).*

Add new subsection 25.2.2.2(3) after subsection 25.2.2.2(2) as follows:

(3) The tent or canopy shall have a label affixed stating that the tent complies with NFPA 701 or equivalent testing standard approved by the AHJ. Non-fixed certification may be acceptable providing it identifies the make and model of the tent.

(248) *Subsection 25.2.3.3.*

Delete "10 ft" and substitute "15 feet".

(249) *Subsection 25.2.3.4.*

Delete this subsection and substitute the following:

A separation of ten feet is required after every 100 feet of tents. A separation of ten feet shall be maintained between rows of tents. A row shall not be wider than 40 feet.

(250) *Subsection 25.2.4.1.1.*

Add new subsection 25.2.4.1.1 after subsection 25.2.4.1 as follows:

Hay, straw, shavings or similar combustible material shall not be permitted within the structure unless approved by the AHJ.

(251) *Subsection 26.1.5.2.*

Add new subsection 26.1.5.2 after subsection 26.1.5.1 as follows:

When the AHJ requires a hazard assessment, the assessment shall be conducted by a technically qualified person acceptable to the AHJ.

(252) *Subsection 26.1.5.3.*

Add new subsection 26.1.5.3 after subsection 26.1.5.2 as follows:

When the AHJ requires a hazard assessment, the assessment shall include a list of hazardous materials used in each laboratory. The list shall specify the chemical name, quantity and hazard class.

(253) *Subsection 26.1.5.4.*

Add new subsection 26.1.5.4 after subsection 26.1.5.3 as follows:

New laboratories or laboratories where the NFPA 45 Laboratory Hazard Classification changes shall post an informational placard near the main entrance to the laboratory. The placard shall state the building name or address, room number, NFPA 45 Laboratory Hazard Classification, maximum allowable quantities of flammable liquids both inside a storage cabinet and open use, and maximum quantities of flammable gases permitted within the laboratory.

(254) *Section 26.3.*

Add new section 26.3 after section 26.2 as follows:

All laboratories, laboratory suites, or laboratory units within the scope of NFPA 45, regardless of the laboratory classification in NFPA 45, shall be separated by at least one-hour fire resistance rated construction from non-laboratory areas. If a higher fire resistance rating is required by table 5.1.1 in NFPA 45 or the Building Code, the higher fire resistance rating shall be used. Rooms that are an incidental use to the laboratory shall be considered part of the laboratory for the purpose of this requirement and shall not require additional separation.

(255) *Section 27.2.*

Delete this section and substitute the following:

The fire safety requirements for the installation of a manufactured home and a manufactured home site, including an accessory building, structure, and community, shall comply with NFPA 501A, Standard for Fire Safety Criteria for Manufactured Home Installations, Site, and Communities, section 27.1 of this Code, and title 16, subtitle 5 of the Howard County Code.

(256) *Subsection 31.2.1.*

Add new section 31.2.1 after section 31.2 as follows:

- (i) A copy of the facility's Natural Wood Waste Recycling Facility or composting permit application, including the Operations Plan and the Emergency Preparedness Manual, shall be sent to the AHJ for review and recommendations to the Department of Planning and Zoning.
- (ii) A copy of the information required by paragraph (i) of this subsection shall be submitted to the AHJ with each State permit renewal (five-year renewals).

(257) *Subsection 31.3.4.3.2.1.*

Add new subsection 31.3.4.3.2.1 after subsection 31.3.4.3.2 as follows:

The primary road shall:

- (i) Be kept adequately clear in order to provide access the processing/storage area; and
- (ii) Be paved or constructed so as to provide all weather, year round, access by fire apparatus with a weight of 75,000 GVW.

(258) *Subsection 31.3.6.2.2.*

Add new paragraph 9 after paragraph 8 as follows:

A pile containing leaves and other extraneous or hogged material, including natural wood waste, shall be turned or reclaimed in accordance with State law and at a minimum every three months.

(259) *Subsection 31.3.6.3.1.*

Delete this subsection and substitute the following:

Piles may not exceed 18 feet in height for unground materials or 10 feet in height for ground materials, 50 feet in width, and 350 feet in length. When more than one pile exists, piles shall be divided by a fire lane having at least 25 feet of clear space at the base of the pile.

(260) *Subsection 31.3.6.3.2.*

Delete this subsection.

(261) *Subsection 31.3.6.3.2.1.*

Delete this subsection.

(262) *Subsection 31.3.6.3.2.2.*

Delete this subsection.

(263) *Subsection 31.3.6.3.2.3.*

Delete this subsection.

(264) *Subsection 31.3.6.3.5.1.*

Add new subsection 31.3.6.3.5.1 after subsection 31.3.6.3.5 as follows:

If the operation is located outside of a municipal water supply the following will apply:

- (i) The AHJ will require a reliable certified water supply system with the capability to supply 1,000 gallons per every 10,000 cubic feet of pile. The supply system must be capable of producing a minimum of 250 gpm (preferred is 500 gpm) for at least two hours.
- (ii) The Mulch/Wood Processing operation shall have a Fire Station located within five travel miles of the location.
- (iii) If the water supply is static it is to be certified by an engineer and capable to supply the amount required by paragraph (i) of this subsection. If the water supply is below the minimum amount, then the supply must be capable of at least 30,000 gallons at all times. The maximum size of water supply needed may be based on the proposed operation and approved by the AHJ.
- (iv) Based on the amount of material on site, other provisions such as sprinklers, pre-piped systems, or constant monitoring of the pile may be required.

(265) *Section 33.1.2.*

Delete this section and substitute the following:

Where required, a permit for outside storage shall be obtained from the Maryland Department of the Environment. A permit from the AHJ is required for the storage of 500 tires or more. A person may not store more than 5,000 tires.

(266) *Section 33.1.12.*

Add new section 33.1.12 after section 33.1.11 as follows:

The AHJ may require a security fence around the tire storage area.

(267) *Section 33.1.13.*

Add new section 33.1.13 after section 33.1.12 as follows:

The storage of fewer than 500 tires shall meet the following requirements:

- (i) Tires shall not be stored in vertical stacks;
- (ii) Storage piles shall not exceed ten feet in height;
- (iii) Storage piles shall not be larger than 1,250 cubic feet; and
- (iv) Tires shall be separated from the property line, buildings, structures, or other exposures by a minimum of 25 feet.

(268) *Section 33.2.2.3.*

Delete "20 ft (6m)" and substitute "ten feet"

(269) *Subsection 42.7.5.2.1.*

Add new subsection 42.7.5.2.1 after subsection 42.7.5.2 as follows:

The following information shall be conspicuously posted in a location approved by the AHJ:

- (i) The address of the unattended self-service facility; and
- (ii) The telephone number of the owner or operator of the unattended self-service facility.

(270) *Subsection 42.7.5.7.*

Add new subsection 42.7.5.7 after subsection 42.7.5.6 as follows:

An owner, manager, or employee shall conduct a daily site visit to ensure that all equipment is operating properly.

(271) *Subsection 42.7.5.8.*

Add new subsection 42.7.5.8 after subsection 42.7.5.7 as follows:

An owner, manager, or employee shall conduct inspections and maintenance of equipment at regular intervals and in accordance with the manufacturer's instructions.

(272) *Subsection 42.7.5.9.*

Add new subsection 42.7.5.9 after subsection 42.2.7.5.8 as follows:

Fuel dispensing equipment shall comply with one of the following:

- (i) The amount of fuel being dispensed is limited in quantity by a pre-programmed card; or
- (ii) The dispensing device shall be programmed or set to limit uninterrupted fuel delivery of not more than 25 gallons and shall require manual action to resume continued delivery.

(273) *Subsection 50.2.1.9.*

Delete this subsection and substitute the following:

Cooking equipment used in fixed, mobile, or temporary concessions, such as trucks, buses, trailers, pavilions, tents, under a canopy or any form of roofed enclosure, shall comply with NFPA 96 and this chapter.

(274) *Subsection 50.2.1.10.*

Add new subsection 50.2.1.10 after subsection 50.2.1.9 as follows:

Mobile Food Vending Platforms. All mobile food vending platforms that use propane or any other heat source for cooking shall be inspected by the AHJ. For purposes of this Code, mobile food vending platform means any pushcart, trailer, enclosed trailer, or enclosed truck that uses propane or any other heat source to prepare food or beverage for sale.

(275) *Subsection 50.2.1.10.1.*

Add new subsection 50.2.1.10.1 after subsection 50.2.1.10 as follows:

50.2.1.10.1 Licensing requirements. The owner or operator of a mobile food vending platform shall, before beginning operations, obtain an inspection and inspection sticker from the AHJ as follows:

- (i) The owner or operator of a mobile food vending platform shall provide the following information to the AHJ:
  - a. Evidence of a current Howard County health inspection;
  - b. A valid driver's license;
  - c. Current vehicle registration;
  - d. Current vehicle inspection sticker/paperwork; and
  - e. Current vehicle state inspection.
- (ii) Inspections of mobile food vending platforms. The AHJ may conduct inspections at any time as deemed necessary to ensure compliance with the provisions of this Code.
  - a. An inspection is required by any owner or operator of a mobile food vending platform that establishes business for any length of time in Howard County. The owner or operator shall request a one-day inspection sticker at least ten days prior to conducting business in Howard County.
  - b. The AHJ shall designate a location to conduct inspections. Inspections or reinspections shall be at designated times each month or may be arranged by appointment.
  - c. Once the inspection is satisfactorily completed, the AHJ shall issue an inspection sticker. Except for a one-day inspection sticker, the inspection sticker is valid for one calendar year from the last inspection.
  - d. Mobile food vending platforms that fail the inspection may not operate.
  - e. Any changes to items, processes, storage or configuration within the scope of the inspection must be approved by the AHJ in order to maintain the validity of an inspection sticker.
  - f. Hydro dates of propane cylinders will be checked by the AHJ.
- (iii) The owner or operator of a mobile food vending platform shall:
  - a. Obtain any other permits, including a hazardous materials permit;
  - b. Pay any other fees as required by law;
  - c. Display annual or one-day inspection stickers; and
  - d. Complete a daily checklist.

(276) *Subsection 50.2.1.11.*

Add new subsection 50.2.1.11 after subsection 50.2.1.10 as follows:

Fees related to mobile food vending platforms.

- (i) The AHJ may charge a fee for an inspection or reinspection of a mobile food vending platform.
- (ii) The County Council may adopt by resolution fees for the inspection and reinspection of mobile food vending platforms.
- (iii) An inspection shall not be performed where an operator has failed to pay previous inspection fees. Where an inspection cannot be performed for failure to pay fees, the mobile food vending platform may not operate.

(277) *Subsection 50.2.1.12.*

Add new subsection 50.2.1.12 after subsection 50.2.1.11 as follows:

Fire protection systems for mobile food vending platforms shall comply with NFPA 1 and the following:

- (i) Fire suppression systems shall comply with the appropriate provisions of this Code, NFPA 1, and NFPA 96.
- (ii) All mobile food vending platforms that have any commercial cooking equipment that produce grease laden vapors shall have an automatic fire-extinguishing system.
- (iii) If more than two frying vessels or ten gallons of frying media are used, a commercial hood (Type 1) shall be installed above all commercial cooking appliances or domestic cooking appliances used for commercial purposes.
- (iv) At the time of inspection, hood and exhaust systems must be clean and the hood shall have the appropriate sticker attached by a Maryland registered cleaner.
- (v) Fire extinguishers are required for all mobile food vending platforms as follows:
  - a. All fire extinguishers shall be maintained and inspected on an annual basis. A fire extinguisher (minimum size of 2A 40 bc) is required in addition to any Class K extinguisher. If deep fat fryers are used operators shall have and maintain a Class K portable fire extinguisher.
  - b. Portable fire extinguishers shall be located in conspicuous locations where they are readily accessible and immediately available for use.
  - c. If the platform is a towed trailer, the fire extinguisher shall be kept in the trailer, when the trailer is operating.
  - d. All employees working in the vehicle shall be trained in the proper use of the fire extinguishers.
  - e. Fire extinguishers shall bear a current inspection tag validated within the past 12 months or a receipt of purchase within the last 12 months shall be available for inspection.
- (vi) Ventilation control systems shall be appropriate for the cooking operations conducted. Ventilation systems shall be capable of exhausting all byproducts of cooking operations. The hood must be designed to adequately collect and exhaust fumes, smoke and vapors from the area over which it is installed. Hood systems shall be maintained and cleaned in accordance with this Code, NFPA 1, and NFPA 96.
- (vii) All fire extinguishing system shall be inspected by a certified fire protection company every six months. Records shall be maintained as required in this Code, NFPA 1, and NFPA 96.
- (viii) Records shall be submitted to the AHJ in an approved method.

(278) *Subsection 50.2.1.13.*

Add new subsection 50.2.1.13 after subsection 50.2.1.12 as follows:

Hazardous materials and storage of flammable liquids for mobile food vending platforms. The storage and use of flammable liquids shall comply with NFPA 1, and the following:

- (i) Individual containers, cartons, or packages shall be conspicuously marked or labeled in an approved manner.
- (ii) Hazardous materials or liquids shall be disposed of in the proper manner and shall not be released into any sewer, storm drain, ditch, drainage canal, creek, stream, river, lake or tidal water or on the ground, sidewalk, street, highway, or into the atmosphere.

(279) *Subsection 50.2.1.14.*

Add new subsection 50.2.1.14 after subsection 50.2.1.13 as follows:

Propane and natural gas handling requirements for mobile food vending platforms shall comply with NFPA and the following:

- (i) A "no smoking" sign next to or directly above the gas container and visible to the public. Such sign shall be posted with a minimum of two-inch lettering.
- (ii) The main shut-off shall be marked, in plain view, and be accessible.
- (iii) Propane bottles—The capacity limit of propane bottles shall be determined by the AHJ.
- (iv) LPG vessels shall be affixed to the portable food service platform in a safe and secure manner that provides while parked or in transit. All applicable Department of Transportation regulations shall be followed.
- (v) Propane and natural gas tanks shall be shut off while the mobile food vending platform is in motion, unattended and/or in overnight storage.
- (vi) Generator(s) and LPG storage compartments located on the exterior of the mobile food vending platform shall be enclosed. These compartments shall have venting to the exterior and shall not allow any venting to the interior of the vehicle. If an LPG storage compartment is added on the rear of the truck, the bumper shall extend beyond the compartment to provide added impact protection in accordance with NFPA 58-6.23.3.4.
- (vii) Storage or use of LPG cylinders within vehicle towing a mobile vending food platform is prohibited at all times.
- (viii) Mounting and placement of propane and natural gas tanks. The mounting of propane and natural gas tanks must withstand impact equal to four times the weight of the filled propane or natural gas container according to NFPA 58-6.23.3.4. Tanks must be secure (NFPA 58-5.2.4) and conform with NFPA standards relating to the safe mounting of tanks as described in NFPA 58-6.23.3.3.
  - a. Outside mounted in a semi-enclosed cabinet, with vents at the top and bottom to facilitate the diffusion of vapors, vapor-tight to the interior of the vehicle, with a weather-protected regulator and a leak indicator as described in NFPA 1192-6.4.8.
  - b. Outside mounted, secured on top and bottom and stabilized (e.g., with a strap), vapor-tight to the interior of the vehicle, mounted no less than 28 inches above the ground with a weather-protected regulator.

(280) *Subsection 50.2.1.15.*

Add new subsection 50.2.1.15 after subsection 50.2.1.14 as follows:

Electrical requirements. The electrical equipment on a mobile food vendor platform shall be in compliance with the Howard County Electrical Code.

(281) *Section 60.1.1.1.*

Add new section 60.1.1.1, immediately after section 60.1.1 as follows:

60.1.1.1 Hazmat Permitting. Notwithstanding any other provision of this Code, an annual permit issued by the AHJ is required for any facility that stores, receives, dispenses, uses, or handles any hazardous materials identified in subsection 60.1.1.1(i) of this Code. For the purposes of this section, the term "hazardous material" is equivalent to "hazardous substance" and "hazardous chemical".

- (i) There are five types of hazardous materials permits based on the type and quantity of hazardous material:



- a. Type I permits are required for hazardous chemicals identified in 40 CFR part 370, subject to the Threshold Planning Quantity ("TPQ") where applicable therein.
  - b. Type II, Type III, and Type IV permits are required for extremely hazardous substances, as defined in 40 CFR part 355, that have a TPQ of ten pounds or less, that do not otherwise require a type I permit, as follows:
    - 1. Type II permits are required for five pounds or more, up to ten pounds.
    - 2. Type III permits are required for one pound or more, up to five pounds.
    - 3. Type IV permits are required for amounts less than a pound.
  - c. Type V hazardous materials permits are required for any substance, in accordance with section 1.12.8 of this Code, that does not otherwise require a Type I, II, III, or IV permit.
- (ii) A permit application will not be accepted unless the following items are submitted with the permit application:
- a. A general site plan is required for Type I, II, and III facilities. A general site plan shall be drawn at a legible scale and shall include the location of buildings, exterior storage facilities, permanent access ways, evacuation routes, parking lots, internal roads, chemical loading areas, equipment cleaning areas, storm and sanitary sewer accesses, emergency equipment, and adjacent property uses.
  - b. A building floor plan is required for Type I, II, and III facilities. A building floor plan shall be drawn to a legible scale that shall include the identity of each hazardous materials storage areas within the building and shall indicate rooms, doorways, corridors, means of egress, and evacuation routes.
  - c. A hazardous materials inventory statement (HMIS) is required for all facilities. The inventory statement shall include: hazard class, common or trade name, chemical name, major constituents, and concentrations if a mixture. If the hazardous material is waste, the waste category, chemical abstract service number (CAS number) found in title 29 of the Code of Federal Regulations (CFR), whether the material is pure or a mixture, and whether the material is a solid, liquid, or gas, storage conditions related to the storage type, temperature, and pressure.
  - d. Safety data sheets (SDS) are required for all facilities and for all chemicals listed on the application.
  - e. Type I, II, and III facilities are required to provide a copy of a contract with a disposal/clean-up company or a plan to dispose of chemicals or clean-up spills or leaks.
- (iii) Any amendments to the hazardous materials inventory statements shall be provided to the AHJ within 30 days of the storage of any hazardous materials that either:
- a. Changes or adds a hazard class; or
  - b. That causes a five percent increase in the amount of any one hazard class.
- (iv) The business shall notify the AHJ in writing 30 days prior to vacating the property or area where hazardous materials are located. The AHJ shall conduct an inspection on the last day that the business occupies the property or area to confirm that all hazardous materials have been removed from the property or area. A violation of this subsection is a Class A offense. Each day that a violation continues is a separate offense.
- (v) Applications for a hazardous material permit shall be submitted annually by the following dates:
- a. Type I - Filing date: March 1<sup>st</sup>

- b. Type II - Filing date: August 1<sup>st</sup>
- c. Type III - Filing date: September 1<sup>st</sup>
- d. Type IV - Filing date May 1<sup>st</sup>
- e. Type V - Filing date: June 1<sup>st</sup>

Failure to apply for a hazardous materials permit is a Class A offense. Each day that a violation continues is a separate offense.

- (vi) A violation of this section is a Class A offense. Each day that a violation continues is a separate offense.

(282) *Subsection 60.1.1.1.1.*

Add new subsection 60.1.1.1.1 after subsection 60.1.1.1 as follows:

In addition to this Code, applicable requirements of the Public Safety Article of the Annotated Code of Maryland, shall apply. When a permit conflicts with a provision of this Code, the more stringent requirement applies.

(282A) *Subsection 60.1.2 .*

Delete the first paragraph and substitute the following:

Except for hazardous materials permit requirements, buildings, and portions thereof, containing high hazard contents limited to any of the following are not required to comply with this chapter.

(283) *Subsection 63.1.1.1.1.*

Add new subsection 63.1.1.1.1 after subsection 63.1.1.1 as follows:

Carbon dioxide (CO2) beverage systems shall comply with NFPA 55.

(284) *Subsection 65.1.1.*

Delete this section and substitute the following:

Except as provided in subsections 65.1.1.1, 65.1.3, 65.1.4, and 65.1.5 of this Code, the storage, use, and handling of explosives, fireworks, or model rocketry shall comply with the requirements of this chapter, NFPA standards referenced within this chapter, section 60.1 and section 60.2 of this Code, and the requirements set for forth in the Public Safety Article of the Annotated Code of Maryland.

(285) *Subsection 65.1.1.1.*

Add new subsection 65.1.1.1 after subsection 65.1.1 as follows:

Unless the possession or discharge of the device is conducted under a state fire marshal permit and is subject to inspection by the AHJ, a person shall not possess, store, offer for sale, expose for sale, sell, use, burn, discharge, or explode a ground-based sparkling device, including but not limited to, non-aerial, non-explosive cone fountains, and cylindrical fountains.

(286) *Section 65.1.3.*

Add new section 65.1.3 after section 65.1.2 as follows:

In addition to the AHJ, the Howard County Department of Police may enforce section 65.1.1.1 of this Code.

(287) *Section 65.1.4.*

Add new section 65.1.4 after section 65.1.3 as follows:

A person possessing, selling, or discharging illegal fireworks, explosives, unlawfully stored hazardous materials, or model rocketry shall forfeit the same to the AHJ. The AHJ may seize illegal fireworks, explosives, unlawfully stored hazardous materials, and model rocketry.

(288) *Section 65.1.5.*

Add new section 65.1.5 after section 65.1.4 as follows:

A violation of this chapter is a Class A offense. A person who possess, sells, or discharges illegal fireworks, explosives, unlawfully stored hazardous materials, or model rocketry, or who fails to surrender illegal fireworks, explosives, or model rocketry to the AHJ, or who fails to get approval or follow the regulation set forth for flame effects is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. Alternatively, and in addition to and concurrent with all remedies provided at law or equity, a Fire Official may enforce this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subsection is a Class A offense. Each day that a violation continues is a separate offense.

(289) *Subsection 66.21.7.4.3.1.1.*

Add new subsection 66.21.7.4.3.1.1 after subsection 66.21.7.4.3.1 as follows:

A person shall obtain approval by the Maryland Department of the Environment and the Department of Inspections, Licenses and Permits to remove an underground tank. Removed tanks shall be taken away from the site within 24 hours.

(290) *Subsection 69.1.1.4.*

Add new subsection 69.1.1.4 after subsection 69.1.1.3 as follows:

Cylinders connected to a temporary heating device in a building under construction or being renovated shall be located outside the building and secured in a manner approved by the AHJ. An extra cylinder stored on a construction site shall be secured in manner approved by the AHJ.

(291) *Subsection 69.3.10.9.2.*

Delete this subsection and substitute the following:

Cylinders shall not be located on decks or balconies of dwellings of two or more living units.

(292) *Subsection 69.3.11.1.3.*

Delete this subsection and substitute the following:

Patio heaters shall not be located within five feet of an exit or opening or used under a tent or canopy.

(293) *Subsection 69.5.3.2.4.*

Add new subsection 69.5.3.2.4 after subsection 69.5.3.2.3 as follows:

Except for Class A mercantile occupancies, in mercantile occupancies the total weight of all cylinders shall not exceed ten lbs.

(C.B. 8, 2016, § 1; C.B. 1, 2017, § 1; C.B. 78, 2017, § 1)

Footnotes:

--- (2) ---

**Editor's note**— Council Bill No. 8-2016, § 1, adopted April 14, 2016, repealed the former § 17.104, and enacted a new § 17.104 as set out herein. The former § 17.104 pertained to similar subject matter and derived from C.B. 153, 1991; C.B. 81, 1997; C.B. 14, 2003, § 1; C.B. 52, 2004; C.B. 53, 2007, §§ 1, 2; C. B. 38, 2008, § 1.

Sec. 17.105. - Unsafe structures.

- (a) *Definitions.* For the purpose of this section, the following terms are defined as follows:
- (1) *Emergency* means a fire, explosion, medical condition, or other hazard that poses an immediate threat to life or property.
  - (2) *Fire official* means the Chief of the Department of Fire and Rescue Services, or the Chief's designee, is a fire official for the purpose of this section.
  - (3) *Imminent danger* means a condition or practice in an occupancy, structure, or area that poses a danger that could reasonably be expected to cause death, physical injury, or damage to property.
- (b) *Power to Abate.* Where there is evidence that an emergency exists, the Fire Official is authorized to summarily abate the emergency and to maintain order at the scene until the emergency is abated and persons and property are secured.
- (c) *No Liability for Trespass.* Without liability for trespass, when there is evidence that an emergency or imminent danger exists an authorized Fire Official may enter any building, including private dwellings, or any premises at or in the vicinity of the scene of the emergency or imminent danger for the purpose of abating the emergency, including a medical emergency, or imminent danger.
- (d) *Evacuation.* Authorized Fire Officials, when operating at an emergency or imminent danger, may:
- (1) Order any individual to evacuate any building, premises or area, including a private dwelling, at or in the vicinity of an emergency or imminent danger for the purpose of protecting a person and the public from injury.
  - (2) Order any convoy, caravan or train of vehicles, craft, or railway cars to be detached or uncoupled for the purpose of protecting persons, the public, and property.
- (e) *Unsafe Buildings:*
- (1) A building or structure that constitutes an emergency or imminent danger shall be posted by the Fire Official as an unsafe building or structure and occupancy shall be prohibited until the Fire Official determines that the emergency or imminent danger is abated. The Fire Official may adopt procedures to implement this section.
  - (2) A building or structure that is unsafe because of structural damage from any cause shall be posted as unsafe in accordance with the procedures set forth in the Howard County Building Code or pursuant to procedures adopted by the Fire Official.
  - (3) The owner of a building or structure that has been posted as unsafe is responsible for securing the unsafe building or structure to prevent occupancy.
  - (4) The Fire Official may require all utilities to be disconnected in an unsafe building or structure.
- (f) *Penalties.* An individual failing to obey any order given by a Fire Official when acting pursuant to this section is guilty of a misdemeanor and, upon conviction, is subject to a fine, not exceeding \$1,000.00, or imprisonment, not exceeding 30 days, or both. Alternatively, or in addition to and concurrent with all remedies at law or at equity, a Fire Official may enforce the provisions of this section with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this section is a Class A offense.

(C.B. 153, 1991; C.B. 52, 2004; C.B. 10, 2006, § 3)

Sec. 17.106. - Flammable materials may be declared a nuisance.

(a) *What Constitutes a Public Nuisance.*

- (1) This subsection does not apply to weeds, brush and grass on land actively devoted to:
  - (i) Agricultural uses; or
  - (ii) Conservation uses.
- (2) A Fire Official may declare the following materials a public nuisance, upon finding that they create or tend to create a fire hazard endangering life or property, or that they may interfere with emergency operations or endanger fire service personnel:
  - (i) Rubbish or trash;
  - (ii) Dry brush, noxious weeds or grass exceeding 12 inches in height;
  - (iii) Wood chips or hogged material, including natural wood waste; or
  - (iv) Debris or other material of a flammable nature.

(b) *Unlawful to Permit Public Nuisance.* It shall be unlawful for anyone to permit a public nuisance listed in subsection (a) to remain on any lot or parcel of ground.

(c) *Removal; Notice.* The Director of Fire and Rescue Services shall send a notice by registered or certified mail to the owner of any lot or parcel of ground where the Director determines that a public nuisance exists. The notice shall:

- (1) Require the property owner to abate the nuisance within ten days;
- (2) State that if the nuisance is not abated within ten days, the County may abate the nuisance at the expense of the property owner.

(d) *Extension.* If the property owner is unable to comply with a notice within ten days after its receipt, the property owner shall submit a request for an extension of time. Upon receipt of the request, the Fire Official may grant an extension of time, not to exceed 90 days. The request for an extension shall:

- (1) Be submitted to the Fire Official; and
- (2) State the reasons for the request.

(e) *Penalties:*

- (1) A person who fails to comply with a notice issued by the Fire Official is guilty of a misdemeanor and, upon conviction, is subject to a fine, not exceeding \$1,000.00, or imprisonment, not exceeding 30 days, or both. Alternatively, or in addition to and concurrent with all other remedies at law or at equity, the Department of Fire and Rescue Services may enforce the provisions of this section with civil penalties pursuant to title 24, "Civil Penalties" of the Howard County Code. A violation of this section is a Class C offense.
- (2) The Fire Official may bring action in court to enforce compliance with an order to comply with this subtitle or to correct a nuisance.
- (3) If a person refuses or fails to comply with the provisions of this subtitle or to correct a nuisance within the time specified in the notice of violation, the Fire Official may petition the court for an order permitting entry upon the property to abate the violation or correct the nuisance at the owner's expense.

(C.B. 153, 1991; C.B. 52, 2004; C.B. 78, 2017, § 1)

Sec. 17.107. - False emergency alarms.

- (a) *Definitions.* For purposes of this section, the following definitions shall apply:
- (1) *Alarm system* means an automatic alarm system designed to notify the County's Emergency Communications/911 Center and the Department of Fire and Rescue Services.
  - (2) *Alarm system contractor* means a person who installs, maintains, monitors, alters, or services an alarm system. An alarm system contractor does not include a person who only manufactures or sells alarm systems.
  - (3) *Alarm user* means:
    - (i) A person in control of an alarm system within, on, or around any building, structure, facility, or site; or
    - (ii) The owner or lessee of an alarm system.
  - (4) *False alarm* means a request for immediate assistance from the Department of Fire and Rescue, regardless of the cause of the request, that is not in response to an actual emergency situation.
    - (i) A false alarm shall include:
      - a. A negligently or accidentally activated signal;
      - b. A signal that is activated as the result of faulty, malfunctioning, or improperly installed or maintained equipment; or
      - c. A signal that is purposely activated in a nonemergency situation.
    - (ii) A false alarm shall not include:
      - a. A signal activated by unusually severe weather conditions or other causes beyond the control of the alarm user or alarm system contractor; or
      - b. A signal activated within 30 days after a new installation of an alarm system.
  - (5) *Signal* means the activation of an alarm system that requests a response by the Department of Fire and Rescue Services.
- (b) *Intentional Activation.* A person shall not intentionally activate a signal for a nonemergency situation. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, is subject to a fine, not exceeding \$1,000.00, or imprisonment, not exceeding 30 days, or both. In addition to and concurrent with all other remedies provided by law or equity, the Department of Fire and Rescue Services may enforce this section by civil remedies pursuant to title 24, "Civil Penalties" of the Howard County Code. A violation of this section is a Class A Offense.
- (c) *Negligent or Accidental Activation.* The Department of Fire and Rescue Services may issue a civil citation, pursuant to article 24 "Civil Penalties" of the Howard County Code, to a person for the negligent or accidental activation of an alarm system. A violation of this subsection shall be a Class C offense. The negligent or accidental activation of an alarm system shall be a result of faulty, malfunctioning, or improperly installed or maintained equipment or for a false alarm if the number of activations of false alarms to which the Department of Fire and Rescue Services responds exceeds:
- (1) Three responses within a 30-day period; or
  - (2) Eight responses within a 12-month period.

(C.B. 153, 1991; C.B. 52, 2004; C.B. 8, 2016, § 1)

**State Law reference**— False emergency alarms, Ann. Code of Md., Criminal Law article, § 9-607 et seq.

Sec. 17.108. - Option to install residential automatic sprinkler systems.

- (a) *Option to Buyer.* A seller of a new single-family dwelling shall offer the initial buyer an option to install a residential automatic sprinkler system. At the time of signature of the real estate sales contract the buyer shall acknowledge receipt of the disclosure information required in subsection (b) of this section and shall indicate whether the buyer intends to exercise the option to install a residential automatic sprinkler system to improve the life safety of the occupant and to reduce property damage from fire.
- (b) *Disclosure of Information.* At the time of signature of a real estate sales contract, a seller shall give the initial buyer information regarding a residential automatic sprinkler system on a form provided by the Department of Fire and Rescue Services. A seller shall disclose the estimated cost of installing a residential automatic sprinkler system to a buyer.
- (c) *Notice.* After signature of a real estate sales contract and prior to the issuance of a permit for the construction of a new single-family dwelling, a seller shall notify the Department of Inspections, Licenses and Permits, with a copy to the Department of Fire and Rescue Services, that the seller complied with the requirements of subsections (a) and (b) of this section. The notification shall be on a form provided by the Department of Fire and Rescue Services.
- (d) *Penalty for Failure to Provide Option and Notice.* Failure to offer the buyer the option to install an automatic sprinkler system, or failure to provide the required notification to the Department of Inspections, Licenses and Permits is cause to withhold the issuance of the building permit for the dwelling.
- (e) *Applicability.* This section shall not apply to:
  - (1) New homes constructed on lots where the water and sewer construction plans received final approval prior to January 1, 2005, if the house connection or water pressure will not support a residential sprinkler system; or
  - (2) New homes for which the contract of sale was signed prior to January 1, 2005.
- (f) *Seller Acknowledgement.* The seller is deemed to be the buyer, may exercise the option required in subsection (a), and sign the disclosure form required in subsection (b) only if:
  - (1) There is no signed contract of sale at the time the seller is issued a permit for the construction of the single-family dwelling; or
  - (2) There is no buyer at the time the seller is issued a permit for the construction of the single-family dwelling.

(C.B. 153, 1991; C.B. 81, 1997; C.B. 52, 2004)

**Editor's note**— C.B. 5-2010, § 4, adopted March 1, 2010 included a provision "...that Section 17.108, Option to Install Residential Automatic Sprinkler Systems of the Howard County Code shall terminate and be of no effect after December 31, 2010."

Sec. 17.109. - Emergency management.

- (a) *Local Organization for Emergency Management:*
  - (1) As required by State law, the local emergency organization for emergency management in Howard County is the Office of Emergency Management within the Department of Fire and Rescue Services.
  - (2) If appropriations are authorized in the budget, the Office of Emergency Management shall implement the programs and establish positions recommended by the Maryland Emergency Management Agency to meet Federal and State standards.

- (3) The Office of Emergency Management shall develop and implement local and State emergency management plans.
- (b) *Director of Emergency Management:*
  - (1) Unless a different person is designated by the County Executive and appointed by the Governor, the Director of Fire and Rescue Services shall be the Director of Emergency Management Operations and the authorized representative for purposes of requesting and responding to requests under the Maryland Emergency Management Assistance Compact.
  - (2) The Director of Emergency Management is responsible for organizing and directing the County's response to an emergency.
- (c) *Emergency Operations Plan:*
  - (1) The Office of Emergency Management shall prepare an emergency operations plan in accordance with applicable State and Federal laws and regulations.
  - (2) The Director of Emergency Management shall submit the emergency operations plan to the County Executive who shall adopt the plan by executive order or another procedure as may be required by State or Federal law.
- (d) *Authority to Assign Classified Personnel.* The Director of Emergency Management may assign personnel in the County classified service within the Department of Fire and Rescue Services to the Office of Emergency Management.

(C.B. 10, 2006, § 2)

**State Law reference**— Emergency management, Ann. Code of Md., Public Safety article, § 14-101 et seq.; local organizations for emergency management, Code of Md., Public Safety article, § 14-109.

Sec. 17.110. - Maryland emergency management assistance compact.

In accordance with the Annotated Code of Maryland, sections 37 through 39 of article 16A, Howard County's participation in the Maryland Emergency Management Assistance Compact, as set forth below, is hereby approved.

*Maryland Emergency Management Assistance Compact.*

*Article 1. Purpose.*

- (a) (1) The purpose of this compact is to provide for mutual assistance between the jurisdictions entering into this compact in managing an emergency.
- (2) This compact also shall provide for mutual cooperation in emergency related exercises, testing, or other training activities using equipment or personnel simulating performance of any aspect of the giving and receiving of aid by party jurisdictions during emergencies.

*Article 2. Requests for Assistance.*

- (b) (1) The senior elected official of each jurisdiction shall designate an authorized representative. The authorized representative of a party jurisdiction may request assistance of another party jurisdiction by contacting the authorized representative of that jurisdiction.
- (2) The provisions of this compact shall apply only to requests for assistance made by and to authorized representatives.
- (3) Requests may be verbal or in writing.



- (4) If verbal, the request shall be confirmed in writing at the earliest possible date, but no later than ten calendar days following the verbal request.
- (5) Written requests shall provide the following information:
  - (i) A description of the emergency support function for which assistance is needed;
  - (ii) The emergency support function shall include, but not be limited to, fire services, law enforcement, emergency medical services, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;
  - (iii) The amount and type of personnel, equipment, materials, and supplies needed and a reasonable estimate of the length of time they will be needed; and
  - (iv) The specific place and time for staging of the assisting party's response and a point of contact at that location.
- (6) There shall be frequent consultations between the Maryland Emergency Management Agency and appropriate representatives of the party jurisdictions with free exchange of information and plans generally relating to emergency capabilities.
- (7) A senior elected official or an authorized representative will advise the Maryland Emergency Management Agency of verbal requests and provide copies of written requests.

*Article 3. Limitations.*

- (c) (1) Any jurisdiction which is a party to this compact and which receives a request for assistance shall take such actions as are necessary to provide requested resources.
- (2) Any jurisdiction may withhold resources to the extent necessary to provide reasonable protection to its own jurisdiction.
- (3) Each party jurisdiction shall afford to the emergency responders of any party jurisdiction operating within the requesting jurisdiction under the terms and conditions of this compact, the same powers, duties, rights, and privileges as are afforded those of the jurisdiction in which they are performing emergency services.
- (4) Emergency responders will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the requesting jurisdiction.
- (5) Emergency responders shall have the same powers, duties, rights, and privileges as personnel of the requesting jurisdiction correspondent to performing the same function.
- (6) (i) The provisions of this article shall only take effect:
  1. Subsequent to a local declaration of a state of emergency by the requesting jurisdiction; or
  2. Upon commencement of exercises, testing, or training for mutual aid.
- (ii) The provisions of this article shall continue as long as:
  1. The exercises, testing, or training for the mutual aid are in progress;
  2. The state of emergency or the disaster remains in effect; or
  3. Loaned resources remain in the requesting jurisdiction.

*Article 4. Liability.*

- (d) (1) Officers or Emergency Responders of a party jurisdiction rendering aid in another jurisdiction pursuant to this compact shall be considered agents of the requesting jurisdiction for tort liability and immunity purposes.

- (2) No party jurisdiction or its Officers or Emergency Responders rendering aid in another jurisdiction pursuant to this compact shall be liable on account of any act or omission in good faith on the part of responding personnel while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith.
- (3) Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

*Article 5. Supplementary Agreements.*

- (e) (1) Nothing in this compact shall:
  - (i) Preclude any jurisdiction from entering into supplementary agreements with another jurisdiction; or
  - (ii) Affect any other agreements between jurisdictions.
- (2) Supplementary agreements may include, but are not limited to:
  - (i) Provisions for evacuation and reception of injured and other persons; and
  - (ii) The exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation, and communications personnel, equipment, and supplies.

*Article 6. Reimbursement.*

- (f) (1) Each party jurisdiction shall provide for the payment of workers' compensation and death benefits to injured members of the Emergency Responders of its own jurisdiction.
- (2) The requesting jurisdiction will reimburse the responding jurisdiction for all reasonable and necessary expenses incurred by the responding jurisdiction provided that any responding jurisdiction may:
  - (i) Assume in whole or in part such loss, damage, expense, or other cost;
  - (ii) Loan equipment or donate services to the requesting jurisdiction without charge or cost; and
  - (iii) Agree to any allocation of expenses between the responding and requesting jurisdiction.
- (3) Any two or more jurisdictions may enter into supplemental agreements establishing a different allocation of costs among those jurisdictions.
- (4) Records of expenses incurred in sufficient detail to satisfy auditing requirements shall be submitted by the responding jurisdiction as soon as possible following the termination of the assistance provided.

*Article 7. Implementation.*

- (g) (1) Party jurisdictions are encouraged to consult frequently with each other and with the Maryland Emergency Management Agency and to exchange information and plans relating to emergency management.
- (2) This compact shall become effective immediately upon its enactment into law by local jurisdictions.
- (3) Any party jurisdiction may withdraw from this compact by enacting a repeal of the same but no such withdrawal shall take effect until 30 days after the Senior Elected Official of the withdrawing jurisdiction has given notice in writing of such withdrawal to the Senior Elected Officials of all party jurisdictions.
- (4) Withdrawal from the compact shall not relieve the withdrawing jurisdiction from obligations assumed under article 4 or article 6 of this compact prior to the effective date of withdrawal.

- (5) Authenticated copies of this compact and of such supplementary agreements as may be entered into shall at the time of their approval be retained by each party jurisdiction and with the Maryland Emergency Management Agency.

*Article 8. Validity.*

- (h) (1) This compact shall be construed to effectuate the purposes stated in article 1 of this compact.
- (2) If any part or provision of this compact or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this compact which can be given effect without the invalid provision or application, and for this purpose the provisions of this compact are declared severable.

(C.B. 31,2003, § 1)

**State Law reference**— Emergency Management Assistance Compact, Code of Md., Public Safety article, § 14-702.

Sec. 17.111. - Fire damaged building or structure.

- (a) *Policy.* A building or structure significantly damaged by fire may collapse, reignite, cause air pollution, provide rodent habitat, or otherwise threaten the public health, safety, or general welfare. Such buildings should be made safe by either ensuring structural integrity, requiring repair, removing the remnants of such structure or otherwise abating the danger posed by the fire damaged building.
- (b) *Definition.* For purposes of this section, a fire damaged building or structure shall mean a building or structure or portion thereof which is either structurally unsound or no longer a structure as a result of fire damage and which causes actual danger to the public health and safety.
- (c) *Abatement of Fire Damaged Building or Structure.* It shall be unlawful for any fire damaged building or structure to remain on any lot or parcel of ground for more than six months, unless approved by the AHJ.
- (d) *Notification to Agencies.* Within five business days after initial response to a fire, the Department of Fire and Rescue Services shall notify the Howard County Health Officer and the Director of the Department of Inspections, Licenses and Permits, that a building or structure has been damaged by fire.
  - (1) Within five business days of receipt of the notification, the Director of the Department of Inspections, Licenses and Permits, and the Howard County Health Officer shall cause an inspection of the fire damaged building or structure to determine whether the fire damaged building poses a danger to the health and safety of the public;
  - (2) Within five business days after the fire, the Department of Fire and Rescue Services shall inspect the property to determine whether a fire hazard or imminent danger exists; and
  - (3) If it is determined that a violation of the County's fire prevention code, the health code, or the building code exists, a notice of abatement shall be issued within 48 hours of the inspection by the Department responsible for administering the code that is being violated.
- (e) *Abatement Notice.* The County shall send an abatement notice to the owner of any lot or parcel where a fire damaged building is located. The notice shall be served by either registered or certified mail, or by personal service. The notice shall:
  - (1) Provide a description of the required abatement.
  - (2) Require the property owner to abate the danger posed by the fire damaged structure within a reasonable time.

- (3) Inform the owner that if the danger is not abated, the County may seek a court order to abate the nuisance at the property owner's expense, which abatement may include the demolition of the structure or any portion thereof.
- (4) If, upon investigation, it is determined that a violation of the health code, the fire code or the building code exists, the owner shall be notified of:
  - (i) The specific section in violation;
  - (ii) The deadline for completing abatement; and
  - (iii) The potential civil or criminal penalties, including daily fines, provided by subsection (h) of this section.
- (f) *Extension Request.* The property owner may request in writing an extension of time to abate the fire damaged building based upon financial hardship or pending investigation of damage building or other good cause shown. The request must be received within at least seven business days from the owner's receipt of the County's initial abatement notice as provided in this section.
- (g) *Abatement by the County.* If the property owner fails to comply with the notice of abatement, the County may seek a court order to abate the danger to the public health and safety at the property owner's expense.
- (h) *Penalties.*
  - (1) Any person who fails to comply with a notice of abatement shall be guilty of a misdemeanor and, upon conviction, shall be subject to a penalty of not more than \$100.00 or by imprisonment, not to exceed 30 days, or both.
  - (2) Alternatively, and in addition to and concurrent with any other remedies provided by law, including subsection (g) above, this section may be enforced pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this shall be a Class B offense.
  - (3) In the event of any conflict between this section the remedies set forth in the fire prevention code, health code or building code for fire damaged buildings, this section shall control.
  - (4) Each day a violation of this section exists is a separate offense.

(C.B. 36, 2004; C.B. 8, 2016, § 1)

Sec. 17.112. - Emergency medical services insurance reimbursement program.

- (a) *Obligation to Provide Care and Transport; Prohibited conduct .*
  - (1) The Fire and Rescue Service must provide emergency medical services care and transport under applicable medical protocols to all individuals without regard to the individual's ability to pay or the individual's insurance coverage.
  - (2) Any personnel of the Fire and Rescue Service who respond to a request for emergency medical services may not ask for any information relating to an individual's insurance coverage during the provision of emergency medical services.
- (b) *Definitions .* In this section, the following terms have the meanings as indicated:
  - (1) *Charge* means the emergency medical services reimbursement charge.
  - (2) *Emergency medical services* means emergency medical care, transportation, or both emergency medical care and transportation, provided by the Fire and Rescue Service for an individual.
  - (3) *Federal poverty guidelines* means the applicable health care poverty guidelines published in the Federal Register or otherwise issued by the federal Department of Health and Human Services.

- (4) *Fire and Rescue Service* means the Howard County Department of Fire and Rescue Services and includes volunteer fire and rescue corporations recognized by section 17.103 of this Code.
- (5) *Program* means the emergency medical services insurance reimbursement program.
- (c) *Imposition of Charge* . The County may:
  - (1) Impose a charge for emergency medical services provided in the County by the Fire and Rescue Service; and
  - (2) Enter a mutual aid agreement with other jurisdictions regarding the collection of charges.
- (d) *Liability for Charge*. An individual who receives emergency medical services:
  - (1) Except as provided in subsection (e) or (f), is responsible for payment of the charge;
  - (2) Shall provide information requested by the County including, without limitation, information related to the individual's insurance coverage; and
  - (3) Shall assign insurance benefits to the County for the payment of the charge covered and reimbursed by the individual's insurance company.
- (e) *Uninsured Portion of the Charge* . A County resident shall not be required to pay any out-of-pocket expense relating to any emergency medical services provided because the resident is deemed to have paid any co-payment, deductible, or uninsured portion of the cost of emergency medical services through taxes paid to the County.
- (f) *Hardship Waiver* .
  - (1) Except as provided in paragraph (2) of this subsection, the County shall waive the charge for any individual whose household income is at or below 300 percent of the federal poverty guidelines. An individual must request a waiver on a form approved by the County.
  - (2) The County may deny a request for a waiver if the individual who claims financial hardship under this subsection does not furnish all the information required by the County.
- (g) *Use of Revenue and Collection of Funds* . Revenues collected by the program shall be:
  - (1) Collected and processed in accordance with fiscal procedures established or approved by the Howard County Department of Finance for the collection, disbursement, and accounting of funds;
  - (2) Deposited into the fire and rescue fund, with appropriations being made through the Annual Budget and Appropriation Ordinance.
- (h) *Rate schedule* . The County Council shall adopt by Resolution a Rate Schedule that shall be based on the cost of providing emergency medical services and may be adjusted annually based on inflation, as measured by an index reasonably related to the cost of providing emergency medical services.
- (i) *Regulations*. The County Executive may adopt regulations to implement the Program.

(C.B. 9, 2019, § 1)

## SUBTITLE 2. - POLICE

### Sec. 17.200A. - Department of Police.

- (a) *General Provisions*. General provisions applicable to this Department are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code:
  - (1) Appointment of Directors and Administrators.

- (2) Duties and responsibilities of Directors and Administrators.
  - (3) Rules and regulations.
  - (4) Grants.
  - (5) Subpoena powers.
- (b) *Head.* The Chief of Police shall head the Department of Police.
- (c) *Qualifications of Chief of Police.* The Chief of Police shall have comprehensive knowledge of the elements of police administration and of law enforcement standards, practices, and trends in prevention, detection and investigation of crimes. The Director shall have at least ten years of varied law enforcement experience, of which at least five years shall have been in increasingly responsible managerial work.
- (d) *Duties and Responsibilities.*
- (1) The Department of Police shall be responsible for operation and enforcement of the laws and rules and regulations concerning the following:
    - (i) The preservation of the public peace.
    - (ii) The prevention of crime.
    - (iii) The apprehension of criminals.
    - (iv) The protection of the rights of person and property.
  - (2) The Chief of Police shall be responsible for the efficiency, good conduct and discipline of the Department of Police.
  - (3) The Chief of Police shall have general supervision over the animal control function of Howard County, except for the issuance and renewal of animal licenses, which function is under the supervision of the Department of Inspections, Licenses and Permits.
  - (4) *Dispatch services.* The Department of Police shall provide dispatch services, and shall:
    - (i) Operate the 911 PSAP (public safety answering point).
    - (ii) Operate interface systems with other local and State and Federal law enforcement, fire, safety, medical, and emergency management agencies.
    - (iii) Operate the dispatch system to provide appropriate police and fire and rescue response to callers.
    - (iv) Serve as the message and dispatch center for County Departments and Agencies after normal business hours.
  - (5) *Other duties and responsibilities.* The Department of Police shall perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 62, 1988; C.B. 8, 1993; C.B. 10, 1994; C.B. 60, 2001, § 1)

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

Sec. 17.200. - Duties of Police Officers.

It shall be the duty of each Police Officer, at such time of the day or night he may be on duty, to preserve the public peace, prevent crime and protect the rights of persons and property and to arrest all offenders against the laws of the State and to take such offenders to the nearest commissioner for said County; and to this end the Police Officer or Officers so appointed shall be Peace Officers in and for Howard County.

(1894, Ch. 496, § 101B; P.L.L. 1930, Art. 14, § 232; 1947, Ch. 666, § 232)

Sec. 17.201. - Levy for expenses.

The County Council of said County shall have the power to levy annually a sufficient sum, upon the taxable property within any designated locality or localities, as the case may be, in Howard County, to pay the salaries of said officers, and for such other and property expenses as in its judgment it deems reasonable and proper.

(1894, Ch. 496, § 101C; 1918, Ch. 17; P.L.L. 1930, Art. 14, § 233; 1935, Ch. 229; 1936 Sp. Sess., Ch. 27; 1943, Ch. 129; 1943, Ch. 609; 1947, Ch. 666, § 233)

Sec. 17.202. - Mileage payments for Sheriff, Constables.

The County Executive of Howard County shall pay to the Sheriff, Sheriff's Deputies, or Constables, upon presentation of proper vouchers, a sum not exceeding \$0.20 per mile going and returning by the most practicable route for conducting and transporting prisoners from the place where such prisoners may be delivered to their custody by the court to the place of detention.

(1933, Ch. 93)

Sec. 17.203. - Removal of Chief of Police.

The County Executive may at any time remove, dismiss or discharge the Chief of Police for any offense against law or good morals, for neglect of duty, inefficiency or breach of discipline.

(1894, Ch. 496, §§ 101A, 101E; P.L.L. 1930, Art. 14, §§ 231, 235; 1947, Ch. 666, §§ 231, 235; 1961, Ch. 634, § 1; 1963, Ch. 764, § 1)

**Annotation**— Police officer could not be dismissed without the benefit of a hearing. The fact that individual was acting as "Chief of Police," an office not specifically provided for at time of dismissal, did not divest him of his status as a "Police Officer" and the protection afforded by the statute. **Board of County Commissioners v. Moxley** (1960), 158 A 2d. 895, 222 Md. 113.

Sec. 17.204. - Authority to send Officers and equipment beyond County borders.

- (a) *In General.* Personnel of the Police Department, both sworn and nonsworn, together with all necessary equipment, may lawfully go or be sent beyond the territorial limits of Howard County to any point within or without the State of Maryland:
- (1) Upon the instruction of the Chief of Police or his designees acting at the request of the State of Maryland, another State or the District of Columbia, a County or a municipal corporation;
  - (2) Pursuant to any mutual aid agreement to which Howard County is a party; or
  - (3) Pursuant to any statute of the State of Maryland, ordinance of Howard County or the common law.
- (b) *Authority.* On behalf of the County, the County Executive may enter into a mutual aid agreement under subsection (a)(2) of this section with:
- (1) Any State;
  - (2) Any County or municipal corporation;

- (3) The Maryland-National Capital Park and Planning Commission;
  - (4) The District of Columbia; or
  - (5) The Federal Government or any agency of the Federal Government.
- (c) *Mutual Aid Agreements.* A mutual aid agreement under subsection (a)(2) of this section shall, as required by subsection 2-105(e) of the criminal procedure article of the Annotated Code of Maryland, provide that each of the parties to the agreement shall:
- (1) Waive any and all claims against all the other parties to the agreement which may arise out of their activities outside their respective jurisdictions under the agreement; and
  - (2) Indemnify and save harmless the other parties to the agreement from all claims of third parties for property damage or personal injury which may arise out of the activities of the other parties to the agreement, outside their respective jurisdictions under such agreement.
- (d) *Report.* Subject to section 22.1000 of the County Code, the Department of Police shall submit an annual report to the County Council on or before each January 31 that lists each agreement made under the authority of this section that was in effect during the previous year. The report shall identify each jurisdiction and unit that is a party to the agreement.

(C.B. 68, 1981; C.B. 26, 1996; C.B. 43, 2009, § 1; C.B. 43, 2018, § 1)

Sec. 17.205. - Authority not limiting.

The authority contained in section 17.204 is not intended to limit the authority currently existing for police personnel to act outside of the territorial limits of Howard County.

(C.B. 68, 1981)

Sec. 17.206. - Rental program for Police Officers.

The Howard County Department of Police is authorized to establish a program which would allow Police Officers to live in apartments rent free or with a reduced rent in certain communities upon agreement by the landlord in order to provide an additional element of security in those communities. Any such program promulgated by the Police Department shall be subject to review by the Ethics Commission.

(C.B. 21, 2006)

SUBTITLE 3. - ANIMALS<sup>[2]</sup>

Footnotes:

--- (3) ---

**Editor's note**— C.B. 66, 1984 repealed former title 17, subtitle 3, §§ 17.300—17.325, and added a new subtitle, §§ 17.300—17.307, which was further amended by C.B.'s 32, 1985; 11, 1986; and 62, 1988. The subtitle was formerly derived from C.B. 64, 1979, and C.B. 22, 1983. Subsequently, C.B. 69, 1989 amended the subtitle to read as set out in §§ 17.300—17.310. C.B.'s 32, 1992; 10, 8, 1993; 1994; 75, 1994; 36, 1995; 16, 1997; 50, 1999; 46, 2002 further amended the subtitle. C.B. 51, 2004 amended the subtitle in its entirety to read as set out in §§ 17.300—17.320.



**State Law reference**— Crimes relating to animals, Ann. Code of Md., Criminal Law article, § 10-601 et seq.

Sec. 17.300. - Definitions.

Terms in this subtitle have the meanings indicated:

- (a) *Alter* means a surgical procedure or chemical treatment that renders an animal incapable of reproducing.
- (b) *Animal* means every nonhuman vertebrate species, including but not limited to dogs, cats, livestock, and fowl. *Animal* includes every living creature sold or exchanged as a commercial item.
- (c) *Animal Control Administrator*—*Administrator* means the appointed Manager of the Animal Control Division or the Manager's designee.
- (d) *Animal control facility* means a facility owned or operated by Howard County or under contract with Howard County for the care, confinement, disposition, and detention of animals.
- (e) *Animal Control Officer* means any Howard County employee enforcing this subtitle and supervised by the Animal Control Administrator.
- (f) *Animal exposed to rabies* means an animal which:
  - (1) Has been bitten by an animal which has rabies;
  - (2) Has been bitten by an animal which has been in proximity to an animal which has rabies; or
  - (3) Has been exposed to an animal which has rabies.
- (g) *Animal sanctuary* means a facility that performs at least one of the following functions:
  - (1) Rescues, rehabilitates, and releases, when possible, native wildlife; or
  - (2) Provides permanent housing to the following categories of nonreleasable animals, as defined in this subtitle:
    - (i) Wild animals; or
    - (ii) Exotic animals.
- (h) *At large* means:
  - (1) Except as provided in paragraph (2) of this subsection, a domesticated animal is at large when it is:
    - (i) Off the property of its owner (property of the owner does not include any public right-of-way or easement, common area of condominiums or apartments, common access road or walkway, or any area open to the public); and
    - (ii) Not in a container, carrier, or cage or secured by a leash or lead and under the control of a responsible person capable of immediate and effective restraint of the animal.
  - (2) A domesticated animal is not at large when it is:
    - (i) Under the control of a responsible person capable of immediate and effective restraint of the animal and being trained or used in herding, hunting, or tracking;
    - (ii) Being trained in obedience;
    - (iii) On park property, as defined in section 19.201 of the County Code, which has been designated by the Director of Recreation and Parks as a facility for animals, provided the owner of the animal complies with the rules of the facility; or
    - (iv) On private property that is enclosed and posted as a dog park.
- (i) *Board* means the Animal Matters Hearing Board.

- (j) *Cat fancier* means a household, consisting of one or more persons, which owns or keeps three or more cats which are registered with a National Breed Registration Association, and:
  - (1) Breeds the cats to produce not more than a total of two litters per year per household (a litter being two or more kittens living to the age of four weeks); or
  - (2) Exhibits the cats in shows.
- (k) *Cruelty* means an act of commission or omission whereby unjustified physical pain, suffering, or death is caused or permitted, including failure to provide proper drink, air, space, shelter, shade, protection from the elements, sanitary conditions, veterinary care, or nutritious food in sufficient quantity. Customary and normal veterinary and agricultural husbandry practices, including but not limited to dehorning, castration, docking tails and limit feeding, are not considered to be acts of cruelty. During an activity in which physical pain is necessarily caused, such as food processing, animal training, hunting, trapping, experimentation, or pest elimination, *cruelty* shall mean a failure to employ the most reasonable humane method available.
- (l) *Department* means the Howard County Department of Inspections, Licenses and Permits.
- (m) *Director* means the Howard County Director of Inspections, Licenses and Permits or the Director's designee.
- (n) *Disposition* means:
  - (1) Adoption or placement as a pet in an approved home;
  - (2) Performance of euthanasia;
  - (3) In the case of a wild or exotic animal, release into a suitable habitat or to a suitable care facility such as a humane society shelter, zoo, or sanctuary; or
  - (4) Redemption by the animal's owner.
- (o) *Dog fanciers* means a household, consisting of one or more persons, which owns or keeps three or more dogs which are registered with a National Breed Registration Association, and:
  - (1) Uses the dogs for the noncommercial purposes of hunting or practicing tracking;
  - (2) Breeds the dogs to produce not more than a total of two litters per year per household (a litter being two or more pups living to the age of four weeks); or
  - (3) Exhibits the dogs in shows, field trials, or obedience trials.
- (p) *Domesticated animal* means an animal of a species that normally is bred, raised, and accustomed to live in or about human habitation, and normally is dependent on humans for food or shelter. Domesticated animals include but are not limited to livestock and poultry and pets such as dogs, cats, ferrets, rabbits, hamsters, guinea pigs, mice, rats, canaries, parrots, parakeets, and mynah birds.
- (q) *Exotic animal* means an animal of a species that is not indigenous to Howard County and is not a domesticated animal. *Exotic animal* includes any hybrid animal which results from the breeding of an exotic animal and a domesticated animal.
- (r) *Facility* means a building or property, other than a private residence, in which animals are maintained.
- (s) *Health Officer* means the Howard County Health Officer or the Health Officer's designee.
- (t) *Immediate destruction* means destruction of an animal without waiting the required number of days for identification of the animal's owner or for the animal to be deemed abandoned.
- (u) *Livestock* means domesticated animals usually kept on a farm, including but not limited to poultry, cattle, sheep, goats, pigs, horses, ponies, mules, donkeys, and llamas.

- (v) *Neglect* means an act of omission or commission whereby an animal is deprived of access to adequate water, food, shelter, shade, air, or sanitary conditions, or is chained or otherwise confined, lacking freedom of movement adequate to ensure access to any of the above.
- (w) *Owner* means a person who keeps, possesses, harbors, has custody of, exercises control over, or has a property right in any animal, residence, or facility. If the person is a minor, the parent or legal guardian of the minor shall be considered the owner. *Owner* does not include a veterinary hospital or a commercial boarding or grooming facility caring for the pets of others.
- (x) *Severe injury* means a physical injury that results in lacerations requiring sutures or cosmetic surgery, broken bones, severe bruises, or deep puncture wounds.
- (y) *Shelter* means a structure of adequate size, construction and design to protect an animal from all types of inclement weather, provide adequate ventilation, and allow an animal to maintain normal internal body temperature.
- (z) *Sworn statement* means a formal nuisance complaint made on a form distributed by the Animal Control Division and requiring the complainant to swear, under the penalty of perjury, that the alleged offense is true. A sworn statement does not have to be attested to by a third party.
- (aa) *Wild animal* means an animal that is not a domesticated animal, is incapable of being completely domesticated, or requires the exercise of art, force, or skill to keep it in subjugation. *Wild animal* includes any hybrid animal which results from the breeding of a wild animal and a domesticated animal.

(C.B. 51, 2004; C.B. 7, 2014, § 1)

Sec. 17.301. - Rabies vaccinations; licenses and tags; fees.

(a) *Rabies Vaccinations for Certain Animals:*

- (1) *Requirement to vaccinate.* The owner of every dog, cat, and ferret over the age of four months shall continuously protect the animal against contracting rabies by having the animal vaccinated. A currently valid vaccination certificate issued by a licensed veterinarian shall constitute prima facie evidence that the animal is vaccinated.
- (2) *Exemptions.* A dog, cat, or ferret is not required to be vaccinated against rabies if the animal:
  - (i) Does not have a bite history and, in the written opinion of a licensed veterinarian, is in a medical condition in which vaccination is not advisable, provided the exemption continues only as long as the medical condition persists; or
  - (ii) Has received a rabies titer from a United States Department of Agriculture approved facility.
- (3) *Types of vaccination.* The Health Officer shall approve the types of rabies vaccination that may be used.
- (4) *Prerequisite to issuance of license.* Unless the animal is exempt from vaccination under paragraph (2) of this subsection, the Department shall not issue a dog or cat license for any animal that is not currently vaccinated for rabies.
- (5) *Violations.* In addition to any enforcement action taken under this subtitle, the Animal Control Administrator or the Health Officer shall give the owner of any dog, cat, or ferret that is not vaccinated against rabies in accordance with this section notice that the animal will be subject to impoundment if it is not vaccinated within seven days.
- (6) *Rabies vaccination prior to release.* Except as provided in paragraph (2) of this subsection, a dog, cat, or ferret shall not be released for adoption or after being impounded unless a rabies vaccination has been administered by a licensed veterinarian at the expense of the adopter or owner.

- (b) *Dog and Cat Licenses.* A dog or cat license is issued by the Department in accordance with this subsection.
- (1) *License required.* Unless the animal is kept temporarily for sale at a commercial kennel or other commercial facility, an individual who owns or has custody of a dog or cat over the age of six months shall obtain a license for the animal from the Department within 30 days after establishing residency in the County or within 30 days after the animal reaches the age of six months.
  - (2) *License renewal.* A license for a dog or cat shall be renewed annually on a schedule determined by the Department, except that the owner may obtain a three-year license if it coincides with the expiration of a three-year rabies vaccination for the animal.
  - (3) *Information issued with licenses:*
    - (i) With each license and renewal issued, the Department and the Animal Control Division shall provide a copy of a pamphlet that summarizes existing animal control laws to each dog and cat owner.
    - (ii) Once each existing dog and cat owner has been through a license renewal cycle, the Department shall only issue a pamphlet that summarizes the existing animal control laws to an owner seeking a new license.
  - (4) *Change of ownership.* Upon change of ownership of a dog or cat, the former owner and the new owner shall notify the Department in writing of the change.
  - (5) *License fee.* License fees are established by the County Council under section 17.312 of this subtitle.
- (c) *License Tag:*
- (1) *License tag issued.* The Director shall issue an individual license tag for each dog and cat licensed, and upon payment of a replacement fee by the owner shall issue a duplicate if the tag is lost.
  - (2) *Tag to be worn; tag nontransferable.* Each dog and cat licensed shall wear the tag issued for it attached to a collar or harness. A license tag shall not be obscured or defaced in any way, and shall not be transferred from one animal to another.
  - (3) *Exemptions:*
    - (i) A dog or cat with a microchip imbedded under the skin which contains information identifying the owner of the animal is not required to wear a license tag.
    - (ii) An animal participating in an organized activity such as a dog or cat show is not required to wear a license tag.
  - (4) *Removal.* No person other than the owner, the owner's agent, or the Animal Control Administrator may remove a license tag from a dog or cat.
- (d) *License Exemptions.* The following types of dogs and cats are exempt from the licensing and tag requirements of this section:
- (1) *Owned by nonresident.* A dog or a cat owned by a nonresident, if it is temporarily in the County for less than 30 days and is wearing a current, valid license tag issued by another jurisdiction;
  - (2) *Residing in certain institutions.* A dog or cat confined to the premises of an educational and research institution or an incorporated benevolent society devoted to the care or hospital treatment of lost, strayed, or homeless animals;
  - (3) *Police dog.* Under section 2-313 of the public safety article of the Annotated Code of Maryland, a dog owned by the State or its political jurisdiction for police work; and
  - (4) *Farm cat.* A cat that is kept for rodent and pest control on real property that is assessed as an agricultural use by the State Department of Assessments and Taxation and is used in an

agricultural operation as that term is defined in section 12.111 (The "Howard County Right-to-Farm Act") of the Howard County Code.

- (e) *Fees.* Based upon recommendations from the Board, the Animal Control Administrator, and the Director, the County Council shall adopt a resolution approving a schedule of fees for animal control services and license fees that:
- (1) Shall provide that the license fees cover in part the costs of administering and enforcing this subtitle;
  - (2) Shall provide that if the dog is actually in use for such a purpose in a service or therapeutic setting, no license fee is charged for a service dog trained to provide physical support for individuals who are hearing, visually, or mobility impaired;
  - (3) In order to encourage owners to have their animals altered, shall provide that the license fee for altered dogs and cats is lower than the fee for unaltered dogs and cats;
  - (4) Shall provide that there is a single license fee for dog and cat fanciers which covers the issuance of a license to each dog and cat owned by the fancier;
  - (5) Shall provide that if every dog and cat in the person's residence has been altered, there is a single license fee that covers the issuance of a license for each dog or cat owned by a person who, within his or her residence or in its immediate vicinity, owns or keeps three or more dogs or cats which are altered;
  - (6) May include a reduced fee for senior citizens; and
  - (7) Except for license and vaccination fees, authorizes the Administrator to waive a fee if special circumstances exist.

(C.B. 51, 2004)

Sec. 17.302. - Nuisances.

- (a) *Definition.* A nuisance occurs when:
- (1) A domesticated animal runs at large;
  - (2) A domesticated animal is present on a school ground on a day when school is in session and the animal is not controlled by a leash or adequate restraining device;
  - (3) A domesticated animal interferes with an organized activity or an individual in a public recreation area;
  - (4) A domesticated animal (other than a horse, pony, mule, or donkey involved in a legally permitted parade or a police mount on duty) defecates anywhere except on the private property of its owner unless the owner removes the feces and disposes of them in a sanitary manner;
  - (5) A female domesticated animal in heat is not confined indoors or in a properly ventilated building or other outdoor secure enclosure, except that a female animal in heat is not a nuisance when allowed out of the building or secure enclosure:
    - (i) In order to urinate or defecate, provided that the animal is on a leash and controlled by the owner or a responsible person at least 18 years of age designated by the owner; or
    - (ii) In order to be taken for treatment, boarding, breeding, training, or showing, provided that while en route the animal is on a leash or lead and controlled by the owner or a responsible person at least 18 years of age designated by the owner;
  - (6) Any residence or facility where animals are kept is dangerous, unsanitary, or offensive because the residence or facility is too small for the number of animals kept or because it is not maintained in a sanitary manner;

- (7) A domesticated animal disturbs garbage on public property or garbage properly placed for disposal;
  - (8) A domesticated animal chases vehicles;
  - (9) A domesticated animal disturbs the public peace;
  - (10) A domesticated animal damages the property of persons other than the animal's owner; or
  - (11) The odor of a domesticated animal fouls the air and creates an unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept, except that there is no nuisance if the odor comes from livestock maintained in accordance with generally accepted agricultural management practices.
- (b) *Declaring an Animal, Residence, or Facility a Nuisance.* The Administrator may declare an animal, residence, or facility a nuisance if the owner has received three nuisance citations for the same or different nuisances within the previous 24 months and the citations have been paid or upheld.
- (c) Within seven days of declaring an animal, residence, or facility a nuisance, the Administrator shall give the owner written notice of:
- (1) The declaration; and
  - (2) The owner's right to appeal the declaration to the Board within seven days.

(C.B. 51, 2004)

Sec. 17.303. - Dangerous and potentially dangerous animals.

- (a) *Declaration.* The Animal Control Administrator may:
- (1) Declare an animal potentially dangerous if the animal has:
    - (i) Bitten a person;
    - (ii) Attacked without provocation; or
    - (iii) While off its owner's property, killed or inflicted severe injury to a domesticated animal; or
  - (2) Declare an animal dangerous if the animal has:
    - (i) Without provocation killed or inflicted severe injury on a person or a domesticated animal; or
    - (ii) Been declared potentially dangerous by the Animal Control Administrator and has subsequently:
      - a. Bitten a person;
      - b. Attacked without provocation; or
      - c. While off its owner's property, killed or inflicted severe injury to a domesticated animal.
- (b) *Notification to Owner.* Within seven days of declaring an animal dangerous or potentially dangerous, the Administrator shall give the owner written notice of:
- (1) The declaration;
  - (2) The owner's right to appeal the declaration to the Board within seven days of the notice; and
  - (3) The enforcement action the Administrator intends to take.
- (c) *Confinement.* The owner of a dangerous animal shall:
- (1) Keep it securely confined indoors or in a pen or structure:
    - (i) In which all gates and entrances are kept securely closed and locked;

- (ii) That is suitable to prevent the entry of young children; and
    - (iii) That is designed in accordance with the requirements of the Administrator or the Board to prevent the animal from escaping;
  - (2) Not leave it unattended on the owner's property unless the animal is confined indoors or in a secure structure designed to restrain the animal in accordance with the requirements of the Administrator or the Board;
  - (3) Not permit the animal to go beyond the owner's real property unless the animal is:
    - (i) Leashed and muzzled or otherwise securely restrained as appropriate for the species of animal; and
    - (ii) Under the control of a person at least 18 years of age who is capable of immediate control and restraint of the animal; and
  - (4) Comply with any order by the Administrator to institute control and confinement measures for the animal.
- (d) *Identification of Dangerous Animals.* The owner of an animal declared dangerous or potentially dangerous shall, at the owner's expense, arrange for a licensed veterinarian to implant a microchip in the animal identifying it as a dangerous animal and, if required by the Administrator, ensure that the animal wears clearly visible identification supplied by the Administrator, such as a collar-mounted tag clearly identifying the animal as dangerous.
- (e) *Notice to Animal Control Administrator.* The owner of an animal which has been declared dangerous or potentially dangerous shall notify the Animal Control Administrator when any of the following occur:
- (1) When the animal is not under control and confinement measures ordered under this section;
  - (2) Immediately upon transfer of the animal to another owner, giving the name and address of the new owner; or
  - (3) Immediately upon changing residence, including changing residence within the County.
- (f) A person who acquires an animal which has been declared dangerous or potentially dangerous in another jurisdiction shall immediately notify the Administrator upon acquiring ownership of the animal and shall provide the Administrator with the previous owner's name and address and the control and confinement requirements established by the jurisdiction which declared the animal dangerous or potentially dangerous.
- (g) *Notice to Subsequent Owners.* If the owner of a dangerous animal or a potentially dangerous animal transfers the animal to another owner, the owner shall notify the new owner of the animal's dangerous behavior and the terms of its confinement and control.

(C.B. 51, 2004)

**State Law reference**— Dangerous dogs, Ann. Code of Md., Criminal Law article, § 10-619.

Sec. 17.304. - Threat to public safety.

- (a) *Prohibited Behavior.* A threat to public safety and welfare occurs when a domesticated animal:
- (1) Kills or endangers the life or health of a domesticated animal or person;
  - (2) Attacks a person, other than a person:
    - (i) Teasing, tormenting, or otherwise deliberately inciting the animal;
    - (ii) Committing a tort or crime on the property of the owner of the attacking animal; or

- (iii) Attacking the owner of the animal or a member of the owner's immediate family;
- (3) Attacks another domesticated animal, other than an animal at large on the property of the owner of the attacking animal;
- (4) Molests or otherwise interferes with the freedom of movement of a person at any place; or
- (5) Approaches people or other domesticated animals in an apparent attitude of attack.
- (b) *Declaration.* If an animal exhibits behavior prohibited by subsection (a) of this section, the Administrator may declare the animal to be a threat to public safety and welfare.
- (c) *Notice to Owner.* Within seven days of declaring an animal to be a threat to public safety, the Administrator shall give the owner written notice of:
  - (1) The declaration; and
  - (2) The owner's right to appeal the declaration to the Board within seven days.

(C.B. 51, 2004)

Sec. 17.305. - Neglect and cruelty.

A person shall not perform or permit another person to perform any of the following acts:

- (a) Subject an animal to cruelty or neglect;
- (b) Poison a domesticated animal;
- (c) Leave ground glass where an animal can ingest it;
- (d) Cruelly kill, maim, shoot, or otherwise injure an animal, except that:
  - (1) A licensed hunter may shoot wild animals during the permitted hunting season;
  - (2) A licensed trapper may trap wild animals pursuant to law; and
  - (3) The owner or tenant of land may shoot an animal which preys upon or destroys the owner's or tenant's livestock, provided the animal is not a protected or endangered species under County, State, or Federal law;
- (e) Abandon a domesticated animal;
- (f) Deliberately injure, abuse, or run down an animal with a vehicle;
- (g) Deliberately encourage animals to fight, engage in cockfighting or dog fighting, raise animals for fighting, or organize or participate in any way in animal fights; or
- (h) Tease, torment, or deliberately incite an animal, provided that:
  - (1) Ordinary activities of people on their own property such as mowing or playing with children and ordinary activities of passersby such as walking or jogging on the sidewalk in front of the animal owner's property are not deliberate incitements, however excited or disturbed the animal becomes from these activities; and
  - (2) Training of an animal for police work by the State or by a political jurisdiction of the State shall not be considered teasing, tormenting, or deliberately inciting the animal.

(C.B. 51, 2004)

**State Law reference**— Animal cruelty and related offenses, Ann. Code of Md., Criminal Law article, § 10-603 et seq.



Sec. 17.305A. - Outdoor shelter and water requirements for dogs.

(a) *Purpose.*

- (1) The purpose of this section is to avoid risk to the health or safety of dogs.
- (2) As provided in section 17.312(e), the Animal Control Administrator may adopt regulations to set standards to implement this section.

(b) *In general.*

- (1) This section applies to dogs that are kept outside without free access to a residence when:
  - (i) The owner is absent; or
  - (ii) The dog is unattended for 30 minutes or longer.
- (2) This section does not apply to a working dog that is not tethered and is trained and kept outside for the purpose of guarding livestock or fowl.
- (3) In addition to general requirements to keep an animal free from cruelty and neglect, as defined by this subtitle, the owner of a dog shall:
  - (i) Ensure that the dog is protected from the weather as required by this section; and
  - (ii) Not subject a dog to prolonged exposure to weather that causes or could cause the death of or harm to the dog, including but not limited to hypothermia, hyperthermia, and frostbite or a similar condition.

(c) *Adequate shade and shelter.*

- (1) The dog shall have access to a shelter that:
  - (i) Is of a proper size to allow the dog to adjust position and is insulated so that the dog is able to maintain proper body temperature;
  - (ii) Is enclosed and made from materials that protect the dog from the weather; and
  - (iii) Has an entrance that protects the dog from the weather.
- (2) There shall be bedding made of dry wood shavings, straw, or other non-absorbent material in the shelter provided in a quantity that insulates the shelter to protect the dog from cold and damp weather.

(d) *Water requirements.* The owner shall ensure that the dog has access to potable liquid water at all times as needed to maintain proper health.

(e) *Sanitation.* The dog shelter and the area in which the dog may move shall be kept clean and sanitary.

(C.B. 39, 2018, § 1)

Sec. 17.305B. - Tethers for dogs.

(a) This section applies to dogs that are kept outside when:

- (1) The owner is absent; or
- (2) The dog is unattended for 30 minutes or longer.

(b) *Tethers.* For purposes of this section, a tether means a chain, rope, line, or similar restraint that connects a dog to a shelter, tree, fence, or any other stationary object.

(c) *Generally prohibited.* Except as otherwise provided in subsection (c) of this subsection, an owner may not keep a dog on a tether.

(d) *Exceptions.*

- (1) An owner may keep a dog on a tether while the owner completes a temporary task.
- (2) An owner may use a tether while supervising the dog and:
  - (i) The owner intends to allow the dog to eliminate; or
  - (ii) The owner is exercising the dog.

(C.B. 39, 2018, § 1)

Sec. 17.305C. - Animal safety alerts.

- (a) *In general.* Whenever the Animal Control Administration considers that an alert is warranted, the Animal Control Administrator shall issue an animal alert advising the public of the animal safety precautions that the Animal Control Administrator considers appropriate.
- (b) *Publicity.* If an animal safety alert is issued:
  - (1) The alert shall be posted on the Animal Control website and social media websites; and
  - (2) The Animal Control Administrator may issue a public press release.

(C.B. 39, 2018, § 1)

Sec. 17.306. - Care of animals.

- (a) *Care of Livestock.* The owner of livestock shall:
  - (1) Provide adequate food, water, and shelter for the animals;
  - (2) Provide fencing strong enough and high enough to contain the livestock; and
  - (3) Confine breeding studs.
- (b) *Care of Horses, Ponies, Mules, Donkeys, and Llamas:*
  - (1) *Light; ventilation; food troughs.* A building or shed used for stabling horses, ponies, mules, donkeys, or llamas shall be well lighted, ventilated, and provided with sufficient feed troughs or boxes.
  - (2) *Cleanliness of buildings and sheds.* A building or shed used for stabling horses, ponies, mules, donkeys, or llamas shall be kept clean and in good repair at all times, all manure shall be removed from the buildings regularly as needed, and any manure pile shall be at least 25 feet away from a building or shed housing horses, ponies, mules, donkeys, or llamas.
  - (3) *Size of box stalls.* Box stalls for horses and mules that are 14 hands, two inches high or larger shall be at least ten feet wide.
- (c) *Care of Domesticated Birds:*
  - (1) *Birds and poultry near private residences and public buildings.* An owner of birds or poultry other than homing pigeons shall not allow the birds or poultry to fly, run, or stray within 50 feet of a private residence, other than the owner's residence, or within 50 feet of a building used by the public.
  - (2) *Food, water, shelter, cleanliness.* The owner of the birds or poultry shall provide them with adequate food, water, shelter, and sanitary conditions.

(C.B. 51, 2004)

Sec. 17.307. - Other regulated activities.

- (a) *Sale, Barter, or Giving Away of Animals as Toys or Novelties.* A person shall not sell, offer for sale, barter, or give away live animals as toys, premiums, incentives, inducements, or novelties, except that animals may be given away for agricultural or conservation projects, or with the approval of the Maryland Secretary of Agriculture under section 10-610 of the Criminal Law Article of the Annotated Code of Maryland.
- (b) *Coloring or Dyeing.* A person shall not color, dye, stain, or otherwise change the natural color of chickens, ducks, other fowl, or rabbits.
- (c) *Gambling Involving Animals.* Except for legitimate sporting events such as horse races and dog shows, a person shall not involve an animal in a game of chance or an event involving gambling.
- (d) *Wild or Exotic Animals Prohibited.* A person shall not keep, hold for sale, offer for sale, or sell a wild or exotic animal, even if the animal is well-trained, de-clawed, de-fanged, ostensibly domesticated, and affectionate to people, except that:
  - (1) A circus or animal show holding a valid permit from any public authority for temporary operation is exempt from this subsection for the term of the permit;
  - (2) A licensed veterinarian may temporarily keep such an animal only for the purpose of professional medical treatment of the animal;
  - (3) The holder of a valid permit issued by a State or Federal authority to keep a wild or exotic animal is exempt from this subsection only to the extent provided in the permit;
  - (4) Unless prohibited by State law, a person may keep or sell small animals such as hamsters, gerbils, guinea pigs, mice, rats, other small rodents, rabbits, ferrets, birds, fish, and nonpoisonous amphibians and reptiles; or
  - (5) An animal sanctuary is exempt from this subsection if the sanctuary meets all State and Federal licensing and permitting requirements.
- (e) *Traps:*
  - (1) *Permitted types.* Snap type traps designed to catch rats and mice and box type traps designed to capture the entire animal in an enclosure may be set.
  - (2) *Prohibited types.* A person shall not use leg-hold traps.
  - (3) *Consent of owner.* A person shall not place a trap on any property without written consent of the property owner, except that the Administrator may set traps with verbal permission of the property owner.
  - (4) *Snare and body-gripping traps—Proximity to residences.* An owner or lessee of private real property may place, set, maintain, or operate snare or body-gripping traps on the property, provided that no such trap is placed, set, maintained, or operated within 150 yards of the permanent residence of another person.
  - (5) *Checking traps.* A person who sets a trap shall:
    - (i) Check the trap daily; and
    - (ii) Remove any animal in the trap immediately.
  - (6) *Department of Natural Resources.* An authorized agent of the Department of Natural Resources may set traps related to wildlife control anywhere in the County after notifying the Animal Control Administrator when and where the traps will be set.
- (f) *Vehicle Accidents Involving Animals.* A person who injures or kills a domesticated animal while driving a vehicle shall:
  - (1) If it is safe to do so, stop at the scene of the accident and render such assistance as is practicable; and

- (2) Make a reasonable effort to locate the owner and inform the owner of the accident, or notify the Animal Control Administrator or Police Department of the accident as soon as possible.

(C.B. 51, 2004)

**State Law reference**— Transfer or coloring of chicks, Ann. Code of Md., Criminal Law article, § 10-614.

Sec. 17.308. - Destruction of animals.

- (a) *Humane Destruction.* When an animal is destroyed under this subtitle it shall be destroyed in a humane manner and in accordance with written procedures established by the Administrator.
- (b) *Supervision.* Each individual responsible for destroying animals shall be examined periodically by a supervisor or licensed veterinarian to ensure that the procedures are being carried out in a humane manner.
- (c) *Destruction.* The Administrator may destroy an animal with the consent of the owner, or without the consent of the owner:
  - (1) Immediately if a veterinarian concurs and the animal is critically ill, is critically injured, or has a contagious disease which may infect animals or humans;
  - (2) Immediately and without the concurrence of a veterinarian if the animal is dangerous and the identity of its owner is unknown;
  - (3) If the Administrator has made a reasonable effort to identify the owner of the animal and notify the owner of the animal's condition, or the owner is unable or unwilling to provide for the animal's immediate treatment;
  - (4) If the animal is deemed abandoned under section 17.310 of this subtitle;
  - (5) If the animal is not available for adoption under section 17.311 of this subtitle; and
  - (6) If the animal has not been adopted within five days of being declared abandoned.
- (d) *Liability of Animal Control Administrator.* The Administrator is not liable for immediate destruction of an animal, even if the animal's owner is later identified.
- (e) *Destruction by Order of Health Officer.* The Health Officer may, under the health-general article of the Annotated Code of Maryland, order the immediate destruction of a diseased animal.

(C.B. 51, 2004)

Sec. 17.309. - Enforcement.

- (a) *Generally.* The Animal Control Administrator may take enforcement action based on:
  - (1) Personal observation;
  - (2) The observation of an Animal Control Officer or Police Officer;
  - (3) For a nuisance violation other than disturbing the public peace, a sworn statement from a citizen concerning the citizen's personal experience with the animal, if the statement is received within 30 days after the most recent incident;
  - (4) For a violation of disturbing the public peace, a sworn statement from a citizen concerning three separate incidents that occurred not less than two days apart and not more than 30 days apart, if the statement is received within 30 days of the most recent incident;

- (5) For all other types of violations, a sworn statement from a citizen concerning the citizen's personal experience with an animal, if the statement is received within one year and one day after the incident; and
  - (6) Bite reports, animal control records, or other documented information.
- (b) *Enforcement Options.* To enforce this subtitle, the Animal Control Administrator may:
- (1) Issue a civil citation;
  - (2) Issue a cease and desist order;
  - (3) Require that an owner take measures to control and confine an animal;
  - (4) Require that an owner take measures to abate conditions that constitute a cruel or neglectful act;
  - (5) Impound an animal in accordance with section 17.310 of this subtitle;
  - (6) Destroy an animal; and
  - (7) Take any other action necessary to enforce this subtitle.
- (c) *Enforcement by Police Officer.* A Howard County Police Officer may:
- (1) Issue a cease and desist order or a civil citation, or both, to an animal's owner upon observing:
    - (i) An unlicensed dog or cat;
    - (ii) A nuisance other than a disturbance of the public peace; or
    - (iii) A person committing a cruel or neglectful act against an animal;
  - (2) Impound a wild or exotic animal kept in violation of this subtitle; and
  - (3) Kill an animal that is at large if the Administrator determines that the animal:
    - (i) Poses an immediate threat to a person or domesticated animal;
    - (ii) Has been declared to be dangerous or a threat to public safety by the Administrator;
    - (iii) Cannot be caught and impounded; and
    - (iv) Cannot be tranquilized.
  - (4) The County shall incur no liability as a result of the death or injury of an animal based on the Administrator's decision to tranquilize or kill the animal.
- (d) *Nuisance Enforcement by Administrator.* Except as provided in subsection (e) of this section, the Administrator shall enforce a nuisance violation as follows:
- (1) *Informal complaints.* The Administrator shall:
    - (i) Send a notice of complaint to an animal owner upon receipt from a person of an informal complaint of a nuisance, if the person provides the mailing address of the owner and the date, time, location, and nature of the alleged nuisance violation; and
    - (ii) If the complainant requests, keep the complainant's identity confidential;
  - (2) *First violation.* The Administrator may issue a cease and desist order, a civil citation, and recommendations for control and confinement measures when a nuisance violation occurs;
  - (3) *Second violation.* If an owner's animal commits a subsequent nuisance violation within 24 months after committing a nuisance violation, the Administrator:
    - (i) Shall issue an order requiring the owner to take control and confinement measures for the animal and specifying a schedule for complying with the order; and
    - (ii) May impound the animal if the owner does not comply with the order within the time specified.

- (4) *Third violation.* If an owner's animal commits a third nuisance violation within 24 months after committing a nuisance violation, the Administrator may declare the animal a nuisance in accordance with section 17.302 of this subtitle.
- (e) *Disturbance of the Public Peace Enforcement.* Notwithstanding any other provision of this section to the contrary, the Administrator shall enforce a disturbance of the public peace violation as follows:
  - (1) *First violation.* The Administrator may issue a civil citation to an owner whose animal disturbs the public peace;
  - (2) *Second violation.* If an owner receives a second citation for allowing an animal to disturb the public peace, the Administrator may recommend that the owner take control and confinement measures for the animal; and
  - (3) *Subsequent violation.* If an owner's animal receives a third citation for allowing the animal to disturb the public peace, the Administrator:
    - (i) Shall issue an order requiring the owner to take control and confinement measures for the animal and specifying a schedule for complying with the order; and
    - (ii) May impound the animal if the owner does not comply with the order within the time specified.
- (f) *Right of Entry:*
  - (1) The Animal Control Administrator may enter private property or premises to:
    - (i) Investigate possible violations of this subtitle;
    - (ii) Impound animals under this subtitle; and
    - (iii) Enforce this subtitle.
  - (2) If the owner, tenant, or other occupant of private property or premises fails to consent to or interferes with the right of entry of the Animal Control Administrator, the Administrator may apply for a judicial order permitting entry.

(C.B. 51, 2004)

Sec. 17.310. - Impoundment and redemption.

- (a) *Impoundment.*
  - (1) The Administrator may impound:
    - (i) A dog, cat, or ferret whose owner has failed to have the animal vaccinated against rabies within seven days after being notified to do so;
    - (ii) An animal whose owner has failed to comply with control, and confinement measures ordered by the Administrator within the time specified by the order;
    - (iii) An animal that has been declared a nuisance by the Administrator, or an animal whose owner receives three citations for disturbing the public peace in a 24-month period, if the citations have not been appealed or have been upheld on appeal;
    - (iv) An animal at large;
    - (v) An animal declared dangerous or potentially dangerous by the Administrator or by another jurisdiction;
    - (vi) An animal declared a threat to public safety and welfare;
    - (vii) An animal whose health or safety is endangered through its owner's cruelty or neglect;
    - (viii) A wild or exotic animal kept in violation of this subtitle;

- (ix) An animal adopted from the County shelter but which has not been spayed or neutered within the period required by the Administrator; and
  - (x) An animal adopted from the County shelter whose owner has not complied with the terms of the adoption agreement.
- (b) If an animal is impounded and the owner does not provide control and confinement measures in accordance with the schedule established by the Administrator, the animal shall be considered abandoned and shall be disposed of under this subtitle.
- (c) *Location.* The Administrator shall determine the place of an animal's impoundment and may, at the request and expense of the animal's owner, impound the animal in a private kennel or veterinarian's facility. The owner of the kennel or veterinarian's facility shall not release the animal from impoundment without permission of the Administrator.
- (d) *Notice.* If the Administrator impounds an animal without first notifying the owner, the Administrator shall make a prompt and reasonable effort to notify the owner of the impoundment, the reason for the impoundment, and the conditions the owner must meet in order to redeem the animal.
- (e) *Redemption:*
- (1) *General requirements.* The owner of an impounded animal may redeem the animal by:
    - (i) Satisfying the conditions established by the Administrator for the animal, including any control and confinement measures;
    - (ii) Paying all fines and penalties due;
    - (iii) Paying the redemption fee;
    - (iv) Paying all charges for shelter and board of the animal during impoundment, including any extraordinary charges incurred by the County in impounding, transporting, feeding, treating, and sheltering the animal;
    - (v) Providing proof of ownership of the animal;
    - (vi) Meeting the licensing requirements of this subtitle;
    - (vii) Providing proof that the animal is vaccinated for rabies; and
    - (viii) Meeting any other redemption requirements of this subtitle that apply to the animal.
  - (2) *Rabies.* The owner of a dog, cat, or ferret impounded for failure of the owner to vaccinate the animal for rabies may redeem the animal when the animal has been vaccinated against rabies.
  - (3) *Wild or exotic animals.* The owner of an impounded wild or exotic animal may redeem the animal if the Administrator is satisfied that the owner has definite intentions to immediately remove the animal from the County, or has received the required State and Federal permits to legally possess the animal.
- (f) *Animal Permanently Impounded.* An animal ordered permanently impounded may be disposed of in the same manner as an animal abandoned by its owner.
- (g) *Care of Injured Animals.* Except as provided in section 17.306 of this subtitle, when the Administrator or a Howard County Police Officer has an injured domesticated animal whose owner is unknown, the Administrator or Officer shall take the animal to a veterinarian or animal hospital under contract to the County where it shall be cared for until its condition warrants its return to the animal control facility or disposition. In an emergency, the animal may be taken to the nearest veterinarian.
- (h) *Liability:*
- (1) The County is not liable if an impounded animal becomes sick or dies during impoundment, or dies after routine care or other care prescribed by a veterinarian.
  - (2) The Animal Control Administrator is not liable for any injuries sustained by an animal as a result of impoundment, transport, and handling of an impounded animal.

- (i) *Animal Deemed Abandoned.* An animal is deemed to have been abandoned when:
- (1) The animal is impounded, its owner is not known, and the animal has not been redeemed within three working days of impoundment;
  - (2) The animal is impounded for being at large and has not been redeemed within three working days;
  - (3) The animal is impounded because the owner has not complied with an order of quarantine for the animal and has not redeemed the animal within three working days of notice that the animal may be released;
  - (4) The animal is wild or exotic and has not been returned to its owner within three working days of notice of impoundment;
  - (5) The animal is a stray reported to the Animal Control Division and has not been reclaimed by its owner within 30 days of the report;
  - (6) The animal is permanently impounded and the owner has not appealed the impoundment, or the impoundment has been upheld on appeal;
  - (7) The animal has been adopted from the animal control facility and has been permanently impounded by the Animal Control Administrator for failure to have the animal spayed or neutered;
  - (8) The animal is impounded as a threat to public safety and welfare and has not been redeemed;
  - (9) The animal is impounded as a dangerous animal and has not been redeemed;
  - (10) The animal is impounded as a result of cruel or neglectful acts and has not been redeemed;
  - (11) The animal is impounded for failure to vaccinate for rabies and has not been redeemed;
  - (12) The animal is impounded as a nuisance animal and has not been redeemed;
  - (13) The animal has been spayed or neutered at a clinic contracted for by the County, and the owner has not retrieved the animal within three working days of the date specified by the clinic;
  - (14) The animal is given up and left at the animal control facility by its owner;
  - (15) The animal was adopted from the County shelter and is impounded because its owner has not complied with the terms of the adoption agreement; or
  - (16) The animal is impounded under this subtitle for any other reason and has not been redeemed.

(C.B. 51, 2004)

Sec. 17.311. - Adoption.

- (a) *Adoption.* At the discretion of the Administrator an abandoned animal may be made available for adoption.
- (b) *Adoption Exceptions.* An animal is available for adoption immediately upon being declared abandoned, except:
  - (1) An animal the Administrator believes is unsafe;
  - (2) A wild or exotic animal;
  - (3) An animal that has been declared dangerous or potentially dangerous;
  - (4) An animal a veterinarian has found to be too unhealthy for adoption or suffering from a contagious disease that makes the animal unsuitable for adoption;



- (5) An animal impounded for being a threat to public safety and welfare, declared to be a threat to public safety and welfare, or whose owner has been cited for the animal being a threat to public safety and welfare; and
  - (6) An animal the Administrator believes is too young for adoption.
- (c) *Persons Not Eligible to Adopt.* The following persons are not eligible to adopt an animal unless the Animal Matters Hearing Board permits them to do so upon appeal:
- (1) A person with two or more paid or upheld civil citations issued under this subtitle in the previous 24 months;
  - (2) A person who has been found guilty of cruel or neglectful acts;
  - (3) A person who has been found guilty of improperly confining or controlling a dangerous animal;
  - (4) A person who has not complied with an order of the Board issued after a mandatory hearing of the Board;
  - (5) A person who, in the opinion of the Administrator, will not or cannot properly care for an animal; and
  - (6) A person who has not complied with the spaying and neutering provisions of this subtitle in the prior adoption of an animal.
- (d) *Spaying/Neutering of Adopted Animals:*
- (1) Within a period to be specified by the Administrator, depending on the age, sex, health, and species of the animal, an adopted animal shall be spayed or neutered by a licensed veterinarian at the expense of the adopter.
  - (2) The Administrator may issue an adopter a cease and desist order and a civil citation for failure to spay or neuter an adopted animal within the specified period. The Administrator shall rescind the cease and desist order and civil citation if the adopter returns the adopted animal to the animal control facility or provides proof that the animal has been spayed or neutered prior to the payment due date specified on the citation. Each month the violation continues is a separate offense.
- (e) *Appeal.* A person denied adoption of an animal under subsection (c) of this section may appeal the decision to the Animal Matters Hearing Board within three days of the denial. The Administrator is not required to hold the animal for which adoption was denied while the denial is appealed.
- (f) *Liability.* Howard County shall not be liable for any expenses incurred by an adopter of an animal for the treatment of injuries or illnesses of the animal which existed prior to or occurred after adoption.
- (g) *Disposition of Animals Not Adopted:*
- (1) No animal may be sold or given up for commercial or experimental purposes.
  - (2) Wild and exotic animals may be released to a suitable habitat or to a suitable care facility such as a Humane Society shelter, zoo, or sanctuary.
  - (3) Animals which are declared abandoned may be destroyed in accordance with section 17.308 of this subtitle.

(C.B. 51, 2004)

Sec. 17.312. - Animal Control Division.

- (a) *Administration.* Except for the licensing provisions administered by the Department of Inspections, Licenses and Permits, the Animal Control Division shall administer this subtitle under the direction of the Chief of Police.

- (b) *Animal Control Division.* General provisions regarding the division are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (c) *Administrator.* The Animal Control Administrator shall be the head of the Animal Control Division. The Chief of Police shall exercise general supervision of the of Animal Control Division.
- (d) *Administrator's Qualifications.* The Animal Control Administrator shall have:
  - (1) Considerable knowledge of the care, handling, feeding, and characteristics of domestic animals;
  - (2) Considerable knowledge of the local and State laws governing animal protection and control; and
  - (3) At least five years of experience in business or public administration, including two years in animal control work, and at least two years of managerial or supervisory experience.
- (e) *Administrator's Duties.* The Animal Control Administrator shall:
  - (1) Serve as Executive Secretary to the Animal Matters Hearing Board;
  - (2) Administer and enforce the animal control laws;
  - (3) Maintain records of microchip identification numbers cross-referenced to the animal license files;
  - (4) Maintain records of rabies vaccinations cross-referenced to the animal license files;
  - (5) Administer the animal control facility;
  - (6) Supervise the Animal Control Officers and other employees of the Animal Control Division;
  - (7) Adopt written regulations necessary to implement this subtitle;
  - (8) Publicize the requirements of this subtitle including but not limited to breed-specific requirements to those who are required to comply with this subtitle; and
  - (9) Perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 51, 2004; C.B. 39, 2018, § 1)

Sec. 17.313. - Notification procedures.

- (a) Notification required by this subtitle shall be made as provided in this subsection.
- (b) *By Mail.* If a notification required by this subtitle is made by mailing a notice, the notice is adequate if it is delivered to a U.S. post office for delivery or is deposited in a mailbox or other mail receptacle regularly serviced by the U.S. Postal Service.
- (c) *Notice of Impoundment.* The Animal Control Administrator shall give an owner of an impounded animal notice of the impoundment by:
  - (1) Placing a telephone call to the owner;
  - (2) Delivering the notice directly to the owner;
  - (3) Leaving the notice at:
    - (i) The owner's usual or last-know-address;
    - (ii) The address given on the animal's collar or microchip; or
    - (iii) The address indicated in the licensing records maintained by the Department; or

- (4) Mailing the notice to:
  - (i) The person's usual or last-known address;
  - (ii) The address given on the animal's collar or microchip; or
  - (iii) The address indicated in the licensing records maintained by the Department.
- (d) *Notification of Intent to Immediately Destroy Animal.* When the Animal Control Administrator intends to immediately destroy an animal, the Administrator shall give notice to the animal's owner by:
  - (1) Placing a telephone call to the owner; or
  - (2) Verbally notifying the owner in person.
- (e) *Other Notifications.* Except as otherwise provided in this subtitle, notifications necessary to satisfy other requirements of this subtitle may be made by:
  - (1) Delivering the notice directly to the owner; or
  - (2) Mailing the notice to or posting the notice at:
    - (i) The owner's usual or last-known address;
    - (ii) The address given on the animal's collar or microchip; or
    - (iii) The address indicated in the licensing records maintained by the Department.

(C.B. 51, 2004)

Sec. 17.314. - Contractual services.

- (a) *Removal of Dead Animals.* The Chief of Police may contract for the collection and disposal of dead animals from County property and rights-of-way. If the animal's owner is known, the Animal Control Administrator may notify the owner to arrange for prompt disposition of the animal. If the animal is collected and disposed of by the County, the owner shall be notified that the animal has been disposed of. The owner may be held liable to the County for the cost of collection and disposal.
- (b) *Spaying and neutering clinic:*
  - (1) *County clinic.* The Chief of Police may establish a clinic at which citizens may have dogs and cats spayed or neutered by a licensed veterinarian. The Chief of Police may contract for spaying and neutering services to be performed by licensed veterinarians at their own places of business.
  - (2) *Medical care.* The spaying and neutering shall be performed in a humane manner. Each animal to be spayed shall receive a presurgical examination by the licensed veterinarian. The animal shall receive a rabies vaccination if proof of a current vaccination cannot be provided by the owner.
  - (3) *Fees.* The fee for neutering or spaying shall be determined by the Chief of Police. If a rabies vaccination is necessary, a separate fee shall be assessed.
  - (4) *Ownership consent.* The owner of the animal shall certify ownership or authority to seek the service and shall sign a consent to the surgery.
  - (5) *Retrieval of animal.* The owner shall retrieve the animal on a date specified by the clinic. Failure to retrieve the animal on the date specified may result in an additional charge for board. Any animal not retrieved within three working days after the specified date shall be deemed to be abandoned.

(C.B. 51, 2004)

Sec. 17.315. - Interfering with enforcement.

- (a) *Prevention of Enforcement.* A person shall not prevent, attempt to prevent, or threaten to prevent the Animal Control Administrator, an Animal Control Officer, or a Police Officer from enforcing this subtitle.
- (b) *Concealment; Denial of Ownership.* A person shall not conceal a domesticated animal, a wild animal, or an exotic animal from the Animal Control Administrator, or falsely deny ownership of any animal.
- (c) *Information to Enforce This Subtitle.* A person shall not provide false information or refuse to provide requested information to the Animal Control Officer, the Health Officer, or a Police Officer when the information is required to enforce this subtitle.

(C.B. 51, 2004)

Sec. 17.316. - Reporting animal bites; investigation.

- (a) *Report Required.* The following individuals and agencies shall report all bites, injuries, and attacks by animals on humans to the Health Department or Animal Control Division:
  - (1) The owner of an animal that has attacked, bitten, or injured a human; and
  - (2) A hospital, physician, or other health care provider who has treated a bite or injury inflicted by an animal on a human.
- (b) *Reporting Requirements.* When a report is required by this section, the report shall be made within the following times:
  - (1) An attack, injury, or bites shall be reported no later than one business day following the occurrence or treatment.
  - (2) When the Health Department receives a report of an incident in which an animal has bitten or injured a human or a domesticated animal, it shall notify the Animal Control Administrator within 24 hours after receiving the report and shall send the Administrator all complaints and supporting information regarding the incident.
  - (3) When the Police Department receives a report of an incident in which an animal has bitten or injured a human or a domesticated animal, it shall notify the Animal Control Administrator within 24 hours after receiving the report and, if a bite or injury is involved, shall notify the Health Officer within 24 hours. The Police Department shall send the Administrator and the Health Officer all complaints and supporting information regarding the incident.
  - (4) When the Animal Control Division receives a report of an incident in which an animal has bitten or injured a human being or a domesticated animal, it shall notify the Health Officer within 24 hours after receiving the report.
- (c) *Investigation of Incidents.* The Administrator shall review all reports of incidents in which an animal has attacked, bitten, or injured a human being or a domesticated animal, may investigate the incident and, if necessary, take enforcement measures consistent with this subtitle.

(C.B. 51, 2004)

Sec. 17.317. - Quarantine.

- (a) *Quarantine.* If the Health Officer quarantines an animal, or if the Administrator quarantines an animal under authority delegated by the Health Officer, the provisions of this section apply.

- (b) *Release.* A quarantined animal may not be released from quarantine, sold, given away, or otherwise disposed of until a Health Department Representative or a veterinarian has examined the animal and found it free of rabies, within 24 hours after examining a quarantined animal for rabies, the veterinarian shall report the results of the examination to the Health Officer.
- (c) *Quarantine after Bite or Injury.* If the Health Officer quarantines an animal after the animal has bitten or injured a human, the animal shall be quarantined under the following conditions:
  - (1) The Administrator may require that the animal be impounded for the quarantine period;
  - (2) If the animal is not impounded for the quarantine period:
  - (3) Quarantine shall be at a location approved by the Administrator; and
  - (4) If the animal's owner meets conditions established jointly by the Administrator and the Health Officer that protect the public and other animals from exposure to the animal, the animal may be quarantined on the owner's property.
- (d) *Impoundment of Animal Not Kept Quarantined.* If the Administrator determines that an animal has not been kept quarantined in accordance with this section, the Administrator may impound the animal until it is released from quarantine by the Health Officer.

(C.B. 51, 2004)

Sec. 17.318. - Civil penalties for violations.

- (a) *Civil Citations.* The Animal Control Administrator may issue a civil citation to a person who violates this subtitle.
  - (b) *Right to Appeal.* A person who receives a civil citation under this subtitle may appeal the citation to the Animal Matters Hearing Board within 15 days of receiving the citation.
  - (c) *Board Action.* When a civil citation is appealed to the Board, the Board may:
    - (1) Affirm the citation;
    - (2) Reverse the citation;
    - (3) Affirm the citation and reduce the amount of the fine imposed for violations of any section except section 17.303 of this subtitle; or
    - (4) For a violation of section 17.303 of this subtitle, affirm the citation and waive the fine if the owner agrees to destruction of the animal.
  - (d) *Collection; Date Payable.* A civil fine imposed under this subtitle shall be payable to and collected by the Director of Finance of Howard County within 30 days of imposition. If the owner of the animal, residence, or facility appeals the civil citation, the due date of the fine shall be extended to 30 days after a decision of the Animal Matters Hearing Board upholding or modifying the citation.
  - (e) *Notification of Appeals.* The Animal Matters Hearing Board shall notify the Director of Finance of all pending appeals, requesting that the Director postpone the collection of the fine until the Board has made a decision. The Board shall notify the Director of Finance of the outcome of all appeals.
  - (f) *Penalty Not Paid.* If a fine is not collected by the Director of Finance within 30 days of issuance of a civil citation or within 30 days of the Board's upholding the civil citation, the Office of Law may institute civil proceedings to collect the fine. The amount of the fine shall increase by half the amount of the original fine for each 30 days or portion thereof it remains unpaid.
- 
- (g) *Fines for Violations of Certain Sections.* The amount of the civil penalty for a violation of this subtitle is:

Code Section Violated	Amount of Fine	
17.301 and 17.306	First Offense	\$25.00
	Second Offense in 24-Month Period	50.00
	Third Offense in 24-Month Period	100.00
	Subsequent Offenses	250.00
17.302	First Offense	50.00
	Second Offense in 24-Month Period	100.00
	Third Offense in 24-Month Period	200.00
	Subsequent Offenses	200.00
17.303	\$250.00 to \$500.00; Board may waive fine if owner agrees to destruction of animal	
17.304 and 17.305	First Offense	100.00
	Second Offense in 24-Month Period	150.00
	Third Offense in 24-Month Period	300.00
	Subsequent Offenses	500.00
17.305A and 17.305B	First Offense	100.00
	Second Offense in a 24-Month period	150.00
	Third Offense in a 24-Month period	300.00
	Subsequent Offenses	500.00
17.307	First Offense	100.00
	Second Offense in 24-Month Period	150.00

	Third Offense in 24-Month Period	300.00
	Subsequent Offenses	500.00
17.311(d)(2)		100.00
17.315	First Offense	100.00
	Second Offense in 24-Month Period	150.00
	Third Offense in 24-Month Period	300.00
	Subsequent Offenses	500.00
17.316	First Offense	25.00
	Second Offense in 24-Month Period	50.00
	Third Offense in 24-Month Period	100.00
	Subsequent Offenses	200.00
17.317		300.00

(h) Each day that a violation continues is a separate offense.

(C.B. 51, 2004; C.B. 22, 2005; C.B. 39, 2018, § 1)

Sec. 17.319. - Criminal penalties for violations.

(a) The Animal Control Administrator, a Howard County Police Officer, or a citizen may apply to the district court for the issuance of a criminal summons for a violation of this subtitle.

(b) A person who violates this subtitle is guilty of a misdemeanor and on conviction is subject to the following fines:

Code Section Violated	Amount of Fine
17.301	Failure to Vaccinate for Rabies Up to \$500.00

	Failure to License or Renew License	25.00
	Failure to Wear License Tag	25.00
17.302	First Offense	50.00
	Second Offense	100.00
	Third Offense	200.00
	Subsequent Offenses: \$200.00 and 30 days' imprisonment, or both	
17.303	Up to \$500.00 and 90 days' imprisonment, or both	
17.304	First Offense	\$100.00
	Second Offense	300.00
	Third Offense	500.00
	Subsequent Offenses: \$1,000.00 and 60 days' imprisonment, or both	
17.305	Cruelty or Neglect	Up to \$1,000.00
	Poisoning Domesticated Animal	Up to 1,000.00
	Leaving Ground Glass Where Animal Can Ingest It	100.00
	Cruelly Killing or Injuring Animal	250.00 to 500.00
	Abandoning Domesticated Animal	250.00 to 500.00
	Deliberately Killing or Injuring Animal with Motor Vehicle	250.00 to 500.00
	Deliberately Encouraging an Animal to Fight	50.00 to 500.00



	Organizing or Participating in Animal Fight	50.00 to 500.00
	Breeding or Raising Animals for Fighting	50.00 to 500.00
17.306	Failure to Provide Adequate Care for Livestock	100.00 to 500.00
	Violations Regarding Care of Domesticated Birds	100.00 to 500.00
17.307	Keeping Wild or Exotic Animals.	250.00 to 500.00
	Setting Prohibited Traps	100.00 to 500.00
	Failure to Stop After Killing or Injuring Domesticated Animal with Vehicle	50.00
	Sale or Barter of Animals as Toys or Novelties	25.00 per animal
	Animals Involved in Games of Chance	200.00
	Dyeing Animals	100.00 per animal
17.315	Interfering with Officer by Providing False Information or Refusing to Provide Requested Information	100.00 to 150.00
	Unlawful Concealment of Animal	100.00
17.316		25.00
17.317		100.00

(C.B. 51, 2004)

---

Sec. 17.320. - Animal Matters Hearing Board.

(a) *Membership:*

- (1) *General provisions.* General provisions applicable to the Board are set forth in subtitle 3, "Boards and Commissions" of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (2) *Number of members.* There is an Animal Matters Hearing Board consisting of seven members.
- (3) *Qualifications:*
  - (i) All members of the Board shall be residents of Howard County.
  - (ii) One of the members shall be a veterinarian licensed to practice in Howard County.
  - (iii) Three of the remaining members shall have some experience in animal matters.
  - (iv) Not more than two members shall be residents of the same council district.
- (4) *Executive Secretary.* The Animal Control Administrator or the Administrator's designee shall serve as Executive Secretary to the Board and shall attend all meetings of the Board.
- (5) *Meetings.* The Board shall meet at least once each month and, if necessary to fulfill its duties and responsibilities, more frequently at the call of the Chairperson.

(b) *Duties and Responsibilities.* The Board shall:

- (1) Subject to section 22.1000 of the County Code, submit an annual report to the Chief of Police, the County Executive, and the County Council concerning its responsibilities, including recommendations pertaining to legislation, regulations, and fiscal planning;
- (2) Recommend standards for the operation and maintenance of County animal control facilities;
- (3) Recommend standards and procedures for the control, collection, custody, and disposal of animals;
- (4) Review the annual budget for the operation of the animal control facility and make recommendations to the Chief of Police;
- (5) Advise the Chief of Police, the County Executive, and the County Council on animal control regulations and legislation;
- (6) Hold hearings under this subtitle;
- (7) Review and affirm, reverse, or modify actions and decisions of the Animal Control Administrator pursuant to this subtitle;
- (8) Issue written decisions and orders; and
- (9) Carry out any other duties mandated by law.

(c) *Notice of Board Hearings:*

- (1) When the Board schedules a hearing, it shall give at least 14 days' written notice of the date, time, location, and subject of the hearing to:
  - (i) The owner of the animal; and
  - (ii) Any person who filed a sworn statement regarding the animal.
- (2) The notice shall include a copy of any citation issued and sworn statement filed in connection with the subject of the hearing.

- (3) The Board shall notify a person of a Board hearing by mailing a notice to the person's usual or last-known address, except that it shall notify a person charged with a violation of this subtitle by:
  - (i) Delivering the notice directly to the person;
  - (ii) Mailing the notice first-class mail, return receipt requested; or
  - (iii) Posting the notification at the person's usual or last-known address.

(C.B. 51, 2004; C.B. 43, 2018, § 1)

Sec. 17.321. - Appeals.

- (a) *Appeal to Board.* A person may appeal to the Board any of the following actions of the Administrator within seven days after the Administrator's action:
  - (1) A declaration that the person's animal, residence, or facility is a nuisance;
  - (2) A declaration that the person's animal is dangerous or potentially dangerous;
  - (3) A declaration that the person's animal is a threat to public safety;
  - (4) An order requiring the institution of control and confinement measures for the person's animal, but only if the animal has been impounded in connection with the order;
  - (5) Impoundment of the person's animal;
  - (6) Permanent impoundment of the person's animal; and
  - (7) A declaration that the person is not eligible to adopt an animal.
- (b) A person who receives a civil citation under this subtitle may appeal the citation to the Board in accordance with section 17.318 of this subtitle.
- (c) *Board Action.* When an action of the Administrator is appealed to the Board, the Board may affirm, reverse, or modify the decision, and may order any enforcement action that the Administrator is authorized to take by this subtitle.
- (d) *Notice.* When a hearing is scheduled under this section, the Board shall give notice of the hearing in accordance with subsection 17.320(c) of this subtitle.
- (e) *Hearing.* The hearing shall be conducted in accordance with title 2 (the Howard County Administrative Procedure Act) of this Code.
- (f) *Appeal of Board Decision.* Any person, including the Animal Control Administrator, who is aggrieved by a decision and order of the Board may, within 30 days thereof, appeal the decision to the Board of Appeals. The appeal shall be on the record.
- (g) *Enforcement of Board Decision.* If a person fails to comply with a decision of the Board within the time specified by the decision, the Administrator may petition the court for injunctive relief or otherwise institute legal action to enforce the Board's decision.

(C.B. 51, 2004)

SUBTITLE 4. - CONSUMER PROTECTION<sup>[4]</sup>

Footnotes:

--- (4) ---

**State Law reference**— Consumer protection Act, Ann. Code of Md. Commercial Law article, § 13-101 et seq.

Sec. 17.400. - Definitions.

- (a) *Person* means an individual proprietor, partnership, corporation, firm, cooperative, association or any other group of individuals, however organized.
- (b) *Consumer* means a purchaser, lessee, recipient or prospective purchaser, lessee or recipient of goods, merchandise, services, debts, obligations or credit, including a co-obligor or surety which are primarily for personal, household, family or agricultural purposes.
- (c) *Services* means building repair and improvement services, professional services, the repair of automobiles, television sets, and other similar services, and the repair or installation of plumbing, heating, electrical or mechanical devices.
- (d) *Merchant* means any person who offers or makes available to consumers, either directly or indirectly, merchandise, goods, services or credit.
- (e) *Merchandise* means any objects, wares, goods, commodities, intangibles or real estate.
- (f) *Administrator* means the head of the Office of Consumer Protection.
- (g) *Advisory Board on Consumer Protection*, hereinafter known as the "Board," shall consist of seven members. Each appointment shall be for an overlapping five-year term, and each appointee shall hold office until a successor is appointed and confirmed. A vacancy on the Board shall be filled for the unexpired term of the departing member. All members of the Board shall be designated by the County Executive, subject to confirmation by the County Council. The members of the Board shall serve without compensation, but they may be reimbursed for all expenses reasonably incurred in the performance of their duties as may be provided in the budget.

(C.B. 7, 1975; C.B. 47, 1979; C.B. 33, 1980; C.B. 2, 1981; C.B. 62, 1989; C.B. 12, 2016, § 1)

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

Sec. 17.401. - Office of Consumer Affairs.

- (a) *General Provisions*. General provisions applicable to this Office are set forth in subtitle 2, "Administrative Departments and Offices," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Head*. The Consumer Protection Administrator shall head the Office of Consumer Protection. The Director of Community Resources and Services shall exercise administrative supervision over the Office of Consumer Protection.
- (c) *Qualifications of Consumer Protection Administrator*. The Consumer Protection Administrator shall have thorough knowledge of methods and practices of protecting consumer interest, including knowledge of County, State and Federal laws, and knowledge of the methods and techniques of investigating complaints and charges of unlawful trade practices. The Administrator shall have at least five years of experience in community service or related work, including one year dealing with consumer protection or trade practices and at least one year of managerial experience.
- (d) *Duties and Responsibilities*. The Office shall have the following duties:
  - (1) To regulate solicitors and peddlers pursuant to subtitle 7, "Solicitors and Peddlers," of title 14, "Inspections, Licenses, and Permits," of the Howard County Code.

- (2) To receive, investigate and conciliate complaints and initiate its own investigation of deceptive or unfair trade practices against consumers; to hold hearings, compel the attendance of witnesses, administer oaths, take the testimony of any person under oath, and, in connection therewith, require the production of any evidence relating to any matter under investigation or in question by the Office.
- (3) To issue summons to compel the attendance of witnesses and the production of documents, papers, books, records and other evidence in any matter to which this subtitle applies. Any such summons shall be served by the Sheriff or Deputy Sheriff of the political subdivision in which is located the residence of the person or the main office of the firm, association, partnership or corporation against whom or which the summons is served. In case of disobedience to a summons, the County, on behalf of the Office, may apply to a court of appropriate jurisdiction for an order requiring the attendance and testimony of witnesses and/or the production of records or a document. After notice to the person summoned as a witness or directed to produce records and documents, and upon a finding that the attendance and testimony of the witness or the production of the records and documents is relevant or necessary for the proceeding of the Office, the court may issue an order requiring the attendance and testimony of the witness and the production of records and documents. Any failure to obey such an order of the court may be punished as contempt of court.
- (4) To issue cease and desist orders with respect to consumer practices declared to be in violation of this subtitle by the Office. If, upon all the evidence, the Administrator of the Office finds that the respondent has engaged in a deceptive or unfair trade practice within the scope of any provision of this subtitle, it shall so state its findings. The Office thereupon shall issue and cause to be served upon the respondent an order requiring the respondent to cease and desist from the deceptive or unfair trade practice and to take such affirmative action as equity and justice may require to effectuate the purposes of this subtitle.
- (5) To refer to appropriate governmental or regulatory agencies, either public or private, having jurisdiction over consumer protection matters, any information concerning an apparent or potential violation of any consumer protection laws.
- (6) To present the interests of consumers before administrative and regulatory agencies and legislative bodies.
- (7) To assist, advise and cooperate with other local, State and Federal agencies and officials to protect and promote the interest of the County consumer public.
- (8) To assist, develop and conduct programs of consumer education and information through public hearings, meetings, publications or other material prepared for distribution to the consumer public of the County.
- (9) To undertake activities to encourage local business and industry to maintain high standards of honesty, fair business practices and public responsibility in the production, promotion and sale of merchandise, goods and services and the extension of credit.
- (10) To exercise and perform such other functions or duties consistent with the purposes or provisions of this subtitle which may be deemed necessary or appropriate to protect and promote the welfare of County consumers.
- (11) To render annual reports as to the number of complaints filed, the nature thereof and the disposition thereof and the other relevant activities of the Office undertaken during the previous year.
- (12) To make administrative rules and regulations as may be necessary to ensure the orderly operation of the Office and to promulgate standards further defining the "unfair or deceptive trade practices" as set forth in this subdivision. These rules and regulations and standards shall take effect no earlier than 60 days after their adoption by the Office. Any regulation adopted hereunder shall be in accordance with the Administrative Procedure Act [title 2, subtitle 1 of this Code.]

- (13) To administer subtitle 5, "New Home Contract of Sale," of title 17, "Public Protection Services," of the Howard County Code, according to the provisions of section 17.505, "Administration, Enforcement and Penalties," of subtitle 5 of title 17 of the Howard County Code.
- (14) To administer subtitle 9 "Landlord Tenant Relations" of title 17 "Public Protection Services" of the Howard County Code.
- (15) To adopt written regulations necessary to implement subtitle 9 "landlord tenant relations" of title 17 "Public Protection Services" of the Howard County Code.

(C.B. 7, 1975; C.B. 33, 1980; C.B. 62, 1988; C.B. 23, 1989; C.B. 12, 2016, § 1; C.B. 20, 2018, § 1)

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

Sec. 17.402. - Advisory Board on Consumer Affairs.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members.* There is an Advisory Board on Consumer Protection which shall consist of seven members.
- (c) *Qualifications:*
  - (1) All members shall be residents of Howard County.
  - (2) The membership shall reflect a cross-section of the consumer and business interests.
  - (3) At least two members shall represent a consumer interest group.
  - (4) At least two members shall represent a business interest group.
  - (5) From the remaining members, at least one member shall represent an economically disadvantaged group.
- (d) *Executive Secretary.* The Consumer Protection Administrator or the Administrator's designee shall serve as Executive Secretary of the Board and shall attend all meetings of the Board.
- (e) *Meetings.* The Board shall meet on call by the Chairman as frequently as required to perform its duties.
- (f) *Duties and Responsibilities.* The Board shall carry out all duties and responsibilities assigned to it by law.
  - (1) The Board may annually review the programs of the Office of Consumer Protection and make recommendations to the Administrator prior to the submitting of the annual budget.
  - (2) Subject to section 22.1000 of the County Code, the Board shall submit an annual report to the County Executive and to the County Council.
  - (3) The Board may advise the Office in carrying out its duties.
  - (4) The Board may hold public hearings as deemed necessary, including hearings for the purpose of forming recommendations on inclusion or exclusion of persons or organizations from applications of the provisions of this subtitle.
  - (5) At the directive of the County Executive or by resolution of the County Council, the Board shall review and make recommendations on any matter related to consumer protection.

(C.B. 7, 1975; C.B. 2, 1981; C.B. 62, 1988; C.B. 12, 2016, § 1; C.B. 43, 2018, § 1)

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

Sec. 17.403. - Deceptive or unfair trade practice prohibited.

- (a) It shall be unlawful for any merchant to engage in a deceptive or unfair trade practice with respect to any consumer whether or not any consumer has, in fact, been misled, deceived or damaged thereby. Deceptive or unfair trade practices include, but are not limited to:
- (1) Representations that merchandise, goods or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits or quantities that they do not have.
  - (2) Representations that the merchant has a sponsorship, approval, status, affiliation or connection that he does not have.
  - (3) Representations that merchandise or goods are original or new, if they are deteriorated, altered, reconditioned, reclaimed or secondhand.
  - (4) Representations that merchandise, goods or services are of particular standard, quality, grade, style or model, if they are of another.
  - (5) A misrepresentation as to a material fact which has a tendency to mislead.
  - (6) The failure to state a material fact, if such failure deceives or tends to deceive.
  - (7) Disparaging the merchandise, goods, services or business of another by false or misleading representations of material facts.
  - (8) Advertising or offering merchandise, goods or services without intent to sell them or sell them as advertised or offered.
  - (9) Advertising or offering merchandise, goods or services with intent not to supply reasonably expected public demand, unless the advertisement or offer discloses a limitation of quantity or other qualifying conditions.
  - (10) Making false or misleading representations of fact concerning: The reasons for, existence of or amounts of price reductions; or the price in comparison to price of competitors or ones own price at a past or future time.
  - (11) Knowingly falsely stating that services, replacements or repairs are needed.
  - (12) Falsely stating the reasons for offering or supplying merchandise, goods or services at sale or discount prices.
  - (13) The harassment of any person, either by telephone, cards or letters, with regard to any act other than legal process.
  - (14) Any deception, fraud, false pretense, false premise, misrepresentation or the knowing concealment, suppression or omission of any material fact with the intent that consumers rely upon such concealment, suppression or omission in connection with the sale or advertisement of any merchandise or goods or with the subsequent performance of services, whether or not any person has, in fact, been misled, deceived or damaged thereby.
  - (15) Any false, falsely disparaging or misleading oral or written statement, visual description or other misrepresentation of any kind which has the capacity, tendency or effect of deceiving or misleading consumers and is made in connection with the sale, lease, rental, loan or bailment of merchandise, goods or services, the offering for sale, lease, rental, loan or bailment of merchandise, goods or services, the extension of consumer credit or the collection of consumer debts.

- (16) Failure to provide a written estimate of repairs, alterations, modifications or servicing when requested by a consumer and then performing such subsequent repair, alteration, modification or servicing of the item without providing the estimate as requested.
- (17) Making repairs, alterations, modifications or servicing exceeding by ten percent or more the price quoted in a written estimate, without prior written or verbal approval of a consumer.
- (18) Failure to reassemble or restore an electrical or mechanical apparatus, appliance, chattel or other goods or merchandise to its tendered condition, unless a service or labor charge is paid, without notification of the service or labor charge prior to receiving the tendered item.
- (19) Failing to supply to a consumer a copy of a sales or service contract, lease, promissory note, trust agreement or other evidence of indebtedness which that person may execute or has, in fact, executed.
- (20) Selling or leasing or providing merchandise, goods or services on a credit sale basis with knowledge by the merchant, at the time of the transaction, that there was no reasonable probability of payment in full of the obligation by the consumer.
- (21) Selling, leasing or providing merchandise, goods or services with knowledge by a merchant, at the time of the transaction, of the inability of the consumer to receive substantial benefits from the merchandise, goods or services sold or leased.
- (22) Selling, leasing or providing merchandise, goods or services where there exists a gross disparity between the price of the merchandise, goods or services sold or leased and the value of the merchandise, goods or services measured by the price at which similar merchandise, goods or services are readily obtainable in transactions by like buyers or lessees. Any insurance commission or rebate received by a merchant shall be considered in determining the existence of a gross disparity.
- (23) The fact that the merchant failed to disclose that he contracted for or received a commission fee or rebate for insurance with respect to credit sales.
- (24) The fact that the merchant has knowingly taken advantage of the inability of the consumer to reasonably protect his interests by reason of physical or mental infirmities, ignorance, illiteracy or inability to understand the language of the agreement.
- (25) Replacing parts or components in an electrical or mechanical apparatus, appliance, chattel or other goods or merchandise when such parts or components are not defective, unless this replacement is specifically requested by the consumer.
- (26) Falsely stating or representing that repairs, alterations, modifications or servicing have been made when they have not been.
- (27) Insertion by a merchant, in a contract of sale or lease, of a clause or condition which is so one sided as to be unconscionable under the circumstances existing at the time of the making of the contract.

(C.B. 7, 1975; C.B. 33, 1980)

Sec. 17.404. - Exclusion.

This subtitle shall not apply to:

- (1) Professional services of lawyers or medical and dental practitioners engaged in their respective professional endeavors;
- (2) Any television or radio broadcasting station or to any publisher or printer of a newspaper, magazine or other form of printed advertising who broadcasts or prints an advertisement which violates this subtitle, except insofar as such station or publisher or printer engaged in deceptive



or unfair practices in the sale or offering for sale of its own merchandise, goods or services or has knowledge of the advertising being in violation of this subtitle;

- (3) Public service companies subject to the jurisdiction of the public service commission, as provided in article 78 of the Annotated Code of Maryland (1969 Replacement Volume).

The Office shall have the authority to receive complaints concerning the aforesaid excluded merchants and to refer these complaints to the appropriate professional agency or group.

(C.B. 7, 1975; C.B. 33, 1980)

Sec. 17.405. - Restraining unlawful acts.

Whenever the Administrator has reason to believe that a merchant is using, has used or is about to use any method, act or practice declared by section 17.403 of this subtitle to be unlawful, and that proceeding would be in the public interest, the Administrator may refer this matter to the Office of Law for an action in the name of the County against such merchant to restrain, by temporary or permanent injunction, the use of such method, act or practice, upon the giving of appropriate notice to that merchant. Any court of competent jurisdiction may issue restraining orders, temporary or permanent injunctions or other appropriate forms of relief.

(C.B. 7, 1975)

Sec. 17.406. - Private action.

- (a) Any consumer who purchases or leases merchandise, goods or services primarily for personal, family, household or agricultural purposes, as herein defined, and thereby suffers any ascertainable loss of money or property, real or personal, as the result of the use or employment by any merchant of a method, act or practice declared unlawful by section 17.403 of this subtitle, may bring an action under the rules of civil procedure in the court of appropriate jurisdiction in Howard County or in the appropriate court of the County in which the merchant resides or has his principal place of business, to recover actual damages. This court may, in its discretion, award punitive damages and provide such equitable relief as it deems necessary or proper.
- (b) In any action brought by a consumer under this section, the court may award, in addition to the relief provided in this section, reasonable attorney's fees and costs.

(C.B. 7, 1975; C.B. 33, 1980)

Sec. 17.407. - Filing of complaints by consumer.

Any consumer who has reason to believe that he or she has been subjected to an unlawful trade practice, as set forth in section 17.403, may file a complaint in writing with the Administrator, which shall state the name and address of the person alleged to have committed the violation complained of and the particulars thereof, and such other information as may be required by the Office.

(C.B. 7, 1975)

Sec. 17.408. - Procedures and enforcement.

- (a) *Administration.* Upon the filing of a complaint, as set forth in this subtitle, the Administrator of the Office shall cause such investigation as he or she deems appropriate to ascertain facts and issues. In making such investigations and determinations the Office may use the authority granted to it in section 17.401.

- (b) *Reasonable Grounds a Violation Has Occurred.* Whenever the Administrator determines that there are reasonable grounds to believe a violation has occurred, the Office shall commence with one or more of the following procedures, which it, in its sole discretion, deems appropriate:
- (1) *Conciliation .* Attempt to conciliate the matter, either by methods of initial conference and persuasion with all interested parties and such representatives as the parties may choose to assist them, or by such other methods as this office shall, in its discretion, deem appropriate. In attempting such conciliation to assist a complaining consumer to resolve the individual dispute, the Office may utilize the goods services of the Advisory Board on Consumer Protection. Conciliation conferences shall be informal, and nothing said or done during such initial conference shall be made public by the Office, the Board, or its members, unless the parties agree thereto in writing. The terms of the conciliation agreed to by the parties may be reduced to writing and incorporated into a written conciliation or settlement agreement to be signed by the parties, which written agreement is for conciliation purposes only and does not constitute an admission by any party that the law has been violated. A written conciliation or settlement agreement shall be signed, on behalf of the Office, by the Administrator of the Office.
  - (2) *Assurance of compliance or of discontinuance.* Accept a written assurance of compliance or assurance of discontinuance with respect to any matter which involved the violation of section 17.403 of this subtitle from any merchant who has engaged or was about to engage in any unlawful trade practice. Any such assurance shall be a matter of public record and shall be signed by the Administrator. No assurance of compliance or assurance of discontinuance shall constitute admission by any party thereto that there has been a violation of any law or regulation.
  - (3) *Refer to Office of Law.* Refer any matters to the Office of Law for appropriate action if in the opinion of the Administrator, such action is the most effective procedure to enforce or administer the provisions of this subtitle.
- (c) *Failure to Adhere to Assurance of Compliance or Discontinuance.* It shall be a violation of this subtitle to violate or fail to adhere to any provision contained in a written assurance of compliance or assurance of discontinuance or conciliation agreement. Any failure by the Office to act with regard to a violation of any provision of a written assurance or agreement shall not constitute a waiver of any right of the Office or provision of such assurance or agreement.
- (d) *Cooperation of Licensing Authorities and Other Government Agencies.* The Office is authorized to seek the cooperation of the licensing authorities and contact any Department of the Government of the County in connection with any investigation under this subtitle by the Office of any person licensed to do business within the County or having a contractual relationship with the Government of the County.
- (e) *Dismissal for Lack of Reasonable Grounds.* If the Administrator determines that the complaint lacks reasonable grounds upon which to base a violation of this subtitle, the Administrator may dismiss such complaint or order such further investigation as may be necessary.
- (f) *Referral to Office of Law .* If the Office, with respect to any matter which involves a violation of section 17.403, fails to effect an assurance of compliance or discontinuance or determines that a complaint is not susceptible of settlement, the Office may transmit the matter to the Office of Law for appropriate legal action.
- (g) *Other Venues and Remedies.* Nothing herein shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled or from filing any complaint with any other agencies or court of law or equity.
- (h) *Financial Stipulations and Conditions.* Any written assurance of discontinuance, conciliation or settlement agreement or any cease and desist order provided for by this subtitle may include stipulations or conditions for the payment, by the violator, of the cost of the investigation by the Office or its staff and may also include stipulations or conditions for the restitution, by the violator, to the consumer of money, property or other things received from such consumer in connection with a violation of this subtitle. The aforesaid stipulations and conditions shall not preclude the Office from

utilizing any other stipulation, condition or remedy, including the payment of stipulated penalties, it deems necessary to correct a violation of this subtitle.

(i) *Arbitration of Disputes:*

- (1) *Submission to arbitration.* Notwithstanding any other provisions of this title, the Office may enter into an agreement with a person in the County or State to submit a dispute arising under this title to arbitration in accordance with the Maryland Uniform Arbitration Act.
- (2) *Arbitration programs.* The Office may administer a program of voluntary arbitration of consumer disputes, including:
  - (i) The recruitment and training of volunteer arbitrators;
  - (ii) The education of the public and business community as to the benefits of arbitration.
- (3) *Clerical support.* The Office shall provide office space and clerical help for arbitration tribunals.

(C.B. 7, 1975; C.B. 32, 1994; C.B. 12, 2016, § 1)

Sec. 17.409. - Restitution or compensatory damages.

In any action brought pursuant to this subtitle, the County shall be authorized to seek appropriate restitution or compensatory damages for any consumer who has been harmed by any violation of this subtitle.

(C.B. 7, 1975)

Sec. 17.410. - Office investigation.

In the event the Administrator has reason to suspect that a merchant has engaged in an unlawful trade practice, as defined in this subtitle, the Administrator is hereby authorized to initiate an investigation of such suspected unlawful trade practice and to file, in writing, a statement of charges, which shall detail the alleged violation or violations, a copy of which shall be served on the merchant forthwith. A statement of charges may be filed at the commencement of an investigation or at such subsequent time as the Administrator, in the Administrator's sole discretion, deems appropriate. In no event shall legal action be instituted until at least 15 days following a statement of charges, during which time the respondent person shall be afforded an opportunity to appear before the Administrator for the purpose of negotiating a written assurance of discontinuance, as provided in this subtitle.

(C.B. 7, 1975)

Sec. 17.411. - Costs.

In any action brought under the provisions of this subtitle, the Office shall be entitled to recover from a violator the Office's costs for investigation and hearing.

(C.B. 7, 1975)

Sec. 17.412. - Penalties.

- (a) *Civil Penalties.* The Office of Consumer Protection may enforce the provisions of this subtitle with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A first violation of this subtitle shall be a Class B offense. Subsequent violations shall be Class A offenses.

- (b) *Penalty Recoverable in Civil Action.* Alternatively or in addition to and concurrent with other remedies, any merchant who commits a violation of any of the provisions of this subtitle relating to unlawful trade practices shall be liable for the payment to the County of a penalty, recoverable in a civil action of up to \$500.00 for each violation.
- (c) *Injunctive and Other Relief.* In addition, any merchant shall be subject to injunctive or other appropriate action or proceeding to correct any violation of this subtitle. Any court of competent jurisdiction may issue restraining orders, temporary or permanent injunctions or other appropriate forms of relief.

(C.B. 7, 1975; C.B. 32, 1985; C.B. 12, 2016, § 1; C.B. 20, 2018, § 1)

Sec. 17.413. - Severability.

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

(C.B. 7, 1975)

SUBTITLE 5. - NEW HOME CONTRACT OF SALE

Sec. 17.500. - Definitions.

- (a) *New home* means any newly constructed residential dwelling unit. *New home* includes any single-family home, town house, row house, cooperative or condominium unit which has not been previously conveyed or sold to a buyer and includes any newly constructed residential dwelling unit constructed on real property owned by the seller or on real property owned by a buyer.
- (b) *Resale home* means any residential dwelling unit, including any single-family home, town house, row house, cooperative or condominium unit other than a "new home."
- (c) *Buyer* means the purchaser of a new home or resale home, provided, however, that the home is intended to be occupied by the buyer within three months following settlement.
- (d) *Agent of buyer* means any person expressly empowered by the buyer to execute a contract of sale or designated by the buyer to serve as the buyer's representative at a presettlement inspection at the buyer's sole cost and expense and, providing further, such designated person expressly agrees and consents to represent the buyer at the presettlement inspection. *Agent of buyer* does not include an employee or agent of the seller or an independent licensed real estate agent or sub-agent representing a seller.
- (e) *Seller* means any person or firm engaged in the business of constructing new homes, whether on real property owned by the seller or on real property owned by the buyer, or to whom a new home has been conveyed for resale in the course of business, or any person or firm engaged in selling a resale home. *Seller* does not include an agent of seller.
- (f) *Agent of seller* means any person expressly designated by the seller to represent the seller in the sale of a new or resale home and includes an employee of a seller or an independent, licensed real estate agent or sub-agent representing a seller in the sale of a new or resale home.

- (g) *Agent* shall include the singular as well as the plural and, in addition to a person, shall also include a firm, partnership, corporation or other form of business entity.

(C.B. 23, 1989; C.B. 47, 1991)

Sec. 17.501. - Right to new home presettlement inspection.

- (a) Not less than 14 hours nor more than 72 hours prior to the date of actual settlement, a buyer of a new home, or the agent of the buyer, shall have the right to inspect the new home. If mutually agreed upon in writing, the buyer and seller may provide for more than one presettlement inspection or for the pre-settlement inspection to occur less than 14 hours or more than 72 hours prior to the date of actual settlement. Not later than 14 calendar days prior to the date of actual settlement, the seller shall notify the buyer in writing of the proposed date and time of the presettlement inspection. Such written notice shall include three proposed presettlement inspection times on at least two different dates. The presettlement inspection unless agreed to otherwise by the buyer, shall be scheduled to commence between the hours of 10:00 a.m. and 8:00 p.m. The buyer upon receipt of the notice of presettlement inspection as herein provided from the seller, shall promptly notify the seller or the agent of the seller of which of the presettlement inspection dates and times proposed by the seller are accepted by the buyer. The seller shall make every reasonable effort to designate dates and times for the presettlement inspection reasonably convenient to the buyer.
- (b) The seller shall allow a reasonable time for the buyer or the agent of the buyer to conduct the presettlement inspection and shall provide the buyer or the agent of the buyer with reasonable access to the interior and exterior of the new home and the real property being conveyed, if applicable. At the time of the presettlement inspection, the seller shall arrange to have all utilities servicing the new home to be connected and turned on in order for the buyer or the agent of the buyer to inspect and test all fixtures, electrical, mechanical, including appliance, plumbing, heating and air-conditioning systems as installed in the new home.
- (c) Both the buyer and the seller, as well as the agent of the buyer and the agent of the seller, if requested to do so by their respective clients, may attend the presettlement inspection.
- (d) The right of a buyer to a presettlement inspection as provided for in this subtitle may not be waived in the contract of sale and any such purported waiver may not be enforced by the seller in a court of law.
- (e) A contract of sale for a new home shall include a notice advising the buyer of the buyer's rights as set forth in subsections (a), (b), (c) and (d) of this section. Said notice shall be deemed sufficient for the purposes of this section if the notice substantially informs the buyer of the buyer's right as set forth in subsections (a), (b), (c) and (d) of this section. The failure of the seller or agent of the seller to include the notice required by this section in the contract of sale shall not cause the contract of sale to be invalid, void, voidable or otherwise unenforceable by the seller or buyer.

(C.B. 23, 1989; C.B. 47, 1991)

Sec. 17.502. - Notice to buyers of new or resale homes of the availability of plans for road construction and land use in the County.

- (a) Sellers of new or resale homes shall notify buyers that the property may be affected by plans for roadway capital improvements and land use in Howard County and that such plans are available for examination at the Department of Planning and Zoning, 3430 Courthouse Drive, Ellicott City, Maryland 21043. Such notice shall take the following form:
- (1) Each contract for the sale of real property shall contain a clearly identified provision that notifies a prospective buyer of the buyer's right to examine the current Howard County general plan maps and current generalized zoning map.

- (2) A prospective buyer shall indicate by signing an addendum to the contract or a separate section of the contract printed in boldface type, that:
  - (i) The seller has notified the buyer of the buyer's right to examine the current general plan maps and current generalized zoning map; and
  - (ii) The buyer acknowledges such notification by the seller and understands that in order to become fully informed of current and future roadway improvements and land use plans, the buyer should consult the Howard County Department of Planning and Zoning, 3430 Courthouse Drive, Ellicott City, Maryland 21043.
- (3) A seller of a new home shall have available in a model home or sales office a copy of the current general plan maps and generalized zoning map for Howard County. If a model home or sales office is not located in the same subdivision as the property, the seller of a new home shall have a copy of the maps available at the property.
- (4) If notice of the availability of the general plan maps and generalized zoning map is provided to the buyer at the time of or within two days of entering into the contract of sale, then, not later than 11:59 p.m. on the second County Government business day immediately following the date of the buyer's acknowledgement of availability of the maps as required by this section, the buyer shall have the right, upon written notice to the seller, to rescind the contract of sale and to receive the return of all deposit money paid. If notice of the availability of the maps is provided to the buyer more than two days before entering into the contract of sale, then the buyer shall not have the right to rescind the contract of sale.
- (b) A contract of sale for a new or resale home shall include as an addendum or as a separate section of the contract a notice advising the buyer of the buyer's rights as set forth in subsection (a) of this section.
- (c) The failure of the seller to provide notice of the availability of the maps required by this section or to include the notice required by this section in the contract of sale shall not cause the contract of sale to be invalid, void, voidable, or otherwise unenforceable by the seller or buyer.

(C.B. 47, 1991; C.B. 35, 1995)

Sec. 17.503. - Notice regarding oral statements or promises.

- (a) A seller of a new home shall include in the contract of sale, in conspicuous type or form, a notice to the buyer concerning oral statements, representations, warranties, or promises made by the seller or agent of the seller. Such notice shall be separately captioned or identified in the contract of sale and shall be in substantially the following form:

**NOTICE TO THE BUYER:  
ORAL STATEMENTS, REPRESENTATIONS,  
WARRANTIES AND PROMISES**

Any oral statements, representations, warranties or promises made to you prior to your execution of this contract of sale by the seller or agent of the seller may not be enforceable by you against the seller or agent of the seller in any subsequent legal or administrative proceeding unless such statements, representations, warranties or promises are in writing and signed by yourself and the seller, or agent of the seller. Any statements, representations, warranties or promises made to you by the seller or agent of the seller, upon which you rely, and which are not contained in this printed contract of sale form must be stated in a written addendum attached to this contract form which is to be signed by both yourself and the seller in order to make such statements, representations, warranties or promises part of the agreement between yourself and the seller and enforceable in any legal or administrative proceeding.

- (b) The failure of the seller or agent of the seller to include the notice required by this section in the contract of sale shall not cause the contract of sale to be invalid, void, voidable, or otherwise unenforceable by the seller or buyer.

(C.B. 23, 1989; C.B. 47, 1991)

Sec. 17.504. - Administration, enforcement and penalties.

- (a) This subtitle shall be administered by the Office of Consumer Protection.
- (b) The Office of Consumer Protection may enforce the provisions of this subtitle with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle shall be a Class B offense.
- (c) Alternatively or in addition to and concurrent with other remedies, a person who commits a violation of this subtitle is liable to the County for a penalty of up to \$500.00 for each offense, recoverable in a civil action.
- (d) The Office of Consumer Protection may seek an injunction to prohibit a person who has engaged or is engaging in a violation of this subtitle from continuing or engaging in the violation.

(C.B. 23, 1989; C.B. 47, 1991; C.B. 43, 2001, § 1; C.B. 12, 2016, § 1)

Sec. 17.505. - Applicability of this subtitle.

This subtitle shall apply to any written contract of sale for a new or resale home entered into between a buyer and seller on or after the effective date of this subtitle and shall not apply to any written contract of sale for a new or resale home entered into between a buyer or seller prior to the effective date of this subtitle, or to any written extension, amendment or modification to any written contract of sale of a new or resale home entered into between a buyer or seller prior to the effective date of this subtitle.

(C.B. 23, 1989; C.B. 47, 1991)

Sec. 17.506. - Severability.

If any word, clause, paragraph or section of this subtitle shall be ruled invalid or unconstitutional by a court of competent jurisdiction, it shall not affect the validity of this subtitle as a whole or any part thereof other than that portion so judged to be invalid or unconstitutional.

(C.B. 47, 1991)

SUBTITLE 6. - TOWING FROM PRIVATE PROPERTY

Sec. 17.600. - Purpose; scope; definition.

- (a) *Purpose.* The purpose of this subtitle is to protect the health, safety, and welfare of County residents and to regulate and authorize the County Council to set maximum rates for the towing of vehicles from private property. This subtitle does not authorize the towing or holding of any vehicle. To the extent that legal authority to tow or hold a vehicle without the consent of its owner exists, that authority shall be derived from other statutes or the common law. This subtitle restricts the exercise of any such legal authority.
- (b) *Scope:*

- (1) This subtitle applies to the towing of a vehicle from private property without the consent of the vehicle owner.
- (2) This subtitle does not apply to:
  - (i) Towing initiated by the vehicle owner;
  - (ii) Towing approved or requested by a Police Officer, firefighter, or rescue squad member in the course of removing impediments to traffic or during the course of a criminal investigation or under State law regulating abandoned vehicles;
  - (iii) Towing a vehicle during a repossession of the vehicle;
  - (iv) Towing from a marked fire lane;
  - (v) Towing from a designated as a parking space for persons with disabilities;
  - (vi) Towing from the yard or driveway of a single-family dwelling; or
  - (vii) Towing from land immediately adjoining an electric or telephone utility building or structure that is not open to the general public.
- (c) *Definitions.* Words and phrases used in this subtitle shall have their usual meanings, except as defined below:
  - (1) *Property manager* means any person who manages property on behalf of an owner.
  - (2) *Property owner* includes any person in lawful possession or control of property. The owner of general common elements of a condominium is the Council of unit owners or the Council's agent for parking management. The owner of limited common elements of a condominium is the unit owner or owners who have the Executive right to use the common elements, or the agent of that unit owner or owners.
  - (3) *Redemption area* means an area or building where a vehicle owner may pay any charges necessary to redeem a vehicle.
  - (4) *Storage site* means any land or building used by a towing service to store towed vehicles.
  - (5) *Tow or towing* means the removal or preparation to remove any vehicle by another vehicle for compensation.
  - (6) *Tow truck* includes any vehicle which may tow or attempt to tow a vehicle from private property.
  - (7) *Trespass towing service* or *towing service* means any person who tows any vehicle from private property for compensation without the consent of the vehicle owner.
  - (8) *Unauthorized vehicle* means any vehicle which a property owner has not consented to have parked on the property.
  - (9) *Vehicle* means a device that is able to transport persons or property on a public highway and is required to be registered pursuant to title 13 of the transportation article of the Annotated Code of Maryland.
  - (10) *Vehicle owner* means the person in whose name title to a vehicle is registered.

(C.B. 90, 1991; C.B. 43, 2001, § 1; C.B. 71, 2004; C.B. 71, 2004; C.B. 14, 2014, § 1)

Sec. 17.601. - Maximum rates.

- (a) When towing a vehicle from private property without the consent of the vehicle owner, a towing service shall not charge more than maximum rates which are set annually by resolution of the County Council.
- (b) Fair and reasonable maximum rates shall be set for each of the following acts:



- (1) Attaching the vehicle to be towed to the tow truck.
  - (2) Towing the vehicle to a storage site. This rate shall be based on the distance the vehicle is towed.
  - (3) Storing the vehicle. This rate shall be based on 12-hour time periods during which the vehicle remains in the custody of the towing service. No set charge shall accrue for a time period until at least six hours of the time period has elapsed. The full charge accrues for any portion of the remaining six hours in which the vehicle remains in the custody of the towing service. The charge shall not begin to accrue until after the towing service provides the notice required by section 17.604 of this subtitle.
  - (4) Any other service needed to safely remove a vehicle.
- (c) A vehicle owner may be charged a fee for releasing a vehicle under section 17.607 that shall not exceed one-half the attachment fee set under subsection (b)(1) of this section.
  - (d) A vehicle owner may be charged a fee for providing notice under section 17.604(d) that shall not exceed the actual cost of providing that notice.
  - (e) A towing service shall not charge for any act not listed in this section unless that act was expressly requested by the vehicle owner.

(C.B. 90, 1991; C.B. 43, 2001, § 1; C.B. 71, 2004; C.B. 2, 2013, § 1.1)

Sec. 17.602. - Administration; rates; registration; hearing.

- (a) Each tow truck operated by a trespass towing service shall be identified, registered, and insured as required under State law, except that any required lettering shall be placed on both sides of the truck. Each driver employed by a trespass towing service shall be at least 18 years of age and shall have a valid license to operate a tow truck.
- (b) Each trespass towing service shall be registered with the Office of Consumer Protection and shall pay annually in January a registration fee recommended by the Consumer Protection Administrator and which is set annually by resolution of the County Council.
- (c) Every trespass towing service shall file with the Office of Consumer Protection a schedule of its rates for each action connected with the towing or storage of unauthorized vehicles.
- (d) A trespass towing service shall not charge a rate that is higher than the rate on file with the Office of Consumer Protection for any action in connection with the towing or storage of any unauthorized vehicle.
- (e) Each trespass towing service shall inform the Office of Consumer Protection of the type of business organization or ownership in which the service operates and the address of a person authorized to accept service.
- (f) Each trespass towing service shall enter into a written contract with every owner of private property that authorizes the towing service to tow vehicles from its property. The towing service shall keep on file each contract that is in effect, or that was terminated within the previous 12 months. The Office of Consumer Protection, the Police Department or the owner of any vehicle towed by the service may inspect and copy any contract during normal business hours. The cost of photocopying the contract shall be no more than the County charges the public for photocopying County documents. The Office of Consumer Protection may issue model contracts that meet the requirements of this subsection.
- (g) The Office of Consumer Protection may revoke the registration of trespass towing services which violate the provisions of this subtitle. The Administrator shall send a written decision to the trespass towing service stating that the registration has been revoked and the reasons for the revocation. The decision shall indicate the right of the trespass towing service to a hearing before the Administrator of the Office of Consumer Protection or the Administrator's designee under the Administrative Procedures Act set forth at title 2, subtitle 1 of the Howard County Code.

- (h) A towing service may appeal a decision of the Office of Consumer Affairs to revoke its registration to the Administrator or the Administrator's designee within 30 days of the date of the decision. The hearing on a decision to revoke a towing service's registration shall be conducted in accordance with title 2, subtitle 1, article III of the Howard County Code, the Administrative Procedures Act, and shall be heard by the Administrator of the Office of Consumer Protection or the Administrator's designee.
- (i) Within 30 days of the date of a decision of the Administrator of the Office of Consumer Protection, or the Administrator's designee, to revoke a towing service's registration, the towing service may appeal that decision to the Board of Appeals pursuant to the procedures set forth in title 2, subtitle 2 of the Howard County Code. The appeal to the Board of Appeals shall be heard on the record of the hearing before the Office of Consumer Protection in accordance with the procedures set forth in subsection 2.210(b) of the Howard County Code.

(C.B. 90, 1991; C.B. 71, 2004; C.B. 12, 2016, § 1)

Sec. 17.603. - Public notice; tow procedures.

- (a) *Requirement.* A property owner and towing service shall comply with all applicable provisions of this section when exercising the property owner's right to remove an unauthorized vehicle from their property.
- (b) *Signs.* Except as provided in paragraph (3) of this subsection, a property owner shall post a sign notifying the public of parking restrictions at least 24 hours before towing or ordering the towing of an unauthorized vehicle in accordance with the following provisions:
  - (1) There shall be a sufficient number of signs permanently posted so that:
    - (i) At least one sign is clearly visible from each parking area and each vehicle entrance to the property at all times; or
    - (ii) In a parking lot with more than 45 parking spaces, at least one sign shall be posted in a conspicuous place for each 45 parking spaces and each sign shall be able to be read from all affected spaces; and
  - (2) Each sign shall:
    - (i) Be at least 24 inches high by 30 inches wide;
    - (ii) Summarize all parking restrictions enforced on the property, including time and area restrictions;
    - (iii) State that a vehicle that violates the restrictions may be towed at the vehicle owner's expense;
    - (iv) State that County and State law require that towed vehicles be available for redemption 24 hours per day, seven days per week;
    - (v) State the maximum amount that the owner of the vehicle may be charged for the towing or removal of an unauthorized vehicle;
    - (vi) List the name and telephone number of each towing service hired to tow unauthorized vehicles from the property and the location to which the vehicle will be towed;
    - (vii) State that a vehicle owner may contact the Office of Consumer Protection and state the phone number of the Office;
    - (viii) Be sized, printed, and located so that it is able to be read by motorists in daylight and at night; and
    - (ix) Be maintained in a legible and unobstructed condition.
  - (3) A property owner of residential property, including, without limitation, a condominium, cooperative, or homeowners' association, may have an unauthorized vehicle towed from that

property without posting signs required by this subsection if the owner provides notice to the vehicle which:

- (i) Is securely attached to the vehicle in a conspicuous place;
- (ii) Specifies the violation of an applicable rule or covenant;
- (iii) Includes the date and time it was attached to the vehicle; and
- (iv) Informs the vehicle owner that the violation shall be corrected or the vehicle removed within the time period set forth in an applicable rule or covenant unless there is no rule or covenant, in which case the violation shall be corrected or the vehicle removed within 48 hours after the notice is attached.

(c) *Tow Procedures.* Each tow conducted pursuant to this subtitle shall be conducted in the following manner:

- (1) Except as provided in paragraph (2) of this subsection, a towing service shall not tow a vehicle from private property unless the property owner has directly or through an agent expressly authorized the towing of the particular vehicle. Authorization shall be in the form of a tow slip. The Office of Consumer Protection may issue a model tow slip. The tow slip shall:
  - (i) Contain the following information:
    - a. The address from which the vehicle was towed;
    - b. The date and time the vehicle was towed;
    - c. The make, model, year, and color of the vehicle;
    - d. If available, the vehicle identification number;
    - e. The reason the vehicle was towed;
    - f. The name and signature of the tow operator and the person who authorized the vehicle to be towed; and
    - g. The name and phone number of the Office of Consumer Protection; and
  - (ii) Be signed by the property owner, or the owner's agent, and the driver of the tow truck immediately before the vehicle is towed; and
  - (iii) Be legibly copied and a copy of which shall be securely attached to the vehicle.
- (2) An unauthorized vehicle may be towed from private property without the express authorization of the property owner or the property owner's agent only if the vehicle is directly blocking access to the property or to a building on the property.

(d) *Prohibited Activities:*

- (1) A property owner, agent of a property owner, or any officer or employee of a towing service shall not:
  - (i) Falsely state that a property owner authorized the towing of a particular vehicle;
  - (ii) Record any false information about the towing of a particular vehicle; or
  - (iii) Sign a tow slip before all of the information relating to the towing of a particular vehicle is recorded on the slip.
- (2) A towing service shall not charge a vehicle owner any fee for the services of a property owner's agent.
- (3) A person shall not act as a property owner's agent for the purpose of ordering the towing of an unauthorized vehicle unless the property owner or property manager has given express written permission to act.

- (4) An agent of a property owner, for the purpose of ordering the towing of an unauthorized vehicle, shall not:
    - (i) Be employed by, or have any member of their immediate family employed by, any towing service; or
    - (ii) Have any financial interest in any towing service or the towing of any vehicle.
  - (5) A towing service shall not employ or otherwise compensate individuals, commonly referred to as "spotters," whose primary task is to report the presence of unauthorized parked vehicles for the purposes of towing or removal.
  - (6) A vehicle may not be towed from private property solely for a violation of failure to display a valid current registration under Section 13-411 of the Transportation Article of the Annotated Code of Maryland until 72 hours after a notice of violation is placed on the vehicle.
- (e) *Towing a Vehicle within a Parking Lot:*
- (1) A property owner may tow a vehicle within a parking lot without prior notice to the vehicle owner if towing the vehicle is necessary to:
    - (i) Remove large quantities of snow or debris;
    - (ii) Repair the parking lot; or
    - (iii) Respond to a threat to a person's safety or health.
  - (2) When towing a vehicle within a parking lot pursuant to this subsection, a property owner shall:
    - (i) Take reasonable care not to damage the vehicle;
    - (ii) Pay any cost of towing the vehicle; and
    - (iii) Either inform the vehicle owner where the vehicle was relocated or return the vehicle to its original location as soon as possible.

(C.B. 90, 1991; C.B. 12, 1994; C.B. 43, 2001, § 1; C.B. 71, 2004; C.B. 2, 2013, § 1.2; C.B. 12, 2016, § 1)

**Editor's note**— Section 2 of C.B. 90, 1991 declared this section effective Jan. 1, 1992.

Sec. 17.604. - Notice.

- (a) A towing service that tows an unauthorized vehicle from private property shall notify the Police Department and the Office of Consumer Protection of the following information within one hour after leaving the property:
  - (1) The name of the towing service;
  - (2) The make, model, color, year, vehicle identification number and registration plate number of the towed vehicle;
  - (3) The address the vehicle was towed from;
  - (4) The time the vehicle was towed; and
  - (5) The storage site where the vehicle will be stored.
- (b) The towing service shall notify the Police Department within 24 hours if it moves the vehicle to another storage site.
- (c) If a vehicle has not been redeemed within three days after towing or removing the vehicle, the towing service shall notify the owner, any secured party, and the insurer of record by certified mail,

return receipt requested, and first class mail, of the same information required to be given to the Police Department and Office of Consumer Protection in subsection (a) of this section.

- (d) The towing service shall provide to the owner, any secured party, and the insurer of record the itemized actual costs of providing notice under this section.
- (e) The towing service shall retain each tow slip and, and for those vehicles towed without tow slips as provided in section 17.603(c)(2), a record of the information furnished to the police, for 12 months after the tow. For each vehicle towed without a tow slip, the towing service shall record and retain the name of the owner of the property and, if the tow was authorized by an agent, the name of the agent. The Police Department, the Office of Consumer Protection and the owner of any vehicle towed by the service may inspect and copy this information at any time during normal business hours.
- (f) If a towing service tows an unauthorized vehicle from private property when the Office of Consumer Protection is closed, the towing service shall notify the Office of the tow before 10:00 a.m. on the next business day following the tow, either by telephone or by facsimile machine.

(C.B. 90, 1991; C.B. 43, 2001, § 1; C.B. 71, 2004; C.B. 2, 2013, § 1.3; C.B. 12, 2016, § 1)

**Editor's note**— C.B. 2, 2013, § 1.3, amended § 17.604 title to read as herein set out. Former § 17.604 title pertained to notice to police and Office of Consumer Affairs. Section 2 of C.B. 90, 1991 declared this section effective Jan. 1, 1992.

Sec. 17.605. - Reserved.

**Editor's note**— Section 2 of C.B. 71, 2004, repealed former section 17.605 in its entirety which pertained to notification of vehicle owner and the right of hearing concerning the validity of the towing. Former section 17.605 derived from C.B. 90, 1991.

Sec. 17.606. - License plates and placards for persons with disabilities.

A vehicle with a valid license plate or placard for persons with disabilities conspicuously displayed shall not be towed from private property without the consent of the vehicle owner unless:

- (a) The tow is expressly authorized by a Police Officer or member of the Department of Fire and Rescue Services; or
- (b) The vehicle is blocking a clearly marked fire lane or access to another vehicle, the property, or a building.

(C.B. 90, 1991; C.B. 71, 2004; C.B. 14, 2014, § 1)

Sec. 17.607. - Incomplete tow.

- (a) If a vehicle owner returns to an unauthorized vehicle at any time after the vehicle is attached to the tow truck but before it is towed from private property, the towing service shall release the vehicle to the vehicle owner when the vehicle owner pays a release fee. The release fee shall be as set forth in the resolution adopted pursuant to subsection 17.601(c) of this subtitle. The towing service shall not charge any other fee for attaching or releasing the vehicle.
- (b) A towing service shall not block an unauthorized vehicle with a tow truck to obtain payment from the vehicle owner before attaching the vehicle to the tow truck.
- (c) The towing service shall provide a receipt that meets the requirements of subsection 17.608(f) of this subtitle, indicating the release fee paid and the date of the incomplete tow.

- (d) A Police Officer may order a towing service to release a vehicle, or to stop attaching a vehicle, at any time.
- (e) This section does not:
  - (1) Create or imply a lien in favor of a towing service when a lien would not otherwise exist; or
  - (2) Create a right of any towing service to retain possession of any vehicle that it would otherwise have to return to the vehicle owner.

(C.B. 90, 1991; C.B. 71, 2004; C.B. 2, 2013, § 1.4)

Sec. 17.608. - Redemption and storage procedures.

- (a) *Storage of Towed Vehicles.* Every storage site shall comply with the following conditions:
  - (1) A storage site shall not be located more than 12 miles from the origin of the tow and the towing service may not move the towed vehicle from that storage facility to another storage facility for at least 72 hours after the vehicle has been towed;
  - (2) A storage site shall be brightly lit at all times;
  - (3) A towed vehicle shall not be stored more than a reasonable walking distance from a redemption area;
  - (4) The towing service shall keep the towed vehicle and its contents secure at all times; and
  - (5) The storage lot shall be identified by a sign at the entrance indicating the name and telephone number of the tow service.
- (b) *Redemption of Towed Vehicles.* The trespass towing service shall be open for redemption of vehicles 24 hours per day, seven days a week.
- (c) *Inspection and Retrieval of Personal Property.* A storage site that is in the possession of a towed vehicle shall make the vehicle available to the owner, the owner's agent, a secured party, or the insurer of record, under the supervision of the storage site, for:
  - (1) Inspection; or
  - (2) Retrieval from the vehicle of personal property that is not attached to the vehicle.
- (d) *Payment and Promise to Pay:*
  - (1) *Applicability.* This subsection applies to payment of any charge arising from the towing or storage of a vehicle without the vehicle owner's consent and to payment for an incomplete tow under section 17.607.
  - (2) *Purpose.* This section does not:
    - (i) Create or imply a lien in favor of a towing service when a lien would not otherwise exist; or
    - (ii) Create a right of any towing service to retain possession of any vehicle that it would otherwise have to return to the vehicle owner.
  - (3) *Cash payment.* A trespass towing service shall accept payment in cash, or by a traveler's check accompanied by reasonable identification.
  - (4) *Options:*
    - (i) Each trespass towing service shall accept as full payment either a credit card or a personal check, at the option of the towing service, validly signed by the vehicle owner or the vehicle owner's agent for the amount of all valid charges.
    - (ii) Each trespass towing service shall notify the Office of Consumer Protection on the rate schedule filed under section 17.602 of this subtitle whether it opts to accept credit cards or

personal checks or both. The towing service shall notify the Office of Consumer Protection if it changes that option.

- (iii) The option chosen by a trespass towing service shall be available to the owners of all vehicles towed by that service without the consent of their owners.

(5) *Credit card options:*

- (i) If a credit card is accepted, each trespass towing service shall accept two major credit cards.
- (ii) In addition, if a trespass towing service accepts any other credit card for any other purpose, it shall accept that credit card under this section.

(6) *Personal check option.* If a trespass towing service does not accept credit cards, it shall accept a personal check, with reasonable identification, if the vehicle is registered in Maryland.

(e) *Rates Displayed* . Every trespass towing service shall display prominently, at each redemption area, a copy of its current rates and a statement that these rates do not exceed the rates filed with the Office of Consumer Protection. Every trespass towing service shall also display prominently a sign, furnished at a reasonable fee by the Office of Consumer Protection, listing the office's telephone number and summarizing the vehicle owner's rights under this subtitle.

(f) *Storage Fee.* A trespass towing service shall not charge a storage fee for any time before the vehicle actually reaches the storage site or the service notifies the Police Department under section 17.604, whichever is later.

(g) *Receipt* . Upon receiving payment, a towing service shall furnish the vehicle owner a receipt on a form approved by the Office of Consumer Protection. The receipt shall:

- (1) Record the amount paid to redeem the vehicle, the actions for which the vehicle owner paid, and the date and time of the redemption;
- (2) Be signed legibly by an agent of the towing service, and list the name, address and telephone number of the towing service;
- (3) Briefly inform the vehicle owner that the Office of Consumer Protection can explain the vehicle owner's rights. If the vehicle owner believes that any provision of County law has been violated the vehicle owner may obtain a copy of the law from the Office of Consumer Protection.

(h) *Damage Waiver.* A trespass towing service shall not require a vehicle owner to sign any waiver of the vehicle owner's right to receive compensation for damages to the vehicle.

(C.B. 90, 1991; C.B. 43, 2001, § 1; C.B. 71, 2004; C.B. 2, 2013, § 1.5; C.B. 12, 2016, § 1)

Sec. 17.609. - Reserved.

**Editor's note**— Section 2 of C.B. 71, 2004, repealed former section 17.609 in its entirety which pertained to liability for damages and derived from § 2 of C.B. 90, 1991.

Sec. 17.610. - Rebates prohibited.

A towing service shall not pay or offer to pay a property owner and a property owner shall not accept payment for authorizing the towing of a vehicle from any private property.

(C.B. 90, 1991)

**Editor's note**— Section 2 of C.B. 90, 1991 declared this section effective Jan. 1, 1992.

Sec. 17.611. - Penalties.

- (a) The Office of Consumer Protection may take any action at law or in equity, including injunction and mandamus, to enforce the provisions of this subtitle.
- (b) Alternatively or in addition to and concurrent with other remedies, the Office of Consumer Protection may:
  - (1) Seek a civil fine not to exceed \$1,000.00 for any violation of this subtitle; or
  - (2) Enforce the provisions of this subtitle with penalties as provided in title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle shall be a Class A offense. Each day that a violation continues is a separate violation.

(C.B. 90, 1991; C.B. 43, 2001, § 1; C.B. 71, 2004; C.B. 12, 2016, § 1)

**Editor's note**— Section 2 of C.B. 90, 1991 declared this section effective Jan. 1, 1992.

Sec. 17.612. - Severability.

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

(C.B. 90, 1991)

SUBTITLE 7. - ALARMS<sup>5</sup>

Footnotes:

--- (5) ---

**Editor's note**— Subtitle 7, §§ 17.701—17.720, was added by C.B. 12, 2000, effective July 24, 2000.

**State Law reference**— False emergency alarms, Ann. Code of Md., Criminal Law article, § 9-607 et seq.

Sec. 17.701. - Definitions.

- (a) *Alarm business* means:
  - (1) A person engaged in the business of installing, maintaining, inspecting, selling, servicing, or repairing alarm systems, or
  - (2) A person engaged in the business of an alarm monitor.
- (b) *Alarm monitor* means an alarm business that receives alarm signals from alarm sites for the purpose of making dispatch requests.
- (c) *Alarm signal* means the activation of an alarm system.
- (d) *Alarm site* means:
  - (1) A single premises or location served by an alarm system or systems.
  - (2) An alarm site may be composed of multiple zones.
  - (3) Each tenancy, if served by a separate alarm system in a multitenant building or complex, is a separate alarm site.



- (e) *Alarm system* means:
- (1) A device or series of devices at an alarm site, including systems interconnected with radio frequency signals, which are designed to discourage crime by emitting or transmitting a remote or local audible, visual, or electronic signal indicating an alarm condition.
  - (2) *Alarm system* does not include:
    - (i) An alarm installed on a vehicle, unless the vehicle is permanently located at a site; or
    - (ii) An alarm designed to alert only the inhabitants of a premises, which does not have a sounding device that can be heard on the exterior of the alarm site.
- (f) *Alarm user* means:
- (1) An individual, firm, partnership, corporation or other entity that uses or is in control of an alarm system.
  - (2) *Alarm user* includes a tenant of rented or leased property who uses an alarm system on the property.
- (g) *Dispatch request* means a notification to a law enforcement agency that an alarm system, either manual or automatic, has been activated at an alarm site, and summoning a law enforcement response to the site.
- (h) *False alarm* means:
- (1) An alarm system activation:
    - (i) That results in a dispatch request;
    - (ii) That is not canceled prior to the arrival of police personnel at the site; and
    - (iii) For which there is no evidence of criminal activity to justify a police response.
  - (2) *False alarm* includes an alarm system activation that:
    - (i) Is activated negligently or accidentally, or that is the result of faulty, malfunctioning, or improperly installed or maintained equipment;
    - (ii) That was intentionally activated to summon the police for a nonemergency situation; or
    - (iii) That was activated as the result of weather conditions, without visible evidence of severe conditions directly affecting the alarm site (e.g., tree striking building, object blown through window, etc.).

(C.B. 12, 2000)

Sec. 17.702. - Alarm Administrator.

There is an Alarm Administrator for Howard County within the Howard County Police Department, who is the individual designated by the Chief of Police of Howard County to administer, control, and review alarm applications, false alarm responses, and appeals.

(C.B. 12, 2000)

Sec. 17.703. - Alarm business registration.

- (a) *Registration Required.* An alarm business may not install, maintain, inspect, sell, service, or repair an alarm system, or act as an alarm monitor in Howard County unless the business obtains an alarm business registration certificate under this subtitle.
- (b) *Application; Fee; Duration; Renewal:*

- (1) An alarm business shall apply to the Alarm Administrator for a registration certificate as provided in this subsection.
  - (2) An application under this subsection shall be in the form prescribed by the Alarm Administrator and shall be accompanied by the application fee of \$25.00.
  - (3) An alarm business registration is effective for a period of two years. At least 30 days prior to the expiration date, Alarm Administrator shall notify the business of the expiration date and the procedures for renewal of the registration.
  - (4) Prior to the registration expiration date, the alarm business shall submit an application to renew the registration. There is no fee for the renewal of a registration.
  - (5) The Alarm Administrator shall waive the application fee under this subsection if the alarm business provides written documentation that the business holds a license under title 3, subtitle 2 of the County Code to do electrical work in Howard County.
- (c) *False Statements.* A false statement of a material matter made by an applicant for the purpose of obtaining an alarm business registration shall be sufficient cause for refusal of registration.
- (d) *Registration Not Transferable.* An alarm business registration is not transferable.
- (e) *Changes in Registration Information.* An alarm business shall inform the Alarm Administrator in writing within ten business days of a change that alters any information contained on the registration application.
- (f) *Information Confidential.* Information contained in the alarm business registration shall be held in confidence by all employees or representatives of Howard County.
- (g) *Violations:*
- (1) A person acting as an alarm business without a registration certificate under this section is guilty of a civil violation, which is enforceable under title 24 of the County Code. A violation is a Class A offense.
  - (2) Each event that violates the provisions of this section shall be a separate offense.

(C.B. 12, 2000)

Sec. 17.704. - Alarm system registration.

- (a) *Registration Required.* An alarm user may not operate or cause to be operated an alarm system that results in a dispatch request unless the alarm system is registered with the Alarm Administrator.
- (b) *Application—Duration; Renewal:*
  - (1) The alarm business that installs or monitors an alarm system shall provide the user with information and forms necessary to register each alarm system the business installs or monitors.
  - (2) An application under this subsection shall be in the form prescribed by the Alarm Administrator and shall be accompanied by the application fee of \$25.00.
  - (3) An application shall be submitted within five days after an alarm installation or taking control by a user of an existing alarm system that was previously controlled by another alarm user.
  - (4) An application for an alarm system registration shall include:
    - (i) The name, address, and telephone number of the alarm user;
    - (ii) Specific details regarding the use and purpose of the alarm system, e.g. burglary, holdup, duress, or other;
    - (iii) Signed certification from the alarm user stating:

- a. The date of installation of the alarm system;
  - b. The name and phone number of the alarm business performing the alarm system installation and responsible for providing repair service to the system;
  - c. That the alarm user has received a set of written operating instructions for the alarm system, including guidelines on how to avoid false alarms; and
  - d. The name, address, and phone number of at least one person who is able to respond within 30 minutes to an alarm site to deactivate the alarm.
- (5) An alarm system registration is effective for a period of two years. At least 30 days prior to the registration expiration date, the Alarm Administrator shall notify the alarm user of the expiration date and of the procedure for renewal of the registration.
- (6) Prior to the registration expiration date, the alarm user shall submit an application to renew the registration. There is no fee for the renewal of a registration.
- (c) *False Statements.* A false statement of a material matter made by an applicant for the purpose of obtaining an alarm system registration shall be sufficient cause for refusal of registration.
- (d) *Registration Not Transferable.* An alarm system registration is not transferable.
- (e) *Changes in Registration Information.* An alarm user shall inform the Alarm Administrator in writing within ten business days of a change that alters any information listed on the registration application.
- (f) *Information Confidential.* Information contained in the alarm registration shall be held in confidence by all employees or representatives of Howard County.

(C.B. 12, 2000)

Sec. 17.705. - Alarm systems in apartments.

- (a) *Alarm System Located in Residential Unit.* If a residential unit in an apartment complex is equipped with an alarm system, the tenant of the unit shall register the system under section 17.704 of this subtitle.
- (b) *Alarm System Not Located in Rental Unit.* The owner or manager of an apartment complex shall register an alarm system operated in a nonresidential area of the apartment complex.
- (c) *Enforcement.* For purposes of enforcement under this subtitle, a tenant in a residential apartment unit is responsible for a false alarm emitted from the alarm system in the tenant's unit.

(C.B. 12, 2000)

Sec. 17.706. - Alarm system standards.

- (a) *Installation.* An alarm business that installs an alarm system shall have at the alarm installation-site at least one employee, to supervise the installation, who has passed and maintained a minimum level 1 certification by NBFSA, or equivalent training, as determined by the Alarm Administrator.
- (b) *System Standards and Testing.* The components of an alarm system shall be included in a list published by Underwriters Laboratories, Factory Mutual, or other list approved by the Alarm Administrator, which states either that the components meet appropriate designated standards or have been tested and found suitable for use in a specified manner.
- (c) *Certain Dialers Prohibited.* An alarm system may not utilize a digital dialer or automatic telephone dialing system, which transmits signals through the telephone network to the Howard County Bureau of Communications.

(C.B. 12, 2000)

Sec. 17.707. - Alarm system operation and maintenance.

(a) *Duties of Alarm User.* An alarm user:

- (1) Shall maintain the alarm site and the alarm system in a manner that minimizes or eliminates false alarm signals;
- (2) Shall take reasonable measures to ensure a response to the alarm site within thirty minutes after notification by the County to deactivate a malfunctioning alarm system, to provide access to the premises, or to provide security for the alarm site; and
- (3) Shall not manually activate an alarm for any reason other than the occurrence of an event that the alarm system was intended to report.

(b) *Audible Signal.* An alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an alarm site will not sound for longer than 15 minutes after being activated.

(c) *System Inspection for Recurring False Alarms:*

- (1) If an alarm system emits five false alarms at an alarm site within any 12-month period, the Alarm Administrator shall require the alarm user to have the alarm system inspected by an alarm business and to submit an alarm system certification to the Alarm Administrator. If, within any 12-month period, the alarm system emits five false alarms subsequent to a certification under this paragraph, the Alarm Administrator shall require the alarm user to have the alarm system reinspected by an alarm business and to submit another alarm system certification.
- (2) Within 30 days of the request for inspection under paragraph (1) of this subsection, the alarm user shall submit to the Alarm Administrator an alarm system certification prepared by an alarm business.
- (3) An alarm system certification under this subsection shall certify that the alarm system meets the requirements of this subtitle and any other applicable local building and fire codes, and State or national codes.

(C.B. 12, 2000)

Sec. 17.708. - Monitoring procedures.

(a) *Procedures for Alarm Monitor.* An alarm monitor shall:

- (1) Report alarm signals by using telephone numbers designated by the Alarm Administrator;
- (2) Except for a duress or robbery alarm activation, and before making a dispatch request, attempt to verify an alarm signal by contacting the alarm site by telephone or other electronic means to confirm a valid alarm;
- (3) Communicate alarm signals to the County in a manner and form determined by the Alarm Administrator; and
- (4) Communicate verified cancellations of alarm dispatch requests to the County in a manner and form determined by the Alarm Administrator.

(b) *Duties of Alarm Administrator.* The Alarm Administrator shall:

- (1) Designate the manner, form, and telephone numbers for the communication of alarm dispatch requests; and
- (2) Develop a procedure to accept verified cancellations of alarm dispatch requests.

(C.B. 12, 2000)

Sec. 17.709. - Alarm operating instructions.

- (a) *Instructions at Sites.* An alarm user shall maintain at each alarm site, a set of written operating instructions for each alarm system. The written instructions shall include guidelines regarding how to avoid false alarms.
- (b) *Business to Provide.* An alarm business that installs an alarm system shall provide to the alarm user instructions on the proper use of the system.

(C.B. 12, 2000)

Sec. 17.710. - "One plus" duress and hold-up alarms.

- (a) *Definitions.* In this section, the following terms have the meanings indicated.
  - (1) *Single-action hold-up alarm* means a silent alarm signal generated by the manual activation of a single-action, nonrecessed button.
  - (2) *"One-plus" duress alarm* means an alarm that is triggered when the alarm user enters the standard user code plus any other one digit.
- (b) *Prohibited after January 1, 2001.*
  - (1) After January 1, 2001 an alarm business may not program an alarm system so that it is capable of sending a "one-plus" duress alarm.
  - (2) After January 1, 2001 an alarm business may not install a single-action hold-up alarm.
- (c) *Removal of Capability:*
  - (1) After January 1, 2001, when an alarm user takes control over an alarm system from another user, the user shall remove any "one-plus" duress alarm capability or single-action hold-up alarm from the alarm system.
  - (2) After January 1, 2001, when an alarm monitor begins attending an alarm system that was previously monitored by another alarm monitor, the alarm monitor shall remove any "one-plus" duress alarm capability or single-action hold-up alarm from the alarm system.
  - (3) If an alarm system inspection under subsection 17.707(c) of this subtitle is ordered, the alarm business conducting the inspection shall remove any "one-plus" duress alarm capability or single-action hold-up alarm from the alarm system.

(C.B. 12, 2000)

Sec. 17.711. - Alarm signals.

- (a) *Dispatch Records.* The Department of Police and the Bureau of Communications shall record, for each alarm signal:
  - (1) The date and time of receipt of the dispatch request;
  - (2) Area or subarea of premises, if any;
  - (3) The location of the alarm site;
  - (4) The alarm registration number for the alarm site;
  - (5) Police personnel dispatch time and police arrival time at the alarm site;

- (6) Identification of the responsible alarm monitor; and
- (7) Disposition of the response.
- (b) *False Alarm Reports.* The responding Police Officer shall indicate whether the dispatch was a false alarm.
- (c) *Verified False Alarm:*
  - (1) In the case of a verified false alarm signal, the responding Police Officer shall notify the Alarm Administrator, who shall send a notice, by first-class mail, postage paid, to the alarm user, notifying the user that the police responded to a false alarm.
  - (2) The notice under this subsection shall contain:
    - (i) The date and time of the police response to the false alarm signal;
    - (ii) The identification number of the responding Police Officer; and
    - (iii) A request to the alarm user to ensure that the alarm system is properly operated, inspected, and serviced in order to avoid fines.
- (d) *Records of Alarm Monitor:*
  - (1) An alarm monitor shall maintain for a period of at least one year, a record relating to a dispatch request.
  - (2) A record under this subsection shall contain:
    - (i) The name, address and phone number of the alarm user;
    - (ii) The alarm system zone or point activated;
    - (iii) Evidence that an attempt to verify as required under subsection 17.708(a)(2) was made to the alarm site prior to the request for police dispatch; and
    - (iv) The time of the request for a police dispatch.
  - (3) The Alarm Administrator may request copies of a record maintained by an alarm monitor for individual alarm users. The alarm monitor shall provide copies at no cost to the County.

(C.B. 12, 2000)

Sec. 17.712. - Systems performance reviews.

If the Alarm Administrator has reason to believe that an alarm system is not being used or maintained in a manner that ensures proper operation and suppresses false alarms, the Alarm Administrator may request a conference with an alarm user and the alarm business responsible for the repair of the alarm system to review the circumstances of each false alarm.

(C.B. 12, 2000)

Sec. 17.713. - Penalties.

- (a) *Fines for False Alarms; Multiple False Alarms:*
  - (1) If an alarm system emits a false alarm signal within any 12-month period, the alarm user is subject to a civil penalty based upon the schedules contained in this subsection.
  - (2) The Alarm Administrator shall establish procedures under which multiple false alarms are considered to be one false alarm for the purpose of establishing an action/fine in subsection (b) of this section.

(3) The procedures under paragraph (2) of this subsection shall take into account whether the alarm user knew or should have known of the multiple false alarms and whether the alarm user made reasonable efforts to curtail or terminate the false alarms.

(b) *Schedule of Fines:*

Number of False Alarms	Action/Fine
1	Warning letter mailed to user.
2	Warning letter mailed to user.
3	\$50.00 fine imposed on user.
4	\$100.00 fine imposed on user.
5	\$150.00 fine imposed on user + alarm inspection required by a registered alarm business.
6	\$200.00 fine imposed on user.
7	\$250.00 fine imposed on user.
8	\$300.00 fine imposed on user.
9	\$350.00 fine imposed on user.
10	\$400.00 fine imposed on user + alarm inspection required by a registered alarm business.
11	\$500.00 fine imposed on user.
12	\$600.00 fine imposed on user.
13	\$700.00 fine imposed on user.
14	\$800.00 fine imposed on user.
15+	\$1,000.00 fine imposed on user + alarm inspection required by a registered alarm business.

The Alarm Administrator shall waive one fine under this subsection if the alarm user completes an alarm reduction education program approved by the Administrator.

(c) *Fines for Unregistered Alarms:*

- (1) A person who maintains or operates an unregistered alarm system is subject to a civil penalty of \$200.00 for each police response to the alarm site in addition to the penalties imposed under subsection (a) of this section. The Alarm Administrator may waive the penalty under this subsection for an unregistered system if the alarm user registers the system within ten days after the violation.
  - (2) If an alarm monitor makes a dispatch request to an unregistered alarm site, the alarm monitor is subject to a civil penalty of \$200.00 for each dispatch request.
- (d) If an alarm user assessed a penalty under this section fails to pay the penalty by the payment date specified in the notice of penalty and fails to file a notice of appeal within the time specified in section 17.714 of this subtitle, the Police Department shall send a written notice of the violation to the alarm user's last known address. If the alarm user fails to pay the penalty within 15 days from the date of the notice, the alarm user shall pay an additional penalty as established by resolution of the County Council.

(C.B. 12, 2000; C.B. 39, 2000, § 1, C.B. 23, 2004, § 1)

Sec. 17.714. - Appeals.

- (a) *User or Monitor May Appeal.* An alarm user or alarm monitor may appeal the assessment of a penalty to the Alarm Administrator within 30 days of the date the notice was processed for mailing. The appeal must be in writing and contain sufficient information to allow the Alarm Administrator to make a determination. Each appeal shall be accompanied by a filing fee of \$20.00, which shall be returned if the appeal is successful. The assessment of a penalty shall be stayed until a final decision is reached.
- (b) *Evidence of False Alarm.* The computer aided dispatch (CAD) record shall be prima facie evidence that a false alarm occurred.
- (c) *Decision Issued within 60 Days.* The Alarm Administrator shall issue a written decision within 60 days of receipt of the appeal. The decision shall affirm or reverse the assessment of the penalty.
- (d) *Final Administrative Remedy.* The decision of the Alarm Administrator is final as to administrative remedies with the County Government.
- (e) *Appeal to Circuit Court.* The decision of the Alarm Administrator may be appealed to the Circuit Court for Howard County as provided in the Maryland Rules.

(C.B. 12, 2000)

Sec. 17.715. - Suspension of alarm registration.

The Alarm Administrator may refuse to grant an alarm registration to an alarm user or alarm business, and may suspend or refuse to renew an alarm registration, if the Alarm Administrator finds that:

- (1) Installation, repairs, maintenance, or other work on the alarm system does not meet the requirements of this subtitle;
- (2) Fees required or fines imposed under this subtitle have not been paid;
- (3) False information of a material matter has been submitted in the application; or



- (4) An alarm business has committed a violation of this subtitle, title 17, subtitle 4 of the County Code, or any other law or regulation relating to the sale, installation, monitoring, or maintenance of alarm systems.

(C.B. 12, 2000)

Sec. 17.716. - Appeal from denial or suspension of alarm registration.

(a) *Notice of Action; Request for Appeal:*

- (1) If the Alarm Administrator denies the issuance or renewal of an alarm registration or suspends an alarm registration, the Alarm Administrator shall send written notice of the action to the applicant or alarm user along with a statement of the right to an appeal.
  - (2) The applicant or alarm user may appeal the decision to the Alarm Administrator by filing a written request for a review setting forth the reasons for the appeal within 30 days of the notice date. An alarm business may submit the request for review on behalf of an alarm user.
  - (3) An action against a registration shall be stayed pending the outcome of the appeal.
  - (4) The Alarm Administrator shall issue a written decision within 60 days of receipt of the appeal.
- (b) *Final Administrative Remedy.* The decision of the Alarm Administrator shall be final as to administrative remedies with the County Government.

(C.B. 12, 2000)

Sec. 17.717. - Exemptions.

- (a) *Governmental Alarm Systems.* A Federal, State, County, or municipal government entity or Board of Education that owns or operates an alarm site is exempt from any fines and penalties under this subtitle, but shall be subject to all other provisions of this subtitle.
- (b) *Howard County Alarm Systems.* Howard County may manage its own alarm systems without utilizing a certified alarm business.

Sec. 17.718. - Reinstatement of alarm registration.

A person whose alarm registration has been suspended may be issued a new registration if the person:

- (1) Submits an application and pays the registration fee;
- (2) Satisfies all outstanding citations and fines; and
- (3) Submits a certification as required by the Alarm Administrator from a registered alarm business stating that the alarm system complies with the requirements of this subtitle.

(C.B. 12, 2000)

Sec. 17.719. - Violations.

Any alarm user or alarm business who violates a provision of this subtitle for which a penalty is not specified is subject to a civil penalty of not more than \$50.00.

(C.B. 12, 2000)

Sec. 17.720. - Reports.

The Alarm Administrator shall regularly report to the Chief of Police on the implementation and status of the programs under this subtitle. The Chief of Police shall annually report to the County Executive and the County Council on the programs.

(C.B. 12, 2000)

SUBTITLE 8. - MASSAGE ESTABLISHMENTS

Sec. 17.800. - Purpose and scope.

- (a) *Purpose* . The purpose of this subtitle is to protect the health, safety, and welfare of the citizens of Howard County by allowing the County to investigate possible criminal activity of individuals and businesses holding themselves out as providing massage while ensuring minimal disruption to massage practitioners who are authorized under State law.
- (b) *Scope* . This subtitle shall apply to:
  - (1) Any individual who provides massage, solicits customers to provide massage, or holds themselves out as providing massage; or
  - (2) Any business that solicits customers to provide massage or holds itself out as providing massage.

(C.B. 21, 2017, § 2)

Sec. 17.801. - Definitions.

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

- (a) *Chief* means the Chief of the Department of Police or the Chief's designee.
- (b) *Department* means the Howard County Department of Police.
- (c) *Massage* means the manipulation of tissues including, but not limited to, by rubbing, kneading, or tapping with the hand or an instrument. For purposes of this subtitle, massage shall include massage therapy as defined in Health Occupations Article, section 6-101 of the Annotated Code of Maryland.
- (d) *Massage establishment* means a business entity:
  - (1) Where one or more individuals hold themselves out as providing massage;
  - (2) That advertises, offers, or administers massage provided by one or more individuals; or
  - (3) Where it is reasonably believed that one or more individuals are providing massage.
- (e) *State law* means the Health Occupations Article of the Annotated Code of Maryland.
- (f) *State authorization* means proof of legal authority to practice massage under Health Occupations Article, section 6-301 of the Annotated Code of Maryland.

(C.B. 21, 2017, § 2)

Sec. 17.802. - Right of entry; proof of State authorization.

- (a) *Authority to Enter—Public Areas.* For the purpose of ensuring compliance with Health Occupations Article, section 6-301 of the Annotated Code of Maryland, the Chief may enter the public areas of a massage establishment:
  - (1) Upon exhibiting proper credentials; and
  - (2) At any time during business or operating hours.
- (b) *Entry Required.* A person may not deny entry to the Chief in the performance of the Chief's duties under this subtitle.
- (c) *Requirement to Provide License.* Upon request, a person subject to this subtitle shall produce their State authorization.
- (d) *Rights Not Limited .* This section does not restrict or limit the right of entry or inspection authorized by any other State or County law including, without limitation, the Howard County Fire Prevention Code, or the Howard County Health Code.

(C.B. 21, 2017, § 2)

Sec. 17.803. - Display of authority.

An individual holding State authorization shall display the State authorization conspicuously in a public area of the massage establishment.

(C.B. 21, 2017, § 2)

Sec. 17.804. - Enforcement.

- (a) *Generally .* The Department may institute any action at law or equity, including injunction or mandamus, to enforce the provisions of this subtitle.
- (b) *Civil Penalties .* Alternatively, and in addition to and concurrent with all other remedies, the Department may enforce the provisions of this subtitle with civil penalties in accordance with title 24 of this Code as follows:
  - (1) A violation of any provision of this subtitle is a Class A offense; and
  - (2) Each instance that a violation continues is a separate offense.
- (c) *Civil Citation .* A notice of violation is not required prior to the issuance of a civil citation under title 24 of this Code.
- (d) *Criminal Penalties .* A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding six months or both.
- (e) *Report to State Board .* The Department may report any violations of this subtitle or any provision of the Annotated Code of Maryland to the State Board of Massage Therapy Examiners.

(C.B. 21, 2017, § 2)

Sec. 17.805. - Severability.

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

(C.B. 21, 2017, § 2)

SUBTITLE 9. - SPECIAL EVENT AND CONCERT PERMIT

Sec. 17.900. - Definitions.

The following terms have the meanings indicated:

- (a) *Athletic event* means any event involving the conduct of exercises, sports, games, marathons, or similar types of activities including, without limitation, a bicycle race, bicycle or motorcycle ride, foot race, triathlon, or walk.
- (b) *Block party* means a party that is held outdoors for people who live in a neighborhood.
- (c) *Concert* means a gathering of people to view a live performance.
- (d) *Department* means the Department of Police.
- (e) *Multiple-day event* means an event that occurs on multiple, consecutive days.
- (f) *Nonprofit organization* means a corporation, foundation, or other legal entity, no part of the net earnings of which inures to the benefit of any private shareholder or individual holding any interest in the entity.
- (g) *Owner* means any person in whom is vested the ownership, dominion or control, or title of real property; whether by fee simple deed, lease, sublease or by any form of deed, right, or agreement.
- (h) *Parade* means any march, procession, or other similar activity consisting of persons, animals, vehicles, or things, or any combination thereof, upon any public street.
- (i) *Person* means any real property owner, individual, business entity, association, group, promoter, government, or organization.
- (j) *Permit* means the special event and concert permit issued under this subtitle.
- (k) *Promoter* means the manager, organizer, operator, producer, sponsor, or the individual or entity staging the special event or concert.
- (l) *Public assembly* means a group of persons collected together in one place for the same purpose including, without limitation a street festival or similar activity or expressive activity.
- (m) *Special event* means an athletic event, block party, parade, or public assembly.

(C.B. 12, 2018, § 3)

Sec. 17.901. - Requirement to obtain permit.

- (a) *Special Events* . A person shall obtain a permit under this subtitle for a special event if the special event:
  - (1) Requires the closure of a street, highway, or road; or
  - (2) Requires authorized County employees to stop or reroute vehicular or pedestrian traffic because the special event will not or cannot comply with normal and usual traffic regulations or controls.
- (b) *Concerts* . A person shall obtain a permit under this subtitle for a concert to be performed on public or private property before a gathering in excess or anticipated to be in excess of 2,000 persons.
- (c) *Park Property* . Special events and concerts that occur on park property shall be subject to title 19 of this Code.

(C.B. 12, 2018, § 3)

Sec. 17.902. - Application requirements.

- (a) *Multiple-Day Event* . An applicant shall file a separate application for each day of a multiple-day event.
- (b) *Applications—Generally* . An application shall:
  - (1) Be on forms provided by the Department;
  - (2) Include the name, address, and telephone number of the applicant;
  - (3) Be accompanied by the application fee;
  - (4) Except as provided in subsection (g) of this section, be filed at least 60 calendar days, but not more than one year, before the special event or concert;
  - (5) Subject to subsections (c) and (d) of this section for concerts, be filed for each special event or concert;
  - (6) Be signed through an electronic process for which the oath or affirmation shall be made by an electronic signature that:
    - (i) Is attached to and made part of the application;
    - (ii) Is made expressly under the penalties of making a false statement to a law enforcement officer; and
    - (iii) Subjects the individual making the signature to the penalties of making a false statement to a law enforcement officer to the same extent as an oath or affirmation before an individual authorized to administer oaths;
  - (7) If applicable, be filed by the promoter;
  - (8) Shall include the number of security personnel to be supplied by the applicant to control the anticipated number of event attendees; and
  - (9) Any other information as the County may require in its review of the application.
- (c) *Concert Events—Information to be Provided Annually* . With the first application for a concert in a calendar year, an applicant shall provide the following information:
  - (1) The name and address of the owner of the concert facility;
  - (2) The address of the concert facility;
  - (3) The number of persons who can be accommodated at the concert facility in accordance with the Howard County Building Code and the Howard County Fire Prevention Code;
  - (4) Regarding parking:
    - (i) The number of parking spaces available at the premises;
    - (ii) If off-premises parking will be relied upon at any point during the calendar year:
      - a. The total number of parking spaces located off-premises;
      - b. A map showing all available off-premises parking;
      - c. A statement that off-premises parking will be available for use by concert spectators;
      - d. Documented approval or other similar proof with each owner or owner's agent of off-premises property that off-premises parking is available to serve the concert facility; and
      - e. The number of spaces and location of accessible parking; and
  - (5) Any other information as the County may require in its review of the application.

- (d) *Concert Events—Information to be Provided for Each Concert* . With an application for each concert, an applicant shall provide the following information:
- (1) The name and address of the promoter;
  - (2) The number of parking spaces available at the premises;
  - (3) If off-premises parking is relied upon:
    - (i) The number of parking spaces to be provided off-premises;
    - (ii) Of the off-premises parking listed in subsection (c)(4)(ii)d. of this subsection, a list of which off-premises parking will be used for the concert;
    - (iii) Whether there are any available off-premises lots that are not listed in subsection (c)(4)(ii)d. and for such lots, documented approval or other similar proof with the owner or owner's agent that the off-premises parking is available to serve the concert; and
    - (iv) Whether shuttle service would need to be provided in order to comply with accessibility requirements; and
  - (4) Any other information that the County may require in its review of the application.
- (e) *Agreements Required by State Law* . If a special event is subject to Section 21-1211 of the Transportation Article of the Annotated Code of Maryland and written authorization is required, the applicant may enter into an agreement with the County that:
- (1) Complies with State law; and
  - (2) May be signed through an electronic process for which the oath or affirmation shall be made by an electronic signature that:
    - (i) Is attached to and made part of the agreement;
    - (ii) Is made expressly under the penalties of making a false statement to a law enforcement officer; and
    - (iii) Subjects the individual making the signature to the penalties of making a false statement to a law enforcement officer to the same extent as an oath or affirmation before an individual authorized to administer oaths; and
  - (3) Is executed prior to the grant of a permit.
- (f) *Priority of Applications for Special Events* . Applications for special events shall be considered on a first-in-time basis depending on when the application and application fee is received by the County. However, if multiple applications for the same date are received, the County may consider available resources when determining whether to hold multiple events on a given day.
- (g) *Waiver of Time Requirements* . The County may consider an application for a special event or concert permit filed after the deadline established by this subtitle only if the County anticipates that adequate County resources will exist to support the special event or concert and:
- (1) The special event or concert is in the best interest of the County; or
  - (2) The special event or concert is a spontaneous response to a current event.

(C.B. 12, 2018, § 3)

Sec. 17.904. - Consideration of an application.

- (a) *Timing* . The County shall grant or deny the application at least 14 days before the date on which the event is proposed to be scheduled.
- (b) *Criteria*. The County shall issue the permit unless:

- (1) The applicant has damaged County property and has not paid in full for such damage, or has other outstanding and unpaid debts to the County;
  - (2) The applicant has made material misrepresentations regarding the nature or scope of a special event or concert for which the applicant had previously received a permit or has violated the terms of prior permits issued to the applicant;
  - (3) The applicant will be unable to safely control the anticipated number of spectators or participants expected to attend the special event or concert;
  - (4) County traffic facilities are inadequate to accommodate the anticipated number of spectators or participants entering or leaving the special event or concert;
  - (5) The applicant fails to demonstrate adequate security or emergency response services;
  - (6) The premises are inadequate based on the Howard County Building Code to support the anticipated number of spectators or participants;
  - (7) There are inadequate toilet facilities located at the premises, based on the Howard County Plumbing Code;
  - (8) There are refreshment facilities that do not meet standards established by the Howard County Health Department;
  - (9) There is insufficient ingress or egress for emergency situations based on the Howard County Building Code and the Howard County Fire Prevention Code;
  - (10) The procedure for litter control is inadequate when considering:
    - (i) The number and size of containers proposed for the special event or concert;
    - (ii) Whether the containers are proposed to be conveniently placed, emptied periodically when full, and removed from the site at the end of the special event or concert;
    - (iii) The process for litter pickup for trash not placed in containers within the perimeter of the special event or concert; and
    - (iv) Whether the collection of recyclables is inadequate based on section 18.612 of the Howard County Code;
  - (11) The special event or concert will require County services that are not available;
  - (12) The applicant has failed to provide evidence of other required permits including, without limitation, State, Federal, or Liquor Board permits;
  - (13) The permit application, including any required attachments and submissions, is not fully completed and executed;
  - (14) The applicant has not paid applicable application fees;
  - (15) A fully executed prior application and application fee for the same date has been received by the County and the County has determined that resources are not available to staff all events on that day;
  - (16) The use or activity intended by the applicant is prohibited by law, including the Howard County Fire Prevention Code;
  - (17) Any applicable State law provisions have not been complied with, including, without limitation, Section 21-1211 of the Transportation Article of the Annotated Code of Maryland;
  - (18) The applicant has failed to comply with prior approved applications; or
  - (19) The applicant provided a falsehood or misrepresentation in the application.
- (c) *Authority to Deny, Modify or Cancel* . The County may deny, cancel or modify a permit at any time when the cancellation, denial, or modification is required:

- (1) To protect the health, safety, and general welfare of the public, spectators, or participants of a special event or concert;
  - (2) Because the applicant fails to comply with any County, State, or Federal laws applicable to the special event or concert for which the permit is sought; or
  - (3) Notwithstanding any agreement relating to the use of property between an applicant and another party, a permit shall be cancelled if the applicant does not have the authority to use the property upon which the special event or concert is located.
- (d) *Department Staffing* . The Department shall determine the adequate level of staffing for the special event or concert based on best practices and standards generally accepted in the public safety area.
- (e) *Multiple-Day Events* . If the applications for a multiple day event meets the criteria set forth in this section, a separate permit shall be issued for each day of a multiple-day event.
- (f) *Cancelled Event*. An issued permit becomes void if an event is cancelled.

(C.B. 12, 2018, § 3)

Sec. 17.905. - Fees.

- (a) *Application Fee* . Except as provided in subsection (c) of this section, the County shall charge an application fee for a permit issued under this subtitle that is:
- (1) Nonrefundable;
  - (2) Due upon application for a permit;
  - (3) Adopted by Resolution of the County Council; and
  - (4) Paid one time for a multiple-day event.
- (b) *Permit Fee* . Except as provided in subsection (c) of this section, the County may charge a fee for a permit issued under this subtitle that is adopted by Resolution of the County Council.
- (c) *Fee Exemptions* . The County:
- (1) Shall exempt an applicant for a parade or block party from paying a permit fee;
  - (2) May exempt an applicant from paying a permit or application fee, or both the permit and application fee, if the County determines that a waiver is in the best interest of the County;
  - (3) May provide other exemptions as adopted by Resolution; and
  - (4) Shall not pay permit or application fees for County-sponsored special events or concerts.
- (d) *Nonprofit Organizations* . A Resolution establishing permit fees may provide a reduced permit fee for nonprofit organizations.
- (e) *Permit Fees for Multiple-Day Events* . Multiple-day events shall be assessed a permit fee for each day of the event.

(C.B. 12, 2018, § 3)

Sec. 17.906. - Duties of a permit holder.

- (a) *Free from debris* . The permit holder shall:
- (1) During the special event or concert, keep the public street or highway clean and free from paper, debris, or refuse;



- (2) Upon termination of the permit by lapse of time or otherwise, remove all materials and equipment and clean the public street or highway; and
- (3) If public property has been damaged, reimburse the County for costs to restore the property to the condition it was in prior to the special event or concert.
- (b) *Passage of emergency vehicles* . Whenever a permit requires the closure of a public street or highway, the permit holder may be required to maintain a clear path of not less than ten feet wide at all times during the event to provide for the passage of emergency vehicles.
- (d) *Update information* . The permit holder shall immediately notify the County if any information provided in the permit application is revised or changed in any manner.
- (e) *Staffing* . With the exception of County services including, without limitation, traffic control, security and emergency services, the permit holder shall staff the special event or concert with the permit holder's employees, agents, and volunteers. The permit holder is responsible for salaries, expenses, workers' compensation insurance, liability insurance, and taxes due to any employees or owed to any governmental agency on the permit holder's behalf.
- (f) *Compliance with event plan* . A permit holder shall comply with plans for the special event or concert that have been mutually agreed to between the permit holder and the County.

(C.B. 12, 2018, § 3)

Sec. 17.907. - Inspections.

The County may inspect the special event or concert and may issue citations for any violation of this subtitle, the permit, or any other provision of the Howard County Code.

(C.B. 12, 2018, § 3)

Sec. 17.908. - Penalties.

- (a) The County may institute any action at law or equity, including injunction or mandamus, to enforce the provisions of this subtitle.
- (b) Alternatively, and in addition to and concurrent with all other remedies, the County may enforce the provisions of this subtitle with civil penalties in accordance with title 24 of this Code. A violation of this subtitle is a Class C offense. Each day that a violation continues is a separate offense.
- (c) A person who violates any provision of this subtitle is guilty of a misdemeanor and, upon conviction, is subject to a fine which shall not exceed \$1,000.00.

(C.B. 12, 2018, § 3)

Sec. 17.909. - Severability.

If any section, sentence, clause or phrase of this subtitle is held invalid or unconstitutional by any court or competent jurisdiction, the ruling shall not affect the validity of the remaining portions of this subtitle.

(C.B. 12, 2018, § 3)

SUBTITLE 10. - LANDLORD-TENANT RELATIONS<sup>(6)</sup>

Footnotes:

--- (6) ---

**Editor's note**— C.B. 20, 2018, § 1, adopted June 12, 2018, set out provisions intended for use as subtitle 9, §§ 17.900—17.917. Inasmuch as there are provisions to designated, and at the editor's discretion, these provisions have been included as subtitle 10, §§ 17.1000—17.1017.

Sec. 17.1000. - Definitions.

- (a) *In general.* In this subtitle, the following words have the meanings indicated.
- (b) *Apartment complex* means a set of related buildings that have the same landlord and that all contain rental dwelling units.
- (c) *Common area* means any area in an apartment complex or common ownership community that may be used by all residents of the apartment complex or common ownership community.
- (d) *Common ownership community* means:
  - (1) A development subject to a declaration enforced by a homeowners' association, as those terms are used in State law;
  - (2) A condominium, as that term is used in State law; and
  - (3) A cooperative housing project, as that term is used in State law.
- (e) *Credit Reporting Agency* means a person or entity that is subject to title 14, subtitle 12 of the Commercial Law Article of the Maryland Code.
- (f) *Dwelling* has the meaning set forth in section 14.900 of the Howard County Code.
- (g) *Dwelling unit* has the meaning set forth in section 14.900 of the Howard County Code.
- (h) (1) *Landlord* means:
  - (i) The owner, the owner's agent, a lessor, or a sublessor of a dwelling unit who is authorized to exercise any aspect of the management of the premises;
  - (ii) In a condominium housing structure, the owner of a dwelling unit that is designated, intended, or arranged for use or occupancy as a residence and for which the owner receives consideration; and
  - (iii) In a cooperative housing structure, a person having an ownership interest in the legal entity that holds title to the cooperative housing structure and enjoys exclusive use of a dwelling unit and for which the person who has an ownership interest in the legal entity receives consideration for leasing the dwelling unit.
- (2) *Landlord* does not include a person who is engaged solely in a custodial or maintenance function.
- (i) *Lease* means a written rental agreement that establishes or modifies the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.
- (j) *Office* means Office of Consumer Protection.
- (k) *Rental housing or rental housing unit* means one or more dwelling units that are provided to tenants by a landlord for consideration.
- (l) *Security deposit* means a payment of money, including the payment of the last month's rent before it is due, given by a tenant to protect the landlord against nonpayment of rent or damage due to breach of lease or damage to the leased premises, common areas, major appliances, and furnishings.

- (m) *Tenant* means a person who occupies a dwelling unit for living or dwelling purposes with the landlord's consent subject to a lease.

(C.B. 20, 2018, § 1)

Sec. 17.1001. - Construction.

This subtitle shall be liberally construed and applied to promote its underlying purposes.

(C.B. 20, 2018, § 1)

Sec. 17.1002. - Purposes.

The purposes of this subtitle are to:

- (1) Supplement the rights afforded landlords and tenants under State law;
- (2) Encourage landlords and tenants to maintain and improve the quality of housing in the County;
- (3) Assure fair and equitable relations between landlords and tenants; and
- (4) Revise and modernize the law of landlord and tenant to serve more realistically the needs of residents of the County.

(C.B. 20, 2018, § 1)

Sec. 17.1003. - Applicability of subtitle.

- (a) *In General.* Subject to State and federal law, this subtitle regulates and determines the legal rights, remedies, and obligations of landlords and tenants for dwelling units in the County.
- (b) *Unenforceable Provisions.*
  - (1) A provision in an agreement, whether written or oral, that conflicts with this subtitle is unenforceable.
  - (2) An unenforceable provision does not affect other provisions of the agreement that can be given effect without the unenforceable provision.
- (c) *Lease Addendum.* The requirements for provisions in a lease under this subtitle are deemed met if the provisions are included in a lease addendum that has been initialed by the tenant.

(C.B. 20, 2018, § 1)

Sec. 17.1004. - Office of consumer protection—Powers and duties.

- (a) *In General.* This subtitle shall be administered by the Office of Consumer Protection.
- (b) *Complaints.*
  - (1) The Office has jurisdiction over all complaints filed under this subtitle except for those complaints that are referred to another County unit under section 17.1005 of this subtitle.
  - (2) The Office may receive, investigate, and conciliate complaints, initiate its own investigations, and enforce this subtitle to the same extent provided to the office by subtitle 4 of this title.
  - (3) In connection with this authority:

- (i) Landlords shall make available to the Office for inspection at reasonable times all rental housing records necessary for the Office to enforce this subtitle or investigate a matter under this subtitle; and
  - (ii) The Office may issue a subpoena to compel a landlord or tenant to produce relevant documents, papers, books, records, or other evidence.
- (c) *Education.* The Office may assist, develop, and conduct programs of landlord and tenant education and information through public hearings or meetings, or by distributing publications or other materials.

(C.B. 20, 2018, § 1)

Sec. 17.1005. - Joint and concurrent jurisdiction, administrative cooperation.

- (a) *Referral.* The Office shall refer any complaints that are not within its jurisdiction that allege a violation of existing law to the County, State, or federal unit that has jurisdiction over the alleged violation.
- (b) *Joint Jurisdiction.* If a complaint contains allegations that fall jointly within the jurisdiction of the Office and another County unit, and the allegations are not severable, the Office and the other unit shall determine jointly how to investigate the complaint.
- (c) *Cooperation.* The Office shall seek the cooperation of other County units concerned with rental housing in educating the public on landlord and tenant rights and responsibilities.

(C.B. 20, 2018, § 1)

Sec. 17.1006. - Rental housing license required.

The owner of a dwelling unit must obtain a rental housing license as required by section 14.901 of the Howard County Code before a tenant's occupancy of the unit.

(C.B. 20, 2018, § 1)

Sec. 17.1007. - Lease application requirements.

- (a) *In General.* An application for a lease shall contain the provisions that this section requires.
- (b) *Tenant Liabilities.* An application shall explain the liabilities that the tenant incurs by signing the application.
- (c) *Credit Reports.*
  - (1) If a landlord intends to obtain a report or information from a credit reporting agency about the applicant, the application shall advise the applicant that information about the applicant's rental or credit history or worthiness will be obtained from a credit reporting agency.
  - (2) If an application is denied wholly or partly because of a report or information from a credit reporting agency:
    - (i) The landlord shall so advise the applicant, and supply the name and address of the consumer reporting agency; and
    - (ii) The landlord shall advise the applicant that the applicant may get a copy of the report or information from the credit reporting agency and may dispute the report or information in accordance with title 14, subtitle 12 of the Commercial Law Article of the Maryland Code.
- (d) *Fees.*

- (1) If a landlord requires from a prospective tenant fees, other than a security deposit as defined by section 8-203(a) of the Real Property Article of the Maryland Code, that exceed \$25.00, the application shall state that the landlord must return the fees, subject to paragraphs (2) and (3) of this subsection, or be liable for twice the amount of the fees in damages.
- (2) Fees returned under this subsection shall be returned within 15 days after the date of occupancy or the written communication, by either party to the other, of a decision that no tenancy shall occur.
- (3) A landlord may retain only that portion of the fees actually expended for a credit report or other expenses arising out of the application, and shall return that portion of the fees not actually expended on behalf of the tenant making application.

(C.B. 20, 2018, § 1)

Sec. 17.1008. - Required information.

(a) *In General.*

- (1) When a landlord receives a rental application, the landlord shall give the prospective tenant a copy of the proposed lease;
- (2) On approval of the tenant's application, the landlord shall:
  - (i) Give the prospective tenant a copy of any common ownership community rule, regulation, declaration, or covenant that binds the landlord and affects the use and occupancy of the unit or any common area associated with the unit;
  - (ii) Notify the prospective tenant in writing that the tenant may view the dwelling unit before executing the lease to identify existing damage to the unit or personal property in the unit;
  - (iii) Subject to subsection (c) of this section, notify the prospective tenant in writing that the owner of a dwelling unit must have a rental housing license under section 14.901 of the Howard County Code before the unit is;
  - (iv) Provide the tenant with a copy of the current license for the dwelling unit; and
  - (v) Provide the tenant with a copy of the Office's Landlord Tenant Assistance publication written in the language of the tenant's choice.
- (b) *Acknowledgement by Tenant.* The landlord shall obtain the tenant's written acknowledgement of receipt of the information required in subsection (a) of this section.
- (c) *Rental Housing License.* If the owner fails to provide the notice required by subsection (a)(4) of this section, the tenant may, at any time before the rental housing license is obtained, terminate the lease without penalty and the owner shall return the tenant's security deposit in compliance with section 8-203 of the Real Property Article of the Maryland Code.
- (d) *Translations of Landlord Tenant Assistance Publication.* The Office shall make the publication identified in subsection (a)(2)(iii) of this section available for downloading from the Office's web page in English, Spanish, Chinese, French, and Korean and, on request of the landlord, the Office shall provide a written copy of the publication in additional languages as soon as practical.

(C.B. 20, 2018, § 1)

Sec. 17.1009. - Required lease provisions.

- (a) *In General.* A lease shall contain the provisions that this section requires.
- (b) *Rental Housing License.* A lease shall state:

- (1) Where the tenant can inspect a copy of the rental housing license for the dwelling unit;
  - (2) That if the owner fails to apply for renewal of the rental housing license during the tenant's lease period, the tenant may terminate the lease without penalty and the owner shall return the tenant's security deposit in compliance with section 8-203 of the Real Property Article of the Maryland Code; and
  - (3) That if the owner receives a notice of violation from the Department of Inspections, Licenses and Permits and does not abate the violation by the date specified in the notice, under section 8-211 of the Real Property Article of the Maryland Code, the tenant may:
    - (i) Terminate the lease without penalty; or
    - (ii) Request that a rent escrow account be established for the payment of rent until the violation is abated.
- (c) *Condition of Unit.*
- (1)
    - (i) A lease shall state that the landlord will deliver the dwelling unit and any common areas in a clean, habitable, and sanitary condition, free of rodents and vermin, and in compliance with all applicable laws.
    - (ii) Alternatively, for a condominium or cooperative housing structure, the lease may state that the landlord is required to deliver only the dwelling unit in a clean, habitable, and sanitary condition, free of rodents and vermin, and in complete compliance with all applicable laws.
  - (2) A lease shall specify the landlord's responsibility to maintain the rental housing in accordance with Howard County law.
  - (3) A lease shall incorporate by reference the Howard County Building Code, the Howard County Fire Prevention Code, the Howard County Property Maintenance Code for Rental Housing, and the Howard County Zoning Regulations, as an express warranty of habitability and covenant to repair.
- (d) *Utilities and Similar Services.*
- (1) A lease shall include the landlord's and tenant's specific obligations to supply and pay for heat, gas, electricity, water and sewer service, trash collection, and similar services.
  - (2) If the lease requires the tenant to pay the landlord for services supplied by the landlord, the lease shall provide that the landlord may not collect more than the amount on an invoice itemized by the landlord or a service provider, and that the landlord will provide substantiation of the cost on the tenant's request.
- (e) *Security Deposits.*
- (1) A lease shall state that security deposits will be collected, deposited, and returned in accordance with section 8-203 of the Real Property Article of the Maryland Code.
  - (2) A lease shall state that the tenant may be present when the landlord inspects the premises for damage and describe the procedure for exercising that right.
  - (3) A lease shall state that, if any of the security deposit is withheld, the landlord shall provide the tenant, within 45 days after the termination of the tenancy, a written list of the damage claimed and the cost actually incurred to correct the damage.
  - (4) A lease shall state that, on request of the tenant, the landlord shall provide written substantiation of the damage and costs incurred to correct the damage.
- (f) *Receipts.* A lease shall state that written receipts will be given for cash or money orders that the tenant pays to the landlord for rent, security deposits, or otherwise.
- (g) *Landlord Access to Dwelling Unit.*

- (1) A lease shall state that the landlord may enter the dwelling unit at a mutually agreed on time after giving the tenant at least 24 hours' notice to:
    - (i) Make necessary repairs, decorations, alterations, or improvements to the dwelling unit or determine whether repairs, decorations, alterations, or improvements are necessary;
    - (ii) Allow for an inspection under this subtitle or the Howard County Property Maintenance Code for Rental Housing; or
    - (iii) Show the dwelling unit to prospective buyers, mortgagees, or tenants.
  - (2) This subsection does not prevent: (i) the landlord from entering a dwelling unit in an emergency or when the landlord has a reasonable basis to believe the tenant may have damaged the unit or may be in violation of the lease; or (ii) the landlord and tenant from mutually agreeing in writing to a notice that is less than the time required by paragraph (1) of this subsection.
  - (3) The lease may state that the tenant may not unreasonably refuse to allow the landlord to enter the dwelling unit for the purposes set forth in this subsection.
- (h) *Termination.*
- (1) A lease shall state that the tenant may terminate the lease on 60 days' written notice to the landlord because of:
    - (i) An involuntary change of employment to a location that is more than 100 miles from the current place of residence, which is confirmed in writing by the tenant's current employer and the relocation is not paid for by their employer;
    - (ii) Involuntary unemployment of a wage earner whose income was used to qualify for the lease, which is confirmed by certification of the former employer or documentation from a government agency providing unemployment benefits;
    - (iii) The death of a wage earner whose income was used to qualify for the lease, which is confirmed by a certificate of death; or
    - (iv) A medical certification in accordance with section 8-212.2 of the Real Property Article of the Maryland Code.
  - (2) A lease may provide that, in the event of termination under paragraph (1) of this subsection, the tenant is liable for a reasonable termination charge not to exceed two month's rent or actual damages sustained by the landlord, whichever is less.
  - (3) A lease shall state that upon receipt of certain orders received by military personnel in accordance with section 8.212.1 of the Real Property Article of the Maryland Code the tenant may on 30 days written notice, terminate the lease and be subject to a termination charge not to exceed one month's rent.
  - (4) Nothing in this subsection prohibits the landlord from retaining part or all of the tenant's security deposit for damage to the dwelling unit.
  - (5) The requirement of paragraph (1) of this subsection may be mutually waived by both parties if the tenant is in one of not more than three units on a single lot owned by the same landlord.
    - (i) *Common ownership communities.* If the dwelling unit is in a common ownership community, the lease shall state that any obligation imposed on the owner of the dwelling unit that affects the use and occupancy of the unit or any common area associated with the unit is enforceable against the tenant.

(C.B. 20, 2018, § 1)

Sec. 17.1010. - Prohibited lease provisions.

A lease may not:

- (1) Authorize a person to confess judgment on behalf of the tenant for rent due or any other claim arising out of the lease;
- (2) Authorize the landlord to take possession of the leased premises or the tenant's personal property unless the lease has been terminated by action of the parties or by operation of law, and the personal property has been abandoned by the tenant without the benefit of formal legal process;
- (3) Waive a tenant's right to a trial by jury;
- (4) State that the tenant agrees to pay court costs, legal fees, or attorney fees other than those that a court awards for a breach of lease by the tenant;
- (5) State that the tenant agrees to a period required for landlord's notice to quit that is less than that provided by law;
- (6) Waive the landlord's liability for damage caused by the landlord's negligence or violation of law;
- (7) Waive a right or protection afforded under this subtitle or other law;
- (8) Establish a lien on the tenant's property except as provided by State law;
- (9) Provide for a penalty or subject the tenant to legal action for non-payment of rent if the delinquent payment is made within five days after the date on which the rent is due;
- (10) Impose a penalty in excess of five percent of the amount of rent due for the rental period for which payment is delinquent;
- (11) Require that the tenant pay to replace or repair structural elements of the building, major appliances, or electrical, plumbing, heating, or air conditioning systems unless the replacement or repair is required because of actions of the tenant or a person for whom the tenant is legally responsible;
- (12) Require the tenant to pay any money other than:
  - (i) An application fee that section 8-213 of the Real Property Article of the Maryland Code allows;
  - (ii) A security deposit that section 8-203 of the Real Property Article of the Maryland Code allows;
  - (iii) Rent that the lease specifies;
  - (iv) Charges for services and utilities identified in the lease as required by section 17.1009(d) of this subtitle; or
  - (v) Fees for specified amenities or common areas that the tenant may elect to use, including but not limited to dedicated parking spaces, pools; or fitness facilities;
- (13) Require the tenant to pay transfer fees or other money for moving from one dwelling unit to another dwelling unit within an apartment complex during the lease period, but a landlord may withhold money from the security deposit on the original dwelling unit for damage to the unit and apply the remainder to the security deposit for the new unit; or
- (14) State that the lease is a contract under seal.

(C.B. 20, 2018, § 1)

Sec. 17.1011. - Landlord to provide copy of lease.

The landlord shall provide a fully executed copy of the lease to:

- (1) The tenant within seven days after the tenant signs the lease; and
- (2) The Office of Consumer Protection on request of the Office.



(C.B. 20, 2018, § 1)

Sec. 17.1012. - Emergency notice requirements.

(a) *In General.*

(1) The landlord of an apartment complex shall:

- (i) Post a durable notice listing emergency contact information in an accessible, conspicuous, and convenient place in each building to which the notice applies, and
- (ii) Send the emergency notice to each tenant.

(2) A landlord renting a dwelling unit that is not located in an apartment complex shall send the notice to the tenant.

(b) *Contents.* The notice shall contain the name, title, and telephone number of the landlord or at least one responsible representative of the landlord who may be reached at all times in an emergency.

(C.B. 20, 2018, § 1)

Sec. 17.1013. - Ratio utility billing.

(a) *Scope of Section.* This section applies to an apartment complex that bills tenants for water, sewer, electricity, or gas service on an allocated basis, referred to as a "Ratio Utility Billing System" ("RUBS").

(b) *Definitions .*

(1) *In General.* In this section the following words and terms have the meanings indicated.

(2) *Allocated Utility Service* means water, sewer, electricity, or gas service that is master metered to a landlord and that the landlord allocates to tenants using a Ratio Utility Billing System.

(3) *Master Meter* means a meter used to measure, for billing purposes, all water, sewer, electricity, or gas usage of an apartment complex, including common areas, common facilities, and dwelling units.

(4) *Ratio Utility Billing System* means the system under which the cost of water, sewer, electricity, or gas service, or a combination of those services, is master metered to a landlord and then allocated to tenants by the landlord by a formula that estimates the use of each rental unit in the apartment complex.

(c) *Lease Contents.* When a landlord uses a Ratio Utility Billing System, the lease shall include:

- (1) A statement that the tenant will be billed by the landlord for allocated utility services;
- (2) The precise formula the landlord uses to allocate the cost or utility services to the tenant;
- (3) A statement that any disputes relating to the computation of the tenant's bill are between the tenant and the landlord, not a third-party billing agent, however the landlord may involve the provider in the resolution of the disputes;
- (4) The average monthly bill for all dwelling units in the apartment complex in the previous calendar year and the highest and lowest month's bills for that period;
- (5) Information regarding billing such as meter reading dates, billing dates, and due dates;
- (6) The time allowed for the landlord to make repairs that affect the amount of allocated utility services used in the tenant's dwelling unit and in common areas, if common areas are not sub-metered;

- (7) A statement that the tenant may, on request, receive information from the landlord or a third-party provider to verify the amount billed to the landlord or a third-party provider for allocated utility services;
  - (8) The amount of any service charge or administrative fee that may be billed to tenants by the landlord or a third-party provider under this section; and
  - (9) A statement that a copy of this section is available on request.
- (d) *Records* . Within ten days after receiving a written request from a tenant or the Office, the landlord shall make the following records for the current year and previous calendar year available for inspection at the onsite manager's office at a mutually agreed on time:
- (1) A current and complete copy of this section;
  - (2) Each bill from the provider of allocated utility services to the landlord or a third-party provider for the preceding two years;
  - (3) An explanation of the formula that the landlord or a third-party provider uses to calculate the tenants' bills;
  - (4) The total amount billed to all tenants in the tenant's building each month;
  - (5) Total revenues collected from the tenants in the tenant's building each month to pay for the allocated utility services; and
  - (6) Any other information necessary for a tenant to calculate and verify an allocated utility service bill.
- (e) *Prohibited Charges*. Charges billed to tenants under a Ratio Utility Billing System may only include charges for allocated utility services and may not include any other charges billed to the landlord such as deposits, disconnect or reconnect fees, late payments, or other similar fees.
- (f) *Calculations for Allocated Utility Service*.
- (1) *Common Area Calculation*. Before a landlord or a third-party provider may allocate a master meter bill for allocated utility service to the tenants, the landlord shall first deduct common area usage such as installed landscape irrigation systems, pools, laundry rooms, hallways, lobby areas, and similar facilities.
  - (2) *Administrative Area Calculation*. Before a landlord or a third-party provider may allocate a master meter bill for allocated utility service to the tenants, the landlord or a third-party provider shall also deduct usage for any area used by the landlord to manage the apartment complex, such as the management office, utility closets, or other areas that are not available for use by the tenants.
  - (3) *Formula for Calculating Tenants' Bills*. To calculate a tenant's bill, the landlord or a third-party provider shall use the formula provided in the lease. At the request of the Office, the landlord shall prove that the proposed formula fairly and accurately allocates utility usage among tenants.
  - (4) *Partial Month's Bill for Move-In or Move-Out*. If a tenant moves in or out during a billing period, the landlord or a third-party provider shall calculate a pro-rated bill for the tenant by dividing the number of days the tenant lived in the rental unit by the number of days in the month multiplied by the bill for the month. If a tenant moves out during a billing period before the landlord receives the bill for that period from the utility service, the landlord may calculate a final bill by using tenant's average daily bill for the last three months and multiplying that daily amount by the number of days the tenant was in the rental unit.
  - (5) *Administrative Fee*. If a landlord uses a Ratio Utility Billing System, the bill format for each billing period shall show the amount of any customer service or administrative fee charged. A customer service or administrative fee may not exceed the actual cost of allocating utility charges to the tenants. The landlord may not impose any additional charges.

(g) *Monthly Billing for Allocated Utility Charges.*

- (1) Bills for allocated utility service charges shall be sent to tenants on a monthly basis.
- (2) The bill shall clearly state the:
  - (i) Duration of the billing period;
  - (ii) Amount due for usage of each utility service;
  - (iii) Amount due for customer service or administrative fee;
  - (iv) Total amount due for the billing period;
  - (v) Name and address of the tenant to whom the bill is applicable;
  - (vi) Name, address, and telephone number of the person sending the bill; and
  - (vii) Name, address, and telephone number of the person to whom payment is to be made.
- (3) The due date on the bill may not be less than 15 days after it is mailed or hand delivered to the tenant. A payment is delinquent if not received by the due date.
- (4) An estimated bill may be sent if a master meter has been tampered with, cannot be read, or is out of order, but the bill shall be distinctly marked as an estimate and the subsequent bill shall reflect an adjustment for actual charges.
- (5) If a tenant is over-billed for a utility service, the landlord shall calculate an adjustment to the tenant's bill and give the tenant a refund.
- (6) If a tenant is under-billed for a utility service during the previous 6 months, the landlord may calculate an adjustment for bills issued. However, the landlord may not calculate an adjustment if the tenant was under-billed because of a meter malfunction, except as provided in item (4) of this subsection. If the total amount that a tenant was undercharged is \$25.00 or more, the landlord shall offer the tenant a deferred payment plan option that gives the tenant the same amount of time to pay as the period of under-billing. Adjustments for usage by a previous tenant may not be billed to a current tenant.
- (7) Failure by a tenant to pay an allocated utility service bill is not non-payment of rent.

(h) *Disputed Bills .*

- (1) If a tenant disputes a bill, the tenant shall notify the landlord of the dispute in writing.
- (2) The landlord shall investigate the matter and report the results of the investigation to the tenant in writing within 30 days after the tenant gives written notification of the dispute to the landlord.

(C.B. 20, 2018, § 1)

Sec. 17.1014. - Prohibited retaliatory practices.

- (a) (1) For any reason listed in paragraph (2) of this subsection, a landlord of any residential property may not:
  - (i) Bring or threaten to bring an action for possession against a tenant;
  - (ii) Arbitrarily increase the rent or decrease the services to which a tenant has been entitled;  
or
  - (iii) Terminate a periodic tenancy.
- (2) A landlord may not take an action that is listed under paragraph (1) of this subsection for any of the following reasons:

- (i) Because the tenant or the tenant's agent has provided written or actual notice of a good faith complaint about an alleged violation of the lease, violation of law, or condition on the leased premises that is a substantial threat to the health or safety of occupants to:
    - 1. The landlord; or
    - 2. Any public agency against the landlord;
  - (ii) Because the tenant or the tenant's agent has:
    - 1. Filed a lawsuit against the landlord; or
    - 2. Testified or participated in a lawsuit involving the landlord; or
  - (iii) Because the tenant has participated in any tenants' organization.
- (b) (1) A landlord's violation of subsection (a) of this section is a "retaliatory action".
  - (2) A tenant may raise a retaliatory action of a landlord:
    - (i) In defense to an action for possession; or
    - (ii) As an affirmative claim for damages resulting from a retaliatory action of a landlord occurring during a tenancy.
  - (c) (1) If in any proceeding the court finds in favor of the tenant because the landlord engaged in a retaliatory action, the court may enter judgment against the landlord for damages not to exceed the equivalent of three months' rent, reasonable attorney fees, and court costs.
  - (2) If in any proceeding the court finds that a tenant's assertion of a retaliatory action was in bad faith or without substantial justification, the court may enter judgment against the tenant for damages not to exceed the equivalent of three months' rent, reasonable attorney fees, and court costs.
  - (d) The relief provided under this section is conditioned on the tenant being current on the rent due and owing to the landlord at the time of the alleged retaliatory action, unless the tenant withholds rent in accordance with the lease or section 8-211 of the Real Property Article of the Maryland Code.
  - (e) An action by a landlord may not be deemed to be retaliatory for purposes of this section if the alleged retaliatory action occurs more than six months after a tenant's action that is protected under subsection (a)(2) of this section.
  - (f) As long as a landlord's termination of a tenancy is not the result of a retaliatory action, nothing in this section may be interpreted to alter the landlord's or the tenant's rights to terminate or not renew a tenancy.

(C.B. 20, 2018, § 1)

Sec. 17.1015. - Tenant organizations.

- (a) *Tenant Organization* . For purposes of this section, a tenant organization is one that is formed by tenants of the development, meets regularly, operates democratically, is representative of all residents in the development, and is completely independent of owners, management, and their representatives.
- (b) *In General*. Tenants may:
  - (1) Form, join, meet, or assist one another as part of a tenant organization or otherwise;
  - (2) Meet and confer with landlords through representatives of their own choosing;
  - (3) Engage in other cooperative activities for mutual aid and protection; and
  - (4) Refrain from an activity listed in this subsection.

- (c) *Meetings of Landlords and Tenants.* A landlord shall meet with a tenant association or organization on a good faith request by the association or organization.
- (d) *Use of Meeting Spaces.*
  - (1) To conduct tenant organization meetings, tenants and tenant organizations have the right of free assembly in the meeting rooms and other areas suitable for meetings within rental housing during reasonable hours and on reasonable notice to the landlord.
  - (2) The landlord may not charge a tenant organization or a group of tenants seeking to form a tenant organization a fee for the first meeting of each month held to discuss landlord-tenant issues.
  - (3) The landlord may charge a reasonable fee for other uses of the meeting rooms or common areas but the charge may not exceed the regular schedule of fees for the rooms or areas charged to other groups.
  - (4) The landlord may impose reasonable terms and conditions on the use of the meeting rooms or common areas if those terms and conditions do not undermine the purposes of this section.
- (e) *Literature.* Tenants and tenant organizations may distribute freely and post in centrally located areas of rental housing literature concerning landlord-tenant issues if the origin of the literature is properly identified.
- (f) *Complaints.* Tenant organizations may file complaints under this subtitle on behalf of tenants, but a tenant organization may not represent exclusively a tenant or class of tenants unless the tenant or the class specifically authorize the organization to do so.

(C.B. 20, 2018, § 1)

Sec. 17.1016 - Penalties and other relief.

- (a) *Not Exclusive.* The penalties and relief specified in this section are in addition to the other penalties specifically provided in this subtitle.
- (b) *Civil Penalties.*
  - (1) The Office may enforce this subtitle with civil penalties under Title 24, "Civil Penalties" of the Howard County Code.
  - (2) The first violation of this subtitle is a Class B offense.
  - (3) Subsequent violations are Class A offenses.
- (c) *Penalty Recoverable in Civil Action.* Alternatively or in addition to and concurrent with other remedies, the Office may impose a fine not exceeding \$500 for each violation of this subtitle, recoverable in a civil action.
- (d) *Injunctive and Other Relief .* The Office may also seek, and a court may issue, an injunction, a restraining order, or other appropriate relief to correct a violation of this subtitle.

(C.B. 20, 2018, § 1)

Sec. 17.1017. - Private action.

Nothing in this subtitle prevents a person from exercising a right or seeking a remedy to which the person might otherwise be entitled, or from filing a complaint with any other governmental unit or court.

(C.B. 20, 2018, § 1)

## TITLE 18 - PUBLIC WORKS

### SUBTITLE 1. - PUBLIC UTILITIES

#### Sec. 18.100A. - Capital Improvement Master Plan (C.I.M.P.) for Water and Sewerage.

(a) *Definitions:*

(1) *Capital Improvement Master Plan; C.I.M.P. for Water and Sewerage:* The Capital Improvement Master Plan (C.I.M.P.) for Water and Sewerage is a plan proposed by the County Executive upon the recommendations of the Director of Public Works and adopted by the County Council pursuant to the provisions of section 22.405 of the Howard County Code. The plan indicates the capital improvements to the County's water supply systems and sewerage systems to be constructed during the next ten years in order to implement the housing and employment growth projections of the County's general plan and the master plan for water and sewerage adopted pursuant to the requirements of the Natural Resources Article of the Annotated Code of Maryland. The C.I.M.P. for Water and Sewerage includes the water and sewer projects included in the Howard County Capital Budget and Capital Program and Extended Capital Program.

(b) *Requirement to Prepare C.I.M.P. and Review It Annually:* The Department of Public Works shall prepare the C.I.M.P. for Water and Sewerage pursuant to the provisions of section 22.405 of this Code. The Department shall review the plan annually and shall submit updates as appropriate for adoption by the County Council.

(C.B. 10, 1992)

#### Sec. 18.100. - Metropolitan Commission personnel, functions and property transferred to County.

All employees of the former County Metropolitan Commission (except the Commissioners) shall be employees in the merit system and shall be assigned by the County Executive to the various offices and departments of the County Government according to the individual's skills and qualifications and the requirements of the County in such positions and at such rates of pay as may be provided by law or regulation.

All the former functions of the Howard County Metropolitan Commission shall be assumed by the following departments or offices of Howard County: Purchasing by the office of the County Administrator; billing, assessments, finance, payroll and accounting by the Office of Finance; design, operation, construction, maintenance and repair of utility facilities by the Department of Public Works.

On and after February 11, 1969, all property or interests therein of any kind or description, real mixed or personal of the Howard County Metropolitan Commission shall vest in and become the property of Howard County. All such personal property, equipment and vehicles shall be under the direction, control and supervision of the Department of Public Works, except that any personal property, equipment or vehicle associated with a function assigned to an office or department, other than the Department of Public Works, shall be under the direction, control and supervision of such other office or department.

(C.B. 17, 1969)

#### Sec. 18.101. - Metropolitan District; creation; incorporation of additional property.

(a) *Existence:*

(1) *Property Included.* There is a Howard County Metropolitan District. Except for a parcel that the Health Department orders connected to the public water or sewerage system under section 12.105 of the County Code, only a parcel that is located in the metropolitan district may be served by public water or sewer.

- (2) *Other property.* A parcel that is not in the metropolitan district or the planned service area, as defined in the master plan for water and sewerage, may be served by public water or sewer only if the Health Officer has ordered that the parcel be connected to the public water or sewerage system pursuant to section 12.105 of the County Code. If the Health Officer orders that the parcel be connected, the parcel:
  - (i) Shall not be incorporated into the metropolitan district;
  - (ii) Shall not be placed in the planned service area;
  - (iii) Shall receive only public water or sewer, or both, as ordered by the Health Officer; and
  - (iv) Is subject to all applicable fees associated with receiving the public water or sewer, as provided in section 20.616 of the County Code.
- (b) *Property Included in District.* The Howard County Metropolitan District shall consist of:
  - (1) Property included in the former Ellicott City, Elkrige, Guilford, Dorsey, and Patuxent Subdistricts created by:
    - (i) Chapter 991 of the Acts of the General Assembly of 1943;
    - (ii) Chapter 609 of the Acts of the General Assembly of 1945;
    - (iii) Chapter 369 of the Acts of the General Assembly of 1963;
    - (iv) Chapter 356 of the Acts of the General Assembly of 1965; and
  - (2) Property incorporated into the district by council bill before the effective date of this act;
  - (3) Property incorporated into the district by authority of the Director of Public Works under subsection (f) of this section;
  - (4) Property incorporated into the district by County Council bill under subsection (g) of this section; and
  - (5) Property incorporated into the district by authority of the Director of Public Works under subsection (h) of this section.
- (c) *Fees, Assessments and Charges.* Property in the metropolitan district shall be subject to fees, assessments and charges as set forth in title 20, subtitle 3 of the Howard County Code.
- (d) *Plat of District.* The Director of Public Works shall prepare and maintain a plat of the metropolitan district showing all properties which are part of the district. A copy of the plat shall be filed:
  - (1) In the Office of the Director of Public Works;
  - (2) In the Department of Finance; and
  - (3) In the land records of Howard County.
- (e) *Property Eligible for Incorporation into the Metropolitan District.* Only a parcel located in the "planned service area" in the Howard County Master Plan for water and sewerage is eligible for incorporation into the metropolitan district.
- (f) *Procedure for Incorporation into the Metropolitan District; Administrative Incorporation:*
  - (1) The owner of a parcel in Howard County that is located in the "planned service area" in the Howard County master plan for water and sewerage may petition the Director of Public Works, in writing, to incorporate the parcel into the metropolitan district.
  - (2) The petition under this subsection shall be in a form prescribed by the Director of Public Works.
  - (3) When the Director of Public Works receives a petition to incorporate a qualifying parcel into the metropolitan district, the Director shall prepare a notice, to be published in at least one newspaper of general circulation in the County, proposing to incorporate the parcel into the district.

- (4) The notice under paragraph (3) of this subsection shall contain directions for objecting to the incorporation of the parcel into the metropolitan district, including:
  - (i) A requirement that an objection be made in writing; and
  - (ii) The date by which an objection must be received by the Director, which shall be at least 14 days after the notice is published.
- (5) If the Director of Public Works receives a written objection to the incorporation of a parcel into the metropolitan district, the Director shall follow the procedures under subsection (g) of this section.
- (6) If, within the time specified in the notice of intent to incorporate a parcel into the metropolitan district, the Director does not receive a written objection to the inclusion of the parcel into the district, the Director shall:
  - (i) Approve the petition;
  - (ii) Incorporate the parcel into the district; and
  - (iii) Revise the plat of the district to reflect the incorporation.
- (g) *Procedure for Incorporation into the Metropolitan District; Legislative Incorporation:*
  - (1) If the Director of Public Works receives timely written objection to the incorporation of a parcel into the metropolitan district, the Director shall prepare a bill to be introduced by the County Council authorizing incorporation of the parcel into the district.
  - (2) The Director of Public Works shall give written notice to the person who objected to incorporation of the parcel, informing the person:
    - (i) That a bill is to be introduced;
    - (ii) Of the scheduled dates for public hearing and final consideration of the bill; and
    - (iii) Of the procedure for submitting testimony to the Council regarding the bill.
  - (3) If the bill is enacted, on the effective date of the bill authorizing the incorporation:
    - (i) The parcel shall be incorporated into the metropolitan district; and
    - (ii) The Director of Public Works shall revise the plat of the metropolitan district to reflect the incorporation of the petitioned parcel into the district.
- (h) *Procedure for Incorporation into the Metropolitan District; Emergency Incorporation:*
  - (1) The Director of Public Works may approve the emergency incorporation of an improved parcel into the metropolitan district if:
    - (i) The parcel is five acres or less;
    - (ii) The parcel is located within the planned service area;
    - (iii) The parcel fronts on a water and/or sewer main that is capable of providing service to the parcel; and
    - (iv) A bona fide need exists for the incorporation, as determined in writing by the County Health Department.
  - (2)
    - (i) The owner of a parcel that meets the conditions in paragraph (1) of this subsection may, by written request to the Director of Public Works, request that the Director incorporate the parcel into the metropolitan district.
    - (ii) The owner shall provide the names of all owners of the parcel, the location, deed reference, and acreage of the parcel.



- (iii) The Director of Public Works may approve the incorporation of a parcel upon the affirmative finding that the parcel meets the conditions of this subsection. The decision shall be in writing.

(C.B. 28, 1997; C.B. 32, 2002, § 1)

**Editor's note**— Section 1 of C.B. 28, 1997, enacted May 5, 1997, repealed § 18.101 in its entirety. Formerly, § 18.101 pertained to the metropolitan district and derived from C.B. 17, 1969; C.B. 62, 1987; and C.B. 72, 1988. Section 2 of C.B. 28, 1997, enacted new provisions for § 18.101 as herein set out.

Sec. 18.101.1. - Middle Patuxent drainage area subdistrict.

- (a) *Established, Purpose; Code Provisions Applicable.* For the purpose of creating a subdistrict within the metropolitan district to provide for construction of the Middle Patuxent interceptor project, there is established the Middle Patuxent drainage area subdistrict (hereinafter referred to in this section as the "subdistrict"). All parcels of land and properties within the subdistrict as defined in this section shall be subject to the provisions of this section, title 20 of the Howard County Code and other law, including, but not limited to, those provisions concerning taxes, fees, assessments and other charges.
- (b) *Definition and Geographical Area:*
  - (1) The subdistrict shall consist of those parcels of land and properties which have been incorporated, or shall be incorporated, in the metropolitan district pursuant to section 18.101 or 18.101A of the Howard County Code; provided that only the whole and/or parts of such parcels of land and properties which lie in the area which is bounded by the natural ridgelines of the sewer shed of the Middle Patuxent River, from its point of confluence with the Little Patuxent River on the east to Maryland Route 108 on the west, shall be in the subdistrict. Provided, further, that those subparcels served by contracts 2818 D = W + S, 2826 D = W + S and 2833 D = W + S shall not be part of the subdistrict. Provided, further, that those parcels of land and properties which have been or will be receiving sewer service from the Hobbitts Glen pump station which have been recorded as of August 1, 1979, shall not be part of the subdistrict.
  - (2) By way of partial description, but not by way of limitation, the subdistrict shall include the following described properties:

Tax Map No.	Parcel No.	Liber/Folio
29	116	400/709
	88	400/709
	88	400/709
	88	400/709
	88	400/709
	110	442/398

	126	417/543
	23	513/736
	60	417/517
	57	401/124
	58	201/218
	71	326/410
	109	761/356
35	70	401/124
	77	402/747
	241	402/516
	251	411/276
	112	406/568
	250	417/546
	337	785/211
	29	401/124
	28	463/196
	27	400/143
	240	400/727
	59	406/114
	22	410/348

	23	430/622
	3	403/752
	239	400/709
	281	463/196
41	45	413/1
	301	410/665
	5	406/506
	29	413/308
42	P/O 1	599/82 WT1
		WT2
	13	406/506
	54	400/709
	P/O 337	406/565
	P/O 390	569/335
	P/O 206	607/342
	P/O 162	406/319
47	5	627/184
	6	483/81

(C.B. 45, 1979; C.B. 112, 1981)

Sec. 18.101A. - Reserved.

**Editor's note**— Section 1 of C.B. 28, 1997, enacted May 5, 1997, repealed § 18.101A in its entirety. Formerly, § 18.101A pertained to the authority of the Director of Public Works to incorporate internal parcels of land into the metropolitan district and derived from C.B. 24, 1973 and C.B. 116, 1981.

Sec. 18.102. - Procedure for establishment or extension of existing utility service—Initiation by Department of Public Works.

- (a) The Director of the Department of Public Works shall prepare annually and shall present to the Public Works Board a five-year planning objective survey for the orderly extension of water, reclaimed water, and sewer service within the metropolitan district for each year's current program. The Director of the Department of Public Works shall make or have made preliminary surveys, preliminary plans, and estimates for the establishment or extension of water, reclaimed water, and sewer systems in those portions of the metropolitan district wherein such systems are necessary. Whenever such preliminary plans are completed and construction or extension of such system is contemplated the Director of Public Works shall give notice, by publication as provided in section 18.118, of a public hearing to be held by the Public Works Board.
- (b) The said notice by publication shall state the extent of the improvements, the proposed area to be served, the probable cost thereof and that the preliminary plans and cost estimates of the improvements are available for public inspection at the Office of the Department of Public Works during regular business hours, and also specifying a time and place for a public hearing before the Public Works Board when persons interested in the improvements may appear and be heard for or against the proposed extensions.
- (c) After the hearing before the Public Works Board, as specified in the notice by publication, the Public Works Board shall, within 30 days, make a recommendation to the Director of Public Works on whether or not to proceed with the improvements, which decision shall be published as provided in section 18.118.
- (d) After the decision to proceed with the improvements has been published, the Director of Public Works shall include such water, reclaimed water, or sewer extensions within the Department of Public Works capital improvement program, and the same shall be presented to the County Executive, who may include such capital improvement program in his annual capital improvement program which is submitted to the County Council pursuant to the Charter.

(C.B. 17, 1969; C. B. 27, 2007)

Sec. 18.103. - Authority to adopt standards and specifications for utilities.

- (a) The Director of Public Works may develop standards and specifications pertaining to the installation and types of water, reclaimed water, and sewage systems to be used in Howard County and publish them in a code to be made available by the Howard County Department of Public Works, at a minimum charge, to the general public upon request. The code and its amendments shall include size and type of pipe and include all fixtures, structures, apparatus, connections, accessories, pumps and all things associated with the installation, operation and maintenance of water, reclaimed water, and sewer systems.
- (b) Any proposed code or amendments shall be submitted to the Board of Public Works, which shall schedule a public hearing on the proposed code or amendments within 30 days of receipt of the proposed code or amendments. A brief explanation of the code or amendments and the time and place of the public hearing before the Board of Public Works shall be published in at least two

newspapers of general circulation published in the County. The Board of Public Works may make recommendations to the Director of the Department of Public Works.

- (c) The Director of Public Works shall thereafter present the standards and specifications, or amendments, to the County Council for adoption by appropriate resolution.

(C.B. 27, 1972; C.B. 27, 2007, § 2)

Sec. 18.104. - Utility connections.

- (a) *Requirement to Provide.* The Director of Public Works shall provide for each and every property abutting upon a street or right-of-way, in which a water main or sewer main is laid, a water connection pipe or meter or both, or sewer connection pipe which shall be extended as required from the water main or sewer main to the property line of the abutting lot. Said service pipe or connection with the sewer main is subject to a reasonable charge for said connection, as provided elsewhere in this Code, which charge will be paid by all property owners at the Department of Finance, before the actual connection with any pipe on private property is made.
- (b) *Connections after August 13, 2007.* For water and sewer connections applied for by the property owner after August 13, 2007 that are not installed under a developer agreement or capital project, the service pipe or connection from the water or sewer main shall be:
  - (1) Constructed by an on-site utility contractor licensed by the County;
  - (2) Subject to the construction standards established by the Director of Public Works; and
  - (3) Subject to inspection by the Director of Public Works before a connection is made with any pipe on private property.
- (c) *Connections on or before August 13, 2007.* For water and sewer connections applied for by a property owner on or before August 13, 2007 that are not installed under a developer agreement or capital project, the service pipe or connection from the water or sewer main shall be constructed by the Department of Public Works.
- (d) *Surety.* A property owner applying for a connection under subsection (b) of this section shall provide the County with surety that shall be:
  - (1) In the form of a cash deposit or other surety acceptable to the Director of Public Works to guarantee the cost of making the water and sewer connections including the cost of paving or other repairs; and
  - (2) In an amount set forth in a fee resolution adopted by the County Council.
- (e) *Reclaimed Water System.* Connections to the reclaimed water system shall be made in accordance with this section.

(C.B. 17, 1969; C.B. 38, 1974; C.B. 15, 1978; C.B. 46, 1983; C.B. 26, 2007, § 1; C.B. 27, 2007, § 2)

Sec. 18.104A. - Mandatory connections made by Department of Public Works.

- (a) *Health Department Issuance of Order to Connect.* The Health Department may issue an order to connect a property to the public water or sewerage system or both pursuant to the provisions of section 12.105, "Connection of Property With Public Water Supply or Sewerage System," of the Howard County Code.
- (b) *Duty of Department of Public Works to Require Mandatory Connections.* The Department of Public Works shall require, at the property owner's expense, that property be connected to the public water or sewerage system or both, including the connection of all spigots, hydrants, toilets and waste

drains with the water main or sewer main, within the time frame prescribed by the Health Department or by a court when:

- (1) The Department has been ordered by the court to make the connection pursuant to subsection (e), "Court Action to Enforce Order," of section 12.105, "Connection of Property With Public Water Supply or Sewerage System," of the Howard County Code; or
  - (2) A property owner has been ordered by the health department to connect to the public water or sewerage system or both and is eligible and approved for financing of such work pursuant to subtitle 7 "Water/Sewer Connection Financing Program," of title 20, "Taxes, Charges, and Fees" of the Howard County Code.
- (c) *Department of Public Works to Determine Method of Connection.* The Director of Public Works shall determine if a mandatory connection shall be made:
- (1) By the Department of Public Works if the Director determines that it is in the interest of public health, safety, and welfare to perform the connection; or
  - (2) By a licensed on-site utility contractor retained by the property owner in accordance with subsection 18.104(b) of this subtitle.
- (d) *Authority to Enter Property.* Whenever the Department of Public Works makes a mandatory connection pursuant to subsection (c) of this section, the Department or its agents may enter the property to do work associated with the connection.
- (e) *Agreements to Perform Work.* Whenever the Department of Public Works makes a mandatory connection pursuant to subsection (c) of this section, the Department may enter into agreements with licensed master plumbers and licensed on-site utility contractors to perform the work required in the Health Department's order to connect.
- (f) *Connection Costs.* Whenever the Department of Public Works makes a mandatory connection pursuant to subsection (c) of this section, it shall have the work performed "at cost" and shall keep an accurate account of the costs of such connection, including the subcontractor's cost of construction and inspection and administrative costs incurred by the County. The Department shall provide the Director of Finance with a copy of the accounts.
- (g) *Billing.* Upon completion of a mandatory connection made pursuant to subsection (c) of this section, the Director of Finance shall bill the property owner for the costs of the connection including all subcontractor and administrative costs and any connection or in-aid-of-construction charges imposed by subtitle 6, "Water and Sewer Charges and Assessments," of title 20, "Taxes, Charges, and Fees" of the Howard County Code.
- (h) *Payment of Costs by Property Owner.* The property owner shall pay the costs of connection within 30 days of billing or, if eligible and approved for financing of such work pursuant to subtitle 7, "Water/Sewer Connection Financing Program," of title 20, "Taxes, Charges, and Fees" of the Howard County Code, within ten years of the billing. All charges are a lien against the property and shall be enforced and in every respect be treated as County real estate taxes.

(C.B. 46, 1983; C.B. 6, 1998; C.B. 26, 2007, § 1)

Sec. 18.105. - Use of fire hydrants.

The Director of Public Works shall have full and complete jurisdiction over all fire hydrants connected with the County water system and no person, firm or corporation shall use or make connection with the same without the written authority of the Director of Public Works, excepting that no restrictions shall apply to any bona fide department in the discharge of its duties. No person, firm or corporation shall tamper with, deface, damage or obstruct any fire hydrant. Any violation of the provisions of this section shall be a misdemeanor punishment under section 18.121 of this subtitle.

(C.B. 17, 1969)

Sec. 18.106. - Public water supply; conservation and restrictions on use.

- (a) *Restriction on and Denial of Service.* The Director of Public Works may restrict the use of the public water supply and may deny water service to a user:
- (1) Who fails to comply with use restrictions imposed by the Director, to conserve water, in response to an anticipated shortage in the public water supply; or
  - (2) Who refuses to repair an outside water leak on the user's property or to allow the Department of Public Works to repair or replace a water metering device.
- (b) *Service Denials and Charges:*
- (1) The Director of Public Works shall notify the user in writing of a proposed denial of water service, and shall turn the service off no sooner than 30 days after the date of the notice, unless a shorter time is required because the Director finds an imminent threat to the public health and safety, in which case a shorter time period may apply. Water service denied under this section shall be restored after the Director of Public Works determines that the condition giving rise to the denial has been remedied.
  - (2) The Director may impose a charge upon a user for the denial and restoration of service under this section, which shall be established by resolution of the County Council as provided in section 20.605 of the County Code.

(C.B. 17, 1969; C.B. 60, 2000)

Sec. 18.107. - Jurisdiction over privately owned public water or sewer systems.

The Director of the Department of Public Works shall have jurisdiction over all privately owned public water or sewer systems constructed after February, 1965, anywhere within Howard County which are subject to the laws of the Public Service Commission of Maryland, and any person, firm or corporation doing the work shall obtain a permit from the Director of Public Works and pay a reasonable charge therefor and such system shall then be installed, maintained and operated under plans, specifications, rules and regulations as the Director of Public Works may require or establish, except those water and sewer systems that are presently operating as private systems and are subject to the laws of the Public Service Commission prior to February, 1965, and before such jurisdiction can be obtained by the Director of Public Works of any of those private systems there shall be a public hearing, notice of the time and date of beginning of which shall be published three weeks in advance in any of the local newspapers published in Howard County, giving the public full details, intentions and reasons of such intended jurisdiction desired by the Director of Public Works.

(C.B. 17, 1969)

Sec. 18.108. - Construction requirements for private water and sewer systems.

- (a) No person shall construct, alter or extend a water supply system or a sewer system and/or treatment system within the County without first having received a permit therefor from the Department of Public Works.
- (b) No such permit shall be issued until complete plans and specifications for the construction, alteration or extension, together with such information as the Department may require, have been submitted to and approved by the Department of Public Works and the County Health Department.
- (c) All construction, alteration and extension of such water supply or waste water collection systems shall comply strictly with plans and specifications as filed with the terms of such permit. No variances

from the plans submitted therewith shall be allowed until such variances are approved by the Department of Public Works. Upon completion of any such project, the permittee shall file with the Department of Public Works a full and complete plan of the system as built.

- (d) The within section 18.108 shall not be construed to be applicable to private wells or private septic systems constructed to serve a single-family residential structure.

(C.B. 17, 1969)

Sec. 18.109. - Contracts with other political subdivisions for utility systems.

The County Executive of Howard County may enter into any contract for the connection of its water, reclaimed water, or sewer systems with those of any municipality or adjoining counties for the purchase of water or reclaimed water and for the disposal of sewage and other drainage from the metropolitan district, and enter into any agreement concerning any other matters deemed by the County Executive to be necessary or advisable for the proper construction, maintenance and operation of the water, reclaimed water, and sewerage systems, whether within or outside Howard County.

(C.B. 17, 1969; C.B. 27, 2007, § 2)

Sec. 18.110. - Acquisition of existing systems.

The Director of Public Works is authorized and empowered to purchase or acquire by gift any existing water or sewer systems in Howard County which, in his discretion and his judgment, are desirable and necessary for the purpose of providing adequate water or sewerage or both for the residents of Howard County, provided that such purchases or acquisitions are approved by the County Executive and the County Council of Howard County.

(C.B. 17, 1969)

Sec. 18.111. - Taking over privately owned systems.

- (a) Whenever the Department of Public Works shall have extended its water supply or sewerage system up to and is ready to connect with any municipal or privately owned water system or sewerage system, whether operating as an independent water supply or sewerage system or as an extension of an adjacent or adjoining system or systems, and whether inside or outside of Howard County, and the Director of Public Works deems it advisable and proper for the adequate operation of the system under its jurisdiction to take over the said water or sewerage system, or extension of such system or systems, it may take over or purchase the same, subject to the approval of the County Executive and County Council, upon such terms and provisions as may be agreed upon and approved by the aforesaid, but before any part of the purchase price is paid, other than a nominal sum of money to bind the agreement, it shall be the duty of the vendor or agent to furnish a statement to the Department of Public Works and report all names and addresses of persons having interests or claims against such property whatsoever, which shall be verified by an oath in writing. Thereupon, it shall be the duty of the Director of Public Works to notify, personally or by registered mail, return receipt requested, all persons having any interest whatsoever in such property, and in addition, the Director of Public Works shall give three weeks' notice of the intention to purchase said property in a newspaper or newspapers published within said County where the properties are located and each person having any claim whatsoever against said properties shall file his or her claim with said Director of Public Works on or before the expiration date mentioned in said notice, at which time any and all persons will be heard and their rights determined by the Director of Public Works, which said hearing shall be final.



- (b) In the event of failure to agree to the purchase price or conditions of purchase of said water or sewerage system, whether privately or municipally owned, the said County Council may acquire the same by condemnation in the same manner as it is authorized to acquire land. In the condemnation of privately owned water or sewerage systems the jury shall take into consideration, as a part of their award, any payment, contribution or tax upon the respective lot owners or purchasers toward the construction of said system, and where said system or systems have been built in connection with or for the purpose of developing home sites, subdivisions or villages, or by any individuals, firm or corporation, and such system or systems have been offered as an inducement for the purchase of a lot or land, therein, the jury shall deduct from the determined value of the plant or system such sum as it may reasonably determine was added to the purchase price of said land or lots in the sale thereof for the purpose of constructing said systems.
- (c) Private owned systems shall be taken under said condemnation by the Director of Public Works free and clear of all debts and liens, but said Director of Public Works shall make a party defendant any person, firm or corporation having any recorded lien or encumbrance against the same, and the circuit court is hereby empowered and authorized to determine the respective amounts due the defendants, and from and after payment into court or to the proper parties, the Director of Public Works shall be authorized to take possession of, maintain and operate said system, whether private or municipal, as a part of its general system, and from the date of such payment all properties along the line of any water main or sewer of the system so acquired shall stand in the same relation, bear the same benefit assessment, and be subject to the same regulations and penalties as though the system so acquired had been constructed and put into operation by the Director of Public Works under the provisions of this subtitle.
- (d) Whenever there is in existence a privately owned water supply or sewerage system which, in the judgment of the Director of Public Works, is unfit, as a whole or in part, for incorporation with the Department of Public Works system, the Director of Public Works shall disregard the existence of said system or unfit part thereof and extend its system to serve the area tributary to the existing system or unfit part thereof and all the provisions of this subtitle relating to systems constructed by the Department of Public Works shall apply to said extension.
- (e) Any municipality whose system is acquired by the Director of Public Works, whether by purchase or condemnation, is hereby authorized to use the amount paid to it for said system for the purchase or redemption of any bonds or debt which may be outstanding against the same, or the County Executive and County Council may, as, a part of the purchase price of said system, assume the payment of any such outstanding bonds. The Director of Public Works shall not purchase any existing water or sewerage systems, in whole or in part, which are improperly constructed or were constructed without proper authority from the State Department of Health since the passage of the Act requiring the same and which do not meet the County standards in existence at the time of purchase.

(C.B. 17, 1969)

Sec. 18.112. - Agreements for owners or developers to construct or pay for the construction of utilities.

- (a) *Authority to Enter into Agreements.* The County may enter into an agreement with the owner or developer of property located in the metropolitan district for the construction of water, reclaimed water, or sewer systems to serve the property if the Director of Public Works determines that:
  - (1) It is inexpedient or impractical for the County to build the systems; and
  - (2) Prior to construction of the systems, adequate paved roadways and drainage systems will be in place in accordance with the provisions of title 16 of the County Code.
- (b) *Requirements.* The agreement shall provide that, at the County's sole option, the owner or developer shall either:
  - (1) Design, plan, install, and construct the water, reclaimed water, or sewer system; or

- (2) Contribute to the County the funds necessary to design, plan, install, and construct the water, reclaimed water, or sewer system.
- (c) *Partial Release.* The agreement may provide that a property owner or developer who has entered into an agreement to design, plan, install, and construct the water, reclaimed water, or sewer system may be partially released from the surety requirements of the agreement upon partial completion of the work, in accordance with criteria established by the Department of Public Works.
- (d) *Ownership of the System.* Upon completion of the water, reclaimed water, or sewer system and its acceptance by the County, it shall become the property of Howard County.
- (e) *Reimbursement:*
  - (1) Except as provided in paragraph (2) of this subsection, for a property for which a preliminary subdivision plan is approved before July 1, 2004 the agreement shall provide that the County shall rebate to the owner or developer 100 percent of the actual cost of the work performed, excluding the costs for rights-of-way, the costs of house connections and the engineering and inspections costs.
  - (2) If a property is subject to an agreement under this section and a preliminary subdivision plan for the property is approved before July 1, 2004:
    - (i) The property owner or developer may request that the County consent to amend the agreement to allow the owner or developer to enter into a private agreement with the purchasers of the subdivision lots to recover the cost of the water, reclaimed water, or sewer system; and
    - (ii) The County shall agree to the amendment if none of the subdivision's lots are owned by or under contract to an individual who plans to live in a home that will be built on the lot.
  - (3) If a preliminary subdivision plan for a property is approved on or after July 1, 2004, the property owner or developer may seek to recover the cost of the water, reclaimed water, or sewer system from the purchasers of the subdivision lots when the lots are sold, through a private agreement with the purchasers providing for payment over time, or through any other method mutually agreed upon.
- (f) *Notice to Adjacent Property Owners.* When a developer or property owner proposes to construct a water, reclaimed water, or sewer project on County open space or park property, the developer or property owner shall post the County property and place an advertisement in one local newspaper of general circulation prior to County approval of the plans. The posting and advertisement shall describe the project and state the telephone number of the developer or property owner where the citizen may call for further information and shall also provide a two-week period for such inquiries.

(C.B. 17, 1969; C.B. 70, 1988; C.B. 35, 1989; C.B. 90, 1996; C.B. 16-2004; C.B. 27, 2007, § 2)

Sec. 18.113. - Construction in public ways.

The Department of Public Works may enter upon and excavate any State, County or municipal street, road or alley, or any other public highway, for the purpose of installing or maintaining and operating the water, reclaimed water, and sewerage systems provided for under this subtitle, and it may construct, in any such street, road, alley, or public highway, a water main, sewer or drain or any appurtenance thereof, without the receipt of a permit or the payment of any charge; provided that, whenever any State, County or municipal highways are to be disturbed, the authority having control thereof shall be duly notified; and provided further, that said highway shall be repaired and left by the Department of Public Works in the same condition as, or in condition not inferior to, that existing before said highway was torn up, and that all cost incident thereto shall be borne by the Department of Public Works.

(C.B. 17, 1969; C.B. 27, 2007, § 2)

Sec. 18.114. - Reserved.

**Editor's note**— Section 1 of C.B. 66, 1997, repealed § 18.114 in its entirety. Formerly, § 18.114 pertained to permits required for excavation and/or construction on streets, etc. and derived from C.B. 17, 1969 and C.B. 45, 1972.

Sec. 18.115. - Reserved.

**Editor's note**— Section 1 of C.B. 66, 1997, repealed § 18.115 in its entirety. Formerly, § 18.115 pertained to removal of obstructions to Public Works and derived from C.B. 17, 1969.

Sec. 18.116. - Changes in grades affecting installed work.

Whenever a person (including a Department of the County, other than the Director of Public Works) changes a road, road grade or road surface, or makes any excavations or fills which require a change in the elevation of any manholes, valve boxes, meter vaults, sewer main or water mains or lines or appurtenances thereto, the Director of Public Works shall make the necessary change in the elevation of such manhole, valve box, meter vault, water main or sewer mains or lines or appurtenances thereto and charge the person (including a bureau or Department of the County) requiring the same for the actual time and materials involved and the proportionate share of the current overhead.

(C.B. 17, 1969)

Sec. 18.117. - Right of entry of County employees.

Any employee of the Department of Public Works, in the performance of official duties, upon presentation of proper credentials, may at any reasonable hour enter upon any private lands in the County for the purpose of making surveys, reading any meter, disconnecting, connecting, turning on or shutting off or repairing a water main, reclaimed water main, or sewer main and any person hindering or obstructing or refusing entry to such employee shall be punished as provided in section 18.121.

(C.B. 17, 1969; C.B. 27, 2007, § 2)

Sec. 18.118. - Publication and posting of required notice.

Any notice required by this subtitle shall be:

- (a) Published at least once each week for two consecutive weeks in one or more newspapers published in the County having a circulation in the area affected by such notice, or by giving written notice to all persons affected thereby; and
- (b) Posted in conspicuous public places in the area to be affected.
  - (1) The notice poster shall:
    - (i) Give the address of the subject property, if available.
    - (ii) Be double-sided and at least 30 inches by 36 inches in size.
    - (iii) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
    - (iv) State that construction is proposed for the subject property and include a description of the proposed project.

- (v) Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.

(C.B. 17, 1969; C.B. 62, 1987; C.B. 69, 2018, § 1)

Sec. 18.119. - Unauthorized connections.

- (a) *Connection.* A person shall not make any connection to any County water, reclaimed water, or sewer line without first having obtained permission from the Director of Public Works.
- (b) *Turning on Water.* A person shall not turn on any water or reclaimed water valve or restore any water or reclaimed water service which has been disconnected or turned off, without first having obtained permission from the Director of Public Works.

(C.B. 17, 1969; C.B. 27, 2007, § 2)

Sec. 18.120. - Reserved.

**Editor's note**— Section 1 of C.B. 66, 1997, repealed § 18.120 in its entirety. Formerly, § 18.120 pertained unlawfully discharging waste into streets and derived from C.B. 17, 1969.

Sec. 18.121. - Penalties.

- (a) *Criminal Penalties.* Any person violating any provision of this subtitle or any regulation adopted by the Department of Public Works is guilty of a misdemeanor, and on conviction is subject to a fine not exceeding \$500.00 or imprisonment not exceeding 90 days, or both. Each day that a violation continues is a separate offense.
- (b) *Civil Penalties.* Alternatively or in addition to and concurrent with all other remedies, at law or equity, Howard County may enforce the provisions of this subtitle or adopted regulations with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle or adopted regulations is a Class C offense. Each day that a violation continues is a separate offense.
- (c) *Injunctive and Other Relief.* In addition, Howard County may institute injunctive, mandamus, or other appropriate legal action or proceeding for the enforcement of this subtitle or regulation adopted by the Department of Public Works. Any court of competent jurisdiction may issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

(C.B. 17, 1969; C.B. 32, 1985; 66, 1997; C.B. 49, 2006, § 1)

Sec. 18.122. - Rules and regulations.

The Department of Public Works shall control all publicly owned water, reclaimed water, and sewer facilities in the County, and the County Executive, with the advice and recommendation of the Public Works Board, may make rules and regulations governing the use and conservation of water, reclaimed water, and sewer facilities.

(C.B. 17, 1969; C.B. 27, 2007, § 2)

Sec. 18.122A. - Regulation of discharges to the public sewerage system.

- (a) *Purpose.* The purpose of this section is to regulate the discharge of wastes into the public sewerage system pursuant, in part, to the requirements of the Federal Water Pollution Control Act, also known as the Clean Water Act and to achieve the following objectives:
- (1) To prevent the introduction of pollutants into the public sewerage system which will:
    - (i) Interfere with the operation of the treatment plant or the conveyance system;
    - (ii) Pass through the treatment plant to contaminate receiving waters; or
    - (iii) Otherwise be incompatible with any component of the public sewerage system;
  - (2) To protect both the general public and County personnel;
  - (3) To promote reuse and recycling of industrial wastewater;
  - (4) To protect the quality of treatment plant sludge, and thus, ensure efficient and safe sludge disposal alternatives;
  - (5) To enable the County to comply with its National Pollutant Discharge Elimination System (NPDES) Permit, sewage sludge requirements, and any other Federal or State laws to which the County's public sewerage system is subject.
- (b) *General Provisions:*
- (1) *Applicability.* The provisions of this section are applicable to users connected to and discharging industrial wastewater into the public sewerage system of Howard County.
  - (2) *Prohibitions.* Certain types of wastes may not be discharged into the public sewerage system. All discharges to the public sewerage system shall conform to the requirements of this section and particularly to subsection (f) "Discharge Prohibitions and Limitations" and rules and regulations made pursuant to subsection (e) "Establishment of Rules and Regulations."
  - (3) *Administration.* The Director of Public Works shall administer the provisions of this section.
  - (4) *Pretreatment and other control requirements.* The Director of Public Works shall require pretreatment or other controls for the regulation of nonconforming wastes pursuant to subsection (g), "permit system, pretreatment and other control requirements" of this section. This section incorporates National Pretreatment Regulations, set forth in 40 CFR, chapter 1, subchapter N, part 403 and parts 405 through 471.
  - (5) *Reporting and inspections.* Those users of the public sewerage system as determined by the Director shall provide the Director of Public Works with detailed information regarding the quantity and quality of their discharge, shall maintain records of this information and shall give the Director access to the premises or hauling vehicle for sampling of the discharge, and review of records pursuant to subsection (h), "monitoring and reporting" and subsection (i), "sampling and inspection" of this section.
  - (6) *Variances and appeals.* Industrial users may obtain variances from the strict application of the provisions of this section pursuant to subsection (k), "variances" of this section.

Users may appeal a decision of the Director of Public Works relating to this section to the Board of Appeals pursuant to subsection (m) of this subtitle.
  - (7) *Enforcement.* The Director of Public Works shall enforce the provisions of this section, including prohibiting discharge to the public sewerage system, publishing the names of significant violators, recovering the costs of damage to the public sewerage system and asking for civil and criminal sanctions against violators, pursuant to subsection (l), "enforcement" of this section.
- (c) *Definitions.* Unless a provision explicitly states otherwise, words and phrases used in this section have the meanings designated below:
- (1) *Act or the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

- (2) *Approval authority* means the State of Maryland Department of the Environment or other agency empowered to enforce and administer the State pretreatment program.
- (3) *Authorized representative* means:
- (i) A responsible corporate officer such as a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or
  - (ii) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; or
  - (iii) A general partner or proprietor if the industrial user is a partnership or sole proprietorship; or
  - (iv) A duly authorized representative of the individual described in subsection (i), (ii), or (iii) above, if:
    - a. The authorization is in writing and has been submitted to the Director, initially and whenever there is any change in the individual or position named in the authorization; and
    - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, e.g. the position of plant manager or a position of equivalent responsibility.
- (4) *Baltimore City* means the Government of Baltimore City, Maryland.
- (5) *Baltimore County* means the Government of Baltimore County, Maryland.
- (6) *Biochemical oxygen demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter during incubation at 20 degrees Celsius for five days expressed in milligrams of oxygen per liter of organic matter and measured in accordance with procedures set forth in 40 CFR 136.
- (7) *Building sewer* means a sewer conveying sewage from the premises of the user to the public sewerage system.
- (8) *Bypass* means the intentional diversion of wastewater from any portion of an industrial user's pretreatment facility.
- (9) *Characteristics of wastewater* means a distinguishing trait, quality, or property of wastewater such as, but not limited to, BOD, COD, SS, pH, temperature, color, odor, or toxicity.
- (10) *Chemical oxygen demand (COD)* means the quantity of oxygen utilized in the chemical oxidation of organic matter, expressed in milligrams of oxygen per liter of organic matter and measured in accordance with procedures set forth in 40 CFR 136.
- (11) *Chlorine demand* means the difference between the amount of chlorine added to sewage during the sewage treatment process and the amount of free, combined or total available chlorine remaining in that sewage after treatment.
- (12) *Cooling water* means water discharged from a use such as air conditioning, cooling or refrigeration, or water to which the only pollutant added is heat.
- (13) *County; Howard County* means the Government of Howard County, Maryland.
- (14) *Department of Public Works* means the Department of Public Works of the Howard County Government.
- (15) *Direct discharge* means the discharge of treated or untreated sewage directly to the waters of the State.

- (16) *Director or Director of Public Works* means the Director of Public Works of Howard County or an authorized official representing the Director.
- (17) *Effluent—Treatment plant effluent* means the discharge to receiving waters from a sewage treatment plant after sewage treatment.
- (18) *Environmental Protection Agency (EPA)* means the U.S. Environmental Protection Agency. Where appropriate, the Administrator or duly authorized official of the agency.
- (19) *Freon soluble waste* means fats, greases and oils, extractable from sewage in accordance with procedures set forth in 40 CFR 136.
- (20) *Garbage* means solid waste from the preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
- (21) *Groundwater* means water other than surface water entering the public sewerage system through defective pipes, pipe joints, building sewers or manhole walls.
- (22) *Industrial sewage or industrial wastewater* means wastes, sludges or pollutants resulting from a process or operation of industry, manufacture, trade or business (other than a trade or business that generates only sanitary wastewater) and discharged to the public sewerage system through a service connection or by a waste hauler, including nondomestic waste or pollutants from any source regulated under section 307(b) or (c) of the Act, such waste being referred to in the Act as "indirect discharge."
- (23) *Industrial user* means a user who discharges, causes or permits the discharge of industrial sewage to the public sewerage system, including wastewater which is hauled or conveyed to the sewage treatment plant.
- (24) *Interference* means a discharge which alone, or in conjunction with discharge(s) from other sources:
- (i) Inhibits or disrupts the public sewerage system, its treatment processes or operations, or its sludge processes (sludge use or disposal); and
  - (ii) Is a cause of:
    - a. A violation of any requirement of the treatment plant's NPDES permit (including an increase in the magnitude or duration of a violation); or
    - b. The prevention of sewage sludge use or disposal in accordance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations):
      - 1. Section 405 of the Act;
      - 2. The Solid Waste Disposal Act (SWDA) including:
        - i. Title II, more commonly referred to as the resource conservation and Recovery Act (RCRA); and
        - ii. The Maryland Sludge Management Plan prepared pursuant to subtitle D of the SWDA;
      - 3. The Clean Air Act;
      - 4. The Toxic Substances Control Act; and
      - 5. The Marine Protection, Research and Sanctuaries Act.
- (25) *Metering facilities or metering device* means all structures, equipment and devices necessary to monitor the volume, flow variations and pollutant concentrations of sewage discharged to the public sewerage system, including access points for sewage sampling.
- (26) *National Categorical Pretreatment Standard or categorical pretreatment standard* means a regulation containing pollutant discharge limits promulgated by the EPA in accordance with

section 307(b) and (c) of the Act which applies to a specific category of industrial users and which appears in 40 CFR, chapter 1, subchapter N, parts 405 through 471.

- (27) *National Prohibitive Discharge Standard* or *prohibitive discharge standard* means prohibitions against the discharge of certain substances into the public sewerage system. These prohibitions appear in subsection (f) of this section.
- (28) *New source* has the meaning stated in 40 CFR 403.3.
- (29) *Nonconforming waste* means any solid, liquid or gaseous material, substance or waste which, if discharged to the public sewerage system in sufficient quantity or concentration, would violate or contribute to a violation of:
  - (i) Any standards or requirements established pursuant to subsection (e) "establishment of rules and regulations" of this section;
  - (ii) Any prohibitions specified in subsection (f) "discharge prohibitions and limitations" of this section.
- (30) *NPDES permit* means the National Pollutant Discharge Elimination System permit issued to a sewage treatment plant or other source of direct discharge by the State.
- (31) *Owner* means an individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity or their legal representatives, agents or assigns registered as owning a property or improvement in Howard County, or registered as owning a vehicle used to haul sewage for disposal in Howard County.
- (32) *Pass-through* means a discharge which exits the public sewerage system into waters of the United States in quantities or concentrations which, alone or in conjunction with discharge(s) from other sources, causes a violation of any requirement of the public sewerage system's NPDES permit (including an increase in the magnitude or duration of a violation).
- (33) *Patapsco Sewage Treatment Plant* means the sewage treatment plant owned by Baltimore City and located on the Patapsco River.
- (34) *pH* means the logarithm of the reciprocal of the hydrogen ion concentration of a solution which indicates intensity of acidity and alkalinity of sewage on a scale running from zero to 14. A pH of 7.0 represents neutrality, a pH above 7.0 represents alkalinity, and a pH below 7.0 represents acidity.
- (35) *Pollutant* means a contaminant or a regulated characteristic of wastewater, toxic or otherwise, which is added to sewage as a result of commercial, institutional, or industrial processes, or as a result of other human activity.
- (36) *Pretreatment* means reduction of the amount of pollutants, elimination of pollutants, or alteration of the nature of pollutant properties in sewage to a less harmful state prior to or in lieu of discharging or otherwise introducing pollutants into the public sewerage system. Pretreatment can be obtained by physical, chemical or biological methods, or changes in operating processes, except as prohibited by 40 CFR, section 403.6(d).
- (37) *Pretreatment requirements* means a substantive or procedural requirement related to pretreatment, other than a National Categorical Pretreatment Standard, which Howard County or the State imposes on an industrial users.
- (38) *Public sewerage system* or *sewerage system* means the system of sewers, pumping stations, treatment plants and other appurtenant structures used for the purpose of collecting and treating sewage and which is:
  - (i) Owned and controlled by Howard County, or
  - (ii) Owned by Baltimore County, Baltimore City, or other jurisdiction and through agreement, is used for the purpose of collecting and treating sewage from Howard County.



This definition includes "publicly owned treatment works" as defined by section 212 of this Act (33 U.S.C. § 1292).

- (39) *Sanitary sewage* or *sanitary wastewater* means wastes, including sludges, from the sanitary conveniences (toilets, rest rooms, sinks, showers, septic tanks, etc.) of dwellings, apartment buildings, commercial establishments, institutions and industrial establishments that are free of stormwater, groundwater and industrial sewage and which are discharged to the public sewerage system through a service connection or by a waste hauler.
- (40) *Severe property damage* means:
- (i) Substantial physical damage to property; or
  - (ii) Damage to the treatment facilities which causes them to become inoperable; or
  - (iii) Substantial and permanent loss of natural resources, which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (41) *Sewage* or *wastewater* means any combination of sanitary and industrial sewage discharged to the public sewerage system through a service connection or by a waste hauler and any groundwater and stormwater present.
- (42) *Sewage treatment plant* or *treatment plant* means a combination of structures and devices for the purpose of treating sewage, which structures and devices are:
- (i) Owned and operated by Howard County, or
  - (ii) Owned by Baltimore County, Baltimore City or other jurisdiction and, through agreement, treat sewage from Howard County.
- (43) *Significant industrial user* means an industrial user of the public sewerage system who:
- (i) Is subject to national categorical standards; or
  - (ii) Discharges an average of 25,000 gallons or more per day of process wastewater (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); or
  - (iii) Contributes a process wastestream that makes up five percent or more of the total hydraulic or organic capacity of the public sewerage system; or
  - (iv) Is found by the County, the State or EPA to have significant impact or the potential to have a significant impact, either singly or in combination with other contributing industrial users on the operation of the public sewerage system or its effluent quality, sludge quality, or air emissions.
- (44) *Sludge* means the slurry containing insoluble material which is removed from wastewater during treatment and disposed of separately from the remaining effluent.
- (45) *Slug* means any significant discharge to the public sewerage system of water, sewage, or industrial sewage which, in concentrations of any given constituent or quantity of flow, could cause interference with the operation of the public sewerage system, pass-through the sewage treatment plant, endanger sewer worker safety, contaminate the sludge, or cause a violation of any permit issued to the public sewerage system.
- (46) *Standard* or *pretreatment standard* means a numerical or other limitation established to limit the quantity or concentration of a specified pollutant contained in sewage discharged to the public sewerage system. Standard includes prohibitive discharge standards, categorical pretreatment standards, and local limits.
- (47) *Standard Industrial Classification (SIC)* means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

- (48) *State* means the State of Maryland Department of the Environment or other Maryland agency empowered to enforce the State pretreatment program.
- (49) *Storm drain* means a pipe or system of pipes and appurtenances, the purpose of which is to carry stormwater, surface water, groundwater, or other natural runoff of unpolluted waters from any source.
- (50) *Suspended solids (SS)*: means the determination of the dry weight expressed in milligrams per liter of solids that either float on the surface or are in suspension and which can be removed from sewage in accordance with procedures given in 40 CFR 136.
- (51) *Toxic pollutant* means a pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of EPA under provisions of the Clean Water Act, section 307(a) or other acts.
- (52) *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user.
- (53) *User or public sewerage system user* means the owner of a residential property or improvement in Howard County which discharges, causes or permits the discharge of sewage to the public sewerage system, or the owner, tenant, licensee or any other person in possession of a property or improvement in Howard County, other than a residential property or improvement, which discharges, causes or permits the discharge of sewage to the public sewerage system, or a waste hauler.
- (54) *Waste hauler* means the owner, renter, licensee or any other person in lawful possession of a vehicle used to haul sewage for disposal to the public sewerage system in Howard County.
- (55) *Wastewater* includes "sewage," "industrial sewage," and "sanitary sewage".

(d) *Abbreviations.* The following abbreviations are used in this section:

°C	Temperature in degrees Celsius
°F	Temperature in degrees Fahrenheit
CFR	Code of Federal Regulations
mg/l	Milligrams per liter
USC	United States Code
COMAR	Code of Maryland Regulations

(e) *Establishment of Rules and Regulations:*

- (1) *Administration and enforcement.* The Director of Public Works may prepare and promulgate rules, regulations and procedures to carry out and enforce the provisions of this section.
- (2) *Standards and requirements for quality and quantity of sewage discharge.* The Director of Public Works may establish standards and requirements in addition to the requirements of this section to regulate the quantity and quality of sewage discharged to the public sewerage system

by industrial users. The standards may vary from one portion of the public sewerage system to another, dependent upon the sewage treatment plant to which the portion is tributary. Standards for portions of the public sewerage system which are tributary to a treatment plant or sewerage system outside of Howard County shall be at least as stringent as those established by the jurisdiction operating the treatment plant or sewerage system. Standards and requirements established by the Director of Public Works may be more stringent than those established by other regulatory agencies or jurisdictions.

- (3) *Factors to be considered in establishing standards and requirements.* In establishing the standards and requirements, the Director shall take into consideration:
- (i) Measured pollutant concentrations in untreated sewage received at the sewage treatment plant.
  - (ii) Pollutant concentrations in sewage which would interfere with biological and physical treatment processes, which would be toxic to biological treatment processes, or which would cause a decrease in treatment process efficiency.
  - (iii) Pollutant concentrations in sewage received at the treatment plant which would constitute a hazard to persons exposed to the pollutant concentrations.
  - (iv) Pollutants in sewage received at the treatment plant which would not be susceptible to removal or reduction in concentration during sewage treatment.
  - (v) Pollutant concentrations in treatment plant effluent which would cause a violation of the treatment plant's NPDES permit requirements.
  - (vi) Pollutant concentrations in the treatment plant effluent which would constitute a hazard to the biota of receiving waters.
  - (vii) Pollutant concentrations in sludge produced at the treatment plant which would reduce its utility and disposal alternatives.
  - (viii) The flow rate in the sewers tributary to the treatment plant.
  - (ix) The flow rate and volume of the industrial user's discharge.
  - (x) Guidelines and standards established by the State and EPA.
  - (xi) Standards and requirements established by Baltimore City, Baltimore County or other appropriate jurisdiction for sewage discharged into public sewers tributary to sewage treatment plants owned and controlled by those jurisdictions.
  - (xii) Discharge prohibitions and limitations specified in subsection (f).
- (4) *Standards and requirements which supersede Director's standards and requirements:*
- (i) *National Categorical Pretreatment Standards.* The National Categorical Pretreatment Standards promulgated by EPA for a particular category of industrial users shall be imposed where applicable. These standards are published by EPA in 40 CFR chapter 1, subchapter N, parts 405 through 471. Applicable reporting requirements are published by EPA in 40 CFR 403.12.
  - (ii) *National Prohibitive Discharge Standards.* The National Prohibitive Discharge Standards promulgated by EPA shall, if more stringent, supersede standards and requirements established by the Director.
  - (iii) *State pretreatment standards and requirements.* Pretreatment standards and requirements established by the State shall, if more stringent, supersede standards and requirements established by the Director. These standards and requirements are published by the State in COMAR title 26, subtitle 08, chapter 08 "Pretreatment Requirements to Control Industrial Users of Publicly Owned Treatment Works".

- (iv) *Baltimore City and Baltimore County standards and requirements.* Pretreatment standards and requirements established by Baltimore City and Baltimore County for industrial users serviced by the Patapsco Sewage Treatment Plant, if more stringent, supersede standards and requirements established by the Director. These standards and requirements are published in:
    - a. Baltimore City Code, article 25, amended by ordinance 775, section 7 "control and pretreatment of industrial wastewater"; and
    - b. Baltimore County Code, division 5, "wastewater regulations," sections 35.286 through 35.317.
- (f) *Discharge Prohibitions and Limitations:*
- (1) *Prohibited discharges—General.* No user shall discharge or cause to be discharged to the public sewerage system any solid, liquid or gaseous waste, including constant or slug discharges, containing toxic or nontoxic pollutants of a concentration, character or quantity that would:
    - (i) Interfere with or be toxic to the biological and physical treatment processes in use at the sewage treatment plant.
    - (ii) Reduce the efficiency of the sewage treatment plant operation.
    - (iii) Constitute a hazard to the biota of waters receiving sewage treatment plant effluent.
    - (iv) Not be susceptible to treatment and which would pass through the sewage treatment plant to the receiving waters inadequately treated.
    - (v) Cause the sewage treatment plant to violate its NPDES permit.
    - (vi) Reduce the utility or disposal alternatives of the sewage sludge produced at the sewage treatment plant.
    - (vii) Exceed applicable standards promulgated by the Administrator of the EPA pursuant to section 307 of the Act.
    - (viii) Exceed applicable pretreatment standards promulgated by the State, including standards pursuant to section 9-314 of the environment article of the Annotated Code of Maryland.
    - (ix) Interfere with, hinder operation of, or cause damage to any portion of the public sewerage system.
    - (x) Exceed standards and requirements established by the Director.
    - (xi) Contain petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through.
    - (xii) Result in the presence of toxic gases, vapors, or fumes within the public sewerage system in a quantity that may endanger worker health and safety.
  - (2) *Discharge from downspouts, drains, etc.* No user shall discharge or cause to be discharged to the public sewerage system stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or uncontaminated industrial process water.
  - (3) *Flammable or explosive waste.* No user shall discharge or cause to be discharged to the public sewerage system a flammable or explosive solid, liquid or gaseous waste which by itself or by interaction with other wastes found in sewage could create or cause fire or explosive hazard. In addition, no user shall discharge wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.
  - (4) *High-temperature waste.* No user shall discharge or cause to be discharged to the public sewerage system a solid, liquid or gaseous waste of sufficiently high temperature as to cause damage to the public sewerage system, to interfere with the operation of any component of the sewerage system, to inhibit biological processes at the sewage treatment plant, or to produce

vapors hazardous to personnel working in and around the sewerage system. Temperatures shall not be higher than 150 degrees Fahrenheit (65 degrees Celsius) at the point of discharge to the public sewerage system, and shall not cause the temperature of the influent to the sewerage treatment plant to exceed 140 degrees Fahrenheit (60 degrees Celsius).

- (5) *Obstructive waste.* No user shall discharge or cause to be discharged to the public sewerage system a solid or viscous waste or sludge in quantities or size capable of causing obstruction to the flow in the public sewerage system or interference with the operation of any component of the sewerage system.
- (6) *Noxious or malodorous waste.* No user shall discharge or cause to be discharged to the public sewerage system a noxious or malodorous solid, liquid or gaseous waste which, by itself or by interaction with other wastes found in sewage, is capable of creating a public nuisance or hazard to life or of preventing entrance into the public sewerage system for maintenance and repair.
- (7) *Radioactive waste.* No user shall discharge or cause to be discharged to the public sewerage system a radioactive solid, liquid or gaseous waste in quantities or concentrations exceeding limits given in title 8, "radiation" of the environment article of the Annotated Code of Maryland.
- (8) *Freon soluble waste.* No user shall discharge or cause to be discharged to the public sewerage system free or emulsified Freon soluble wastes such as oils, fats and greases in concentrations of greater than 100 mg/l. The Director may impose additional restrictions where these wastes will solidify or become viscous at normal temperatures of sewage (32 degrees Fahrenheit to 150 degrees Fahrenheit) and it is probable that they will collect in sewer lines or interfere in any way with public sewerage system operation. The Director may permit a higher concentration of Freon soluble waste if he determines that the waste will not have a deleterious effect on the public sewerage system and the user has previously provided measures or controls acceptable to the Director to limit the discharge of the Freon soluble waste.
- (9) *Garbage.* No user shall discharge or cause to be discharged to the public sewerage system any garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions prevailing in the public sewerage system. Each industrial user must obtain the approval of the Director before installing or operating any garbage grinder equipped with a motor of three-fourths horsepower or greater.
- (10) *Corrosive waste.* No user shall discharge or cause to be discharged to the public sewerage system a solid, liquid or gaseous waste which would in any way attack or corrode any component of the public sewerage system. All wastes shall have pH values in the range of six to ten standard units. Wastes found in sewage to form products not in conformance with these limitations are prohibited.
- (11) *Colored waste.* No user shall discharge or cause to be discharged to the public sewerage system concentrated dye waste or other wastes high in color which are sufficiently strong to affect the color of the treatment plant influent or effluent.
- (12) *Unacceptable load on treatment plant.* No user shall discharge or cause to be discharged to the public sewerage system a solid, liquid or gaseous waste which would exert a biochemical oxygen demand, chemical oxygen demand or chlorine demand which would constitute, in the opinion of the Director, an unacceptable load on the sewage treatment plant. No user shall discharge or cause to be discharged waste containing concentrations of inert, suspended or dissolved solids which would, in the opinion of the Director, constitute an unacceptable load on the treatment plant.
- (13) *Antibiotic waste.* No user shall discharge or cause to be discharged to the public sewerage system any antibiotic waste.
- (14) *Dilution of discharge.* No industrial user shall increase the use of process water or attempt to dilute a discharge of industrial sewage as a partial or complete substitute for pretreatment to achieve compliance with National Categorical Pretreatment Standards, or any other standard or requirement established by the State or established by the Director pursuant to this section.

- (15) *Discharge deleteriously affecting waters of the State.* No person shall discharge wastes into any storm drain which would constitute a "direct discharge" or which would deleteriously affect the quality of the receiving waters as defined by the water quality standards established by the State. No wastes shall be discharged prior to notification of the State and the issuance of a NPDES permit to the discharger if required.
- (16) *Trucked or hauled pollutants.* No person shall discharge trucked or hauled sewage or pollutants to the public sewerage system except at discharge points designated by the Director.
- (g) *Permit System; Pretreatment and Other Control Requirements:*
- (1) *Discharge of nonconforming wastes.* The Director of Public Works may prohibit the discharge or proposed discharge to the public sewerage system of nonconforming wastes.
- (2) *Permit system.* The Director of Public Works shall implement a sewage discharge permit system to control the discharge or proposed discharge of sewage to the public sewerage system from industrial users or from waste haulers.
- (i) *Fees.* The Director may establish fees to cover, in whole or in part, the cost of operating a permit system. Any schedule of fees shall be adopted annually by resolution of the County Council.
- (ii) *Permit application:*
- a. *Potential industrial users.* Potential industrial users, not including waste haulers, proposing to discharge sewage to the public sewerage system shall conform to the requirements of this section and shall acquire a permit. In accordance with procedures established by the Director for review of site development and construction plans, any potential industrial user desiring to connect a proposed building to the public sewerage system shall submit an application for discharge permit and provide other information requested pursuant to subsection (h)(1). In accordance with procedures established by the Director for the review of building permit and plumbing permit applications, any potential industrial user desiring to locate in an existing building connected to the public sewerage system or any potential industrial user desiring to connect an existing building to the sewerage system shall submit an application for discharge permit and other information requested pursuant to subsection (h)(1).
- b. *Existing industrial users.* Existing industrial users currently discharging or proposing to discharge a new, modified, or significantly changed waste stream to the public sewerage system shall conform to the requirements of this section and shall acquire a permit. In accordance with procedures established by the Director, the existing user shall submit an application for discharge permit, or an application for discharge permit modification, and other information requested pursuant to subsection (h)(1).
- c. *Waste haulers.* Waste haulers shall conform to the requirements of this section and shall acquire a permit. In accordance with procedures established by the Director, waste haulers shall submit an application for a discharge permit and other information requested pursuant to subsection (h)(1).
- (iii) *Draft permit:*
- a. *Existing and potential industrial users.* After review of information from an existing or potential industrial user obtained pursuant to subsection (h)(1), the Director shall issue a draft permit.
- b. *Waste haulers.* After review of information from a waste hauler obtained pursuant to subsection (h)(1), the Director shall issue a draft permit for each vehicle operated by a waste hauler discharging or proposing to discharge sewage to the public sewerage system.
- c. *Draft permit review.* The Director shall specify a reasonable period of time to allow the industrial user or waste hauler to review the draft permit and to request clarification or

revision of any of the terms or requirements. The Director may at his discretion revise the draft permit.

(iv) *Final permit:*

- a. *Final permit issuance.* Once the specified review period has passed and the Director has considered any comments received on the draft permit, the Director shall issue a final permit, the terms of which shall be adhered to by the industrial user or waste hauler.
- b. *Industrial users.* No industrial user shall connect to or discharge sewage to the public sewerage system until applicable provisions of this section are adhered to by the user and a permit has been issued.
- c. *Waste haulers.* Prior to issuance of a permit to a waste hauler, the waste hauler shall provide proof acceptable to the Director that all other permits required by law or regulation have been issued, including the permit issued by the Howard County Health Department. The Director may refuse issuance of a permit to a waste hauler if the hauler has had a permit revoked in Howard County or in another jurisdiction or has repeatedly violated the laws or regulations governing the hauler's operation in Howard County or in another jurisdiction. No waste hauler shall discharge sewage to the public sewerage system without a permit issued pursuant to this section.

(v) *Provisions of permit—Industrial user.* A permit issued to an industrial user shall contain the following provisions as appropriate:

- a. Name, address and telephone number of industrial user;
- b. Effective date and expiration date of permit;
- c. Effluent limitations;
- d. Effluent monitoring activity;
- e. Reporting requirements;
- f. Compliance requirements;
- g. Notification and record keeping requirements;
- h. A statement of applicable civil and criminal penalties for violations of pretreatment standards, and requirements, or compliance schedules;
- i. Requirements for the control, reduction, elimination or prohibition of nonconforming wastes;
- j. Requirements and standards for the pretreatment, flow reduction, flow equalization or storage of nonconforming wastes;
- k. Any liability for payment of charges and surcharges as provided in title 20, subtitle 3 "Water and Sewer Charges and Assessments" of the Howard County Code;
- l. Requirements for the submission of an operating plan;
- m. A compliance schedule identifying time frames for the construction of required facilities, for the implementation of other specified requirements, and for submission of progress reports. If an industrial user is affected by a national categorical pretreatment standard, the compliance schedule shall conform with the time limitations set forth in section 307 of the Federal Water Pollution Control Act as amended;
- n. Any other requirement of the Director.

(vi) *Provisions of permit—Waste hauler.* A permit issued to a waste hauler shall specify:

- a. Prohibitions on the discharge or transport of nonconforming waste;

- b. Access points and time periods for sewage discharge;
  - c. Procedures for sewage discharge;
  - d. Liability for payment of charges and surcharges as provided in title 20, subtitle 3 "Water and Sewer Charges and Assessments" of the Howard County Code;
  - e. Requirements and conditions for the disposal of industrial sewage;
  - f. Any other requirement of the Director.
- (vii) *Duration of permits.* A permit shall be issued for a specified time period, not to exceed five years.
- (viii) *Modification of permits.* A permittee shall operate pursuant to the provisions of the permit. The Director may modify the provisions:
- a. To reflect modifications, amendments, or revisions of Federal, State, or local pretreatment regulations or standards;
  - b. At the request of the permittee, to reflect changes in the permittee's operations;
  - c. To reflect changes in the permittee's ownership, address, or water/sewer account number.
- (ix) *Transferability of permits.* Except with the prior written approval of the Director, a permit to discharge to the public sewerage system shall not be reassigned, transferred, sold, or assigned to different premises.
- (x) *Appeal.* An industrial user or waste hauler may appeal the final permit in accordance with subsection (m) "appeals" of this section.
- (3) *Modification of process; requirement for pretreatment; provision for waste disposal.* As required by the Director, an industrial user who discharges or proposes to discharge nonconforming wastes to the public sewerage system shall:
- (i) Modify an industrial process in order to reduce or eliminate the discharge of nonconforming wastes; and/or
  - (ii) Provide for the control, pretreatment, flow reduction, flow equalization or storage of nonconforming wastes; and/or
  - (iii) Submit for approval a schedule specifying the shortest time frame for the industrial user to achieve compliance with this section, or State or Federal pretreatment standards or requirements. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of the pretreatment measures and facilities required to bring the industrial user into compliance; and/or
  - (iv) Prevent the discharge and provide for the transport of the nonconforming wastes to a location or facility where disposal of the wastes is legally permitted. The Director may require the submission of proof, acceptable to the Director, that the nonconforming wastes were disposed of at a legally permitted location or facility.
- (4) *Progress reports from industrial users.* When required by the Director, an industrial user shall submit periodic progress reports at time intervals specified in the compliance schedule detailing progress toward compliance with the permit. Each progress report shall specify, as a minimum, whether or not the user complied with the increment of progress to be met on a specified date and, if not, the date on which the user expects to comply with this increment of progress; the reason for any delay and the steps being taken by the user to adhere to the established schedule.
- (5) *Facilities approved by the Director of Public Works.* If facilities for pretreatment, flow reduction, flow equalization, control or storage of nonconforming wastes are required for an existing or



potential industrial user, detailed engineering plans and specifications for the facilities shall be submitted to the Director. No work shall commence on construction or alteration of the facilities without the Director's approval of the plans and specifications.

- (6) *Meet other requirements of law:*
  - (i) Facilities for pretreatment, flow reduction, flow equalization, control or storage of nonconforming wastes shall conform with the requirements of all applicable codes, ordinances, laws and regulations and all required permits shall be obtained.
  - (ii) An industrial user shall comply with the most stringent standard, regulation and requirement established in the following:
    - a. The Federal Pretreatment Regulations in 40 CFR 403;
    - b. Any applicable current or future Federal Categorical Pretreatment Standards set out in 40 CFR parts 401 through 471;
    - c. This section; and
    - d. All applicable Federal, State, or local requirements or standards.
- (7) *Operating plans.* Where the discharge to the public sewerage system of nonconforming wastes is prohibited or eliminated, operating procedures for the user shall be prepared in a manner acceptable to the Director and shall be submitted to the Director for review and approval. The procedures shall address the management, control, handling and storage of the nonconforming wastes to ensure that these wastes are not discharged to the public sewerage system, including in the event of accidental spillage. Where facilities for pretreatment, flow reduction, flow equalization, control or storage of nonconforming wastes are required, operating procedures for the facilities shall be submitted to the Director for review and approval. Approved operating procedures shall be adhered to and shall not be altered without prior approval of the Director.
- (8) *Responsibility for operation and maintenance.* Where facilities for pretreatment, flow reduction, flow equalization, control or storage of nonconforming waste are constructed as required, the industrial user shall, at the user's expense, provide for the continuous and satisfactory operation and maintenance of the facilities.
- (9) *Industrial pretreatment equipment bypass:*
  - (i) *Bypass prohibited.* An industrial user shall not allow wastewater to bypass any on-site wastewater pretreatment equipment. Adequate backup equipment shall be installed for the purpose of preventing a bypass from occurring. Maintenance activity required for the efficient, reliable operation of the facility's pretreatment system shall be performed during normal periods of equipment downtime, through the use of auxiliary pretreatment equipment, retention of untreated waste, or through other means so that the discharge of untreated wastewater is prevented.
  - (ii) *Exceptions to enforcement.* The Director may take enforcement action against an industrial user for a bypass unless:
    - a. It was unavoidable to prevent loss to life, personal injury, or severe property damage;
    - b. The industrial user submitted notices as required under "bypass notice"; and
    - c. There were no feasible alternatives to the bypass.
  - (iii) *Bypass notice.* An industrial user shall provide an oral report of an unanticipated bypass to the Director within 24 hours from the time the industrial user becomes aware of the bypass. A written report shall also be submitted within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain:
    - a. A description of the bypass and its cause;
    - b. The duration of the bypass, including exact dates and times;

- c. Whether or not the bypass has been corrected and, if not, the anticipated time it is expected to continue; and
  - d. Steps taken or planned to reduce, eliminate and prevent recurrence of the bypass.
- (10) *Waste haulers.* Waste haulers shall discharge wastes to the public sewerage system only at access points and during time periods specified by the Director and according to procedures specified by the Director. Only wastes originating in Howard County shall be discharged into the public sewerage system in Howard County by waste haulers. Any vehicle used to haul sewage for disposal to the public sewerage system in Howard County shall be subject to inspection at any reasonable time by the Director. The vehicle operator shall, upon request, allow the Director to review documents which are to be carried on the vehicle, including the customer log and required permits. The Director may obtain flow measurements and samples of sewage intended for discharge to the public sewerage system prior to or during the discharge.
- (h) *Monitoring and Reporting:*
  - (1) *Information required.* Existing and potential industrial users and waste haulers may be required to furnish information relating to their processes and operations, and covering the quantity, quality and flow properties of sewage discharged or proposed for discharge to the public sewerage system. Existing and potential industrial users, and waste haulers, may be required to submit plans, reports, questionnaires, notices, applications, or analytical data to evaluate waste discharge characteristics and to ensure compliance with this section. The information shall be submitted in format and content acceptable to the Director and within a reasonable period of time as specified by the Director. Reports providing information required by this section shall include a signed certification statement acceptable to the Director. Reports submitted by significant industrial users shall include the certification statement as specified in 40 CFR 403.6(a)(2)(ii). Reports and certification statements shall be signed by an authorized representative of the industrial user. The required information, reports, and other documents may include:
    - (i) Name, address and location (if different from address) of user;
    - (ii) SIC code of user;
    - (iii) Sewage constituents and characteristics as determined by a reliable analytical laboratory using sampling and analysis methods acceptable to the Director;
    - (iv) Time and duration of discharge;
    - (v) Average daily and peak sewage flow rates, including daily, monthly and seasonal variations, if any;
    - (vi) Site plans, floor plans, mechanical and plumbing plans and details showing sewers, sewer connections and appurtenances by size, location and elevation;
    - (vii) Description of activities, facilities and processes on the premises, including all pollutants which are or could be discharged;
    - (viii) Each product by type, amount, process or processes and rate of production;
    - (ix) Type and amount of raw materials processed or to be processed (average and maximum per day);
    - (x) Number and type of employees, hours of plant operation, and hours of operation of any existing or proposed pretreatment facility;
    - (xi) Baseline monitoring report;
    - (xii) Compliance report;
    - (xiii) Periodic self-monitoring report;
    - (xiv) Compliance schedule progress report;

- (xv) Waste management and spill control plan;
  - (xvi) Chemical storage report;
  - (xvii) Violation report;
  - (xviii) Notification of slug loading;
  - (xix) Notification of upset or bypass of required pretreatment facility;
  - (xx) Any report required by 40 CFR 403.12;
  - (xxi) Any other information as required by the Director.
- (2) *Metering, when requested data is not available.* Where the requested data is not available, the Director may require the installation of metering facilities to obtain the data. The facilities shall be approved by the Director prior to installation and shall be installed within a time frame acceptable to the Director.
- (3) *Other methods of computing flow data.* Where the Director determines that the installation and use of metering facilities by an industrial user is not feasible or warranted, flow data shall be computed using a method approved by the Director. Where applicable, computed flow data shall be based on historical records for industrial users having similar sewage flow characteristics.
- (4) *Reporting requirements and records maintenance:*
- (i) *Industrial users—Records.* Industrial users shall, when requested by the Director, measure flows and shall perform regular analyses of sewage discharged as required by the Director. Industrial users shall maintain records of sewage flows, analyses, operations and production data to demonstrate compliance with this section and as a basis for computing applicable charges and surcharges. Minimum recordkeeping requirements for significant industrial users are specified in 40 CFR 403.12(o).
  - (ii) *Waste haulers—Records.* Waste haulers shall maintain operating records as required by the Director, including information regarding the source(s) of sewage discharged to the public sewerage system. The records shall be maintained to demonstrate compliance with this section and as a basis for computing applicable charges and surcharges. Waste haulers shall maintain a customer log which shall identify each customer serviced and shall provide information related to the quality and quantity of the waste collected. The log, a copy of the permit issued pursuant to this section, and a copy of the permit issued by the Howard County Health Department shall be carried on the hauling vehicle at all times.
  - (iii) *Format of records.* Industrial users and waste haulers shall maintain records and logs in format and content acceptable to the Director.
  - (iv) *Reports:*
    - a. *General reporting requirements.* Industrial users and waste haulers shall submit logs, periodic reports and other reports as required by the Director. The format and content of the reports and logs shall be acceptable to the Director. Records maintenance and periodic reporting requirements shall be specified in the permit. Requirements for other reports shall be specified when requested by the Director.
    - b. *Minimum reporting requirements for significant industrial users.* In the case of industrial users affected by national pretreatment regulations, the content, format, and timing of the reports shall conform, as appropriate, to the requirements of the national regulations. Minimum reporting requirements for significant industrial users are specified in 40 CFR 403 and 40 CFR parts 405 through 471. All reports shall include a signed certification statement as specified in subsection (h)(1) of this section.
  - (v) *Availability for review.* All records maintained by the industrial user or waste hauler relating to compliance with this section shall be available for review and copying by the Director or authorized official representing the State or EPA. Records of an industrial user or waste

hauler shall be retained for a minimum of three years. This period shall be extended during any litigation concerning compliance with this section or permit conditions.

- (vi) *Wastewater analyses and sampling.* All analyses and sampling techniques performed in support of any application, report, proof of compliance, or as required by permit or by order of the Director, shall be performed in accordance with 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question or where the EPA Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods of any other applicable sampling and analytical procedures, acceptable to the Director or other persons approved by the EPA Administrator.
- (vii) *Resampling requirements.* If sampling performed by a significant industrial user indicates a violation, the user shall notify the County within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within 30 days after becoming aware of the violation. However, the industrial user is not required to resample if:
  - a. The County performs sampling at the industrial user at a frequency of at least once per month; or
  - b. The County performs sampling at the industrial user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.
- (5) *Responsibility for installing and maintaining permanent measurement facilities.* The industrial user shall provide and maintain at the user's expense, permanent measurement and metering facilities in order to obtain required data. The industrial user shall install measurement facilities in a time frame acceptable to the Director as specified in the permit.
- (6) *Notification of hazardous waste discharges.* An industrial user shall notify the Director of any discharge or potential discharge to the public sewerage system of a waste which could be considered hazardous waste under 40 CFR 261. The industrial user shall also notify the State and Federal Hazardous Waste Authorities of these wastes in accordance with 40 CFR 403.12(P).
- (7) *Change in character or volume of sewage.* An industrial user shall notify the Director in writing of any anticipated substantial change, either temporary or permanent, in the volume or character of pollutants in the user's discharge (including the hazardous waste for which the industrial user has submitted initial notification under subsection (h)(6)) at least four weeks prior to the anticipated change. An industrial user shall also notify the Director of any anticipated substantial change in operations, either temporary or permanent, which would differ from the approved operating plan previously prepared by the industrial user. The proposed change shall not violate the requirements established pursuant to subsection (e) "establishment of rules and regulations," or requirements established pursuant to subsection (g) "permit system; pretreatment and other control requirements" or the provisions of subsection (f) "discharge prohibitions and limitations" of this section. If the proposed change necessitates issuance or revision of a permit or plan, the change shall not take place until the permit or plan is issued or revised.
- (8) *Access to data submitted by industrial users.* Information and data on an industrial user obtained from reports, questionnaires, monitoring reports, inspections and from other sources shall be available to the public and to government agencies without restriction unless the user, at the time of submission of the data, specifically requests and is able to demonstrate under the terms of the Maryland Public Information Act that the release of the information would divulge information on processes or methods of production entitled to protection as trade secrets of the user. When requested by the industrial user, the portions of the information or data which are demonstrated to be trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request by government agencies for

uses related to this section. The information shall also be available for use by the State or any State agency in judicial review or enforcement proceedings involving the industrial user. Sewage constituents and characteristics shall not be recognized as confidential information. Information, data and records pertaining to the implementation and enforcement of the provisions of this section shall be made available to the jurisdictions operating sewage treatment plants or sewerage systems to which sewage from Howard County is discharged.

(i) *Sampling and Inspection:*

- (1) *Facilities and flow records available for inspection.* All facilities, flow measurement records, sewage analyses records and operating and production records of an industrial user shall be subject to inspection at any reasonable time by the Director. Flow measurement and metering equipment shall be unobstructed and easily accessible for inspection.
- (2) *Access to facilities for sampling purposes.* The Director has the right of access to facilities of an industrial user at any reasonable time for the purpose of obtaining flow measurements and samples of sewage intended for discharge to the public sewerage system. The user shall provide convenient points of access from which flow measurements and sewage samples may be taken. The access points shall be approved by the Director. If requested by the Director, the user shall provide a manhole located outside of the building or facility at a location specified by the Director for the measurement and sampling of sewage being discharged to the public sewerage system.
- (3) *Safety rules.* During inspections and sampling operations, employees of the Department of Public Works shall observe all safety rules applicable to the premises which have been established by the industrial user.
- (4) *Right of entry.* The Director of Public Works shall have the right to enter any industrial user's or waste hauler's premises where sewage intended for discharge to the public sewerage system is produced or where records required by the provisions of this section are maintained.

(j) *Accidental or Slug Discharge:*

- (1) *Provide protection from accidental or slug discharge.* Each industrial user shall provide protection from accidental or slug discharge of nonconforming wastes. Facilities storing or using nonconforming wastes shall be subject to review and approval by the Director. The Director may require reasonable safeguards to prevent discharge or leakage of nonconforming wastes into the sewerage system.
- (2) *Notification provisions:*
  - (i) *Industrial user's responsibility.* In the event of an accidental or slug discharge as specified in subsection (j)(1) such that any provisions of this section are violated, including specific prohibitions specified in subsection (f), the industrial user shall immediately telephone the Howard County Department of Public Works and notify the Department of the incident. The notification shall include location of the discharge, type of waste, concentration, volume and corrective action taken.

Within five days of the accidental discharge, the user shall submit to the Director a detailed written report describing the time, the date, the cause of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences.

- (ii) *Director's responsibility.* If the accidental discharge is to a portion of the public sewerage system tributary to a sewerage system or sewage treatment plant outside Howard County, the Director shall immediately telephone the jurisdiction operating the sewerage system or treatment plant to give notice of the accidental discharge. The Director shall provide the operating jurisdiction with the information supplied by the industrial user concerning the accidental discharge.
- (3) *Liability.* Notification pursuant to subsection (j)(2) above shall not relieve the user of liability for any loss, damage or expense which may be incurred as a result of damage to the public sewerage system, fish kills, or any other damage to person or property. Such notification shall

not relieve the user of any fines, civil penalties or other liability which may be imposed under this section or other applicable law.

- (k) *Variances.* The Director may approve a variance to specific provisions of this section provided that the variance shall not have the effect of nullifying the intent and purposes of this section. No variance shall be given to National Categorical Pretreatment Standards, National Prohibitive Discharge Standards, National Pretreatment Requirements and State Pretreatment Standards and Requirements. When the approval of a variance would provide for less stringent standards or requirements than those established by the jurisdiction operating the treatment plant or sewerage system to which the sewage is discharged, the Director shall obtain prior permission for granting approval of the waiver from the operating authority.

(l) *Enforcement:*

- (1) *Notice of violation—Citation.* The Director shall issue a notice of violation and/or citation to any user found to be violating any provisions of this section or any rules and regulations made pursuant to it. A citation may be issued for a first violation of any provisions of this section and regulations made pursuant to it. The citation and notice of violation shall state the nature of the violation and, at the discretion of the Director, shall require the user to submit a plan and schedule for correction of the violation within an appropriate time frame as specified by the Director. The notice of violation and/or citation shall be delivered in person or by certified mail. If delivered by mail, the notice of violation and/or citation shall be sent to the user's last-known address. Notification shall be deemed to have been given at the time of deposit of the notice of violation and/or citation, postage prepaid, at a mailing location regularly serviced by the U.S. Postal Service. The Director shall review and approve the plan and schedule submitted by the user with any changes the Director considers necessary to correct the violation in a timely manner.
- (2) *Injunctive relief.* The Director may commence an action for appropriate injunctive relief in a court of law against any public sewerage system user found to be violating any provisions of this section or any rules or regulations made pursuant to it.
- (3) *Responsibility for damages.* In addition to and not in substitution for any other penalties provided in this subsection, a public sewerage system user violating the provisions of this section or any rules and regulations made pursuant to it shall be liable for monetary damage to the public sewerage system and for the expense of removing any obstruction in or repairing any damage to the public sewerage system caused by the violation.

The user shall be notified in writing by certified mail of the user's liability for monetary damage, and will be allowed 30 days for payment of the expenses. If payment is not received within 30 days, the expense shall be recovered by civil suit in the name of Howard County and/or in the name of the jurisdiction where the monetary damage occurred. If payment is not made by a waste hauler within 30 days, the waste hauler shall, after written notice mailed to the waste hauler's last-known address, be prohibited from discharging sewage to the public sewerage system until payment is received.

- (4) *Prohibiting discharge; danger to environment or sewerage system.* The Director may immediately prohibit use of the public sewerage system and, if necessary, order immediate severance of the building sewer or discontinuance of water service for a user when the Director considers the prohibition necessary in order to stop an existing or expected sewage discharge which:
- (i) Presents or is likely to present an imminent or substantial endangerment to the health or welfare of persons.
  - (ii) Presents or will likely present an imminent or substantial endangerment to the environment.
  - (iii) Causes or is likely to cause interference with the operation of the public sewerage system.
  - (iv) Causes or is likely to cause damage to the public sewerage system.

- (v) Causes or is likely to cause a violation of any provision of the sewage treatment plant's NPDES permit.
  - (vi) Is from an unknown source serviced by a waste hauler.
  - (vii) Cannot be adequately sampled or monitored to determine its properties and characteristics and is suspected of being a nonconforming waste.
  - (viii) Is being or will be discharged by a user who does not have a valid permit required under the provisions of this section.
  - (ix) Is being or will be discharged by a waste hauler who does not have a valid permit issued by the Howard County Health Department.
  - (x) Is industrial sewage and is being or will be discharged by a waste hauler who has not obtained prior permission for the discharge from the Director.
- (5) *Prohibiting discharge; information not provided by waste hauler.* A waste hauler shall provide information related to a prohibited discharge as requested by the Director. The information shall be provided within a time period established by the Director. The information provided shall be as specified by the Director and may include the source of the prohibited waste hauled, the chemical and physical properties of the prohibited waste hauled, and the discharge location used for the disposal of the prohibited waste. If the hauler does not provide the information as requested, the hauler may be prohibited from discharging sewage to the public sewerage system until the information is provided.

If a waste hauler does not maintain a valid permit issued by the Howard County Health Department, the permit issued pursuant to this section may be revoked by the Director after written notice is mailed to the waste hauler's last-known address.

- (6) *Prohibiting discharge—Repeated violations.* The Director may prohibit use of the public sewerage system by a user who has repeatedly violated the provisions of this section or any rules and regulations made pursuant to it. If necessary, the Director shall order severance of the building sewer or discontinuance of water service to prevent sewage discharge to the sewerage system.
- (7) *Removal of prohibition.* The Director shall remove a prohibition of discharge to the public sewerage system upon proof of the elimination of any sewage discharge prohibited under subsection (1)(4) and assurances, acceptable to the Director, of no further violation of the provisions of this section. The user shall submit a written report, if requested, describing the causes of any sewage discharge prohibited under subsection (1)(4) and the measures taken to prevent any future occurrence within five days of the date of the occurrence.

In the case of a discharge prohibition for a repeat offender, the Director may prohibit discharge to the public sewerage system for a specified period of time. Prior to resuming discharge, a written report providing assurances acceptable to the Director of no further violations of the provisions of this section shall be submitted by the repeat offender if requested.

After written notice mailed to a repeat offender's last-known address, the Director may permanently prohibit discharge to the public sewerage system and may revoke the permit issued pursuant to this section if a repeat offender violates any provisions of this section after the repeat offender is allowed to resume discharge to the sewerage system.

- (8) *Publicizing offenders.* The Director shall publish, annually, in the largest daily newspaper, a list of significant industrial users which, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment requirements. For the purpose of this provision, an industrial user is in significant noncompliance if the violation meets one or more of the following criteria:
- (i) Chronic violations of wastewater discharge standards, defined here as those in which 66 percent or more of all the measurements taken during a six-month period exceed (by any

magnitude) the daily maximum limit or the average maximum limit for the same pollutant parameter;

- (ii) Technical review criteria (TRC) violations of national standards, defined herein as those in which 33 percent or more of all the measurements for each pollutant parameter taken during a six-month period equaled or exceeded the product of the daily maximum limit or the average maximum limit multiplied by the appropriate TRC.

TRC = 1.4 for BOD; TSS; fats, oil, and grease

TRC = 1.2 for all other pollutants except pH

- (iii) Any other violation of a pretreatment effluent limit (daily maximum or long-term average) that the Director determines has caused, alone, or in combination with other discharges, interference or pass through, including endangering the health of County personnel or the general public;
  - (iv) Any discharge of a pollutant that has caused imminent endangerment to human health or welfare, endangerment to the environment, or has resulted in the Director's exercise of emergency authority under subsection (l)(4) or (l)(5) to halt or prevent such a discharge;
  - (v) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction, or attaining final compliance;
  - (vi) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  - (vii) Failure to accurately report non-compliance;
  - (viii) Any other violation or group of violations which the Director determines will adversely affect the operation or implementation of the local pretreatment program.
- (9) *Civil penalties.* A user who is found to be violating any provision of this section or any rule or regulation made pursuant to it or the terms of an approved compliance schedule developed pursuant to it may be assessed a civil penalty pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. Each day's continuance of the violation shall be considered a separate offense. A first violation of this section shall be a Class A or Class B offense. A second violation and subsequent violations shall be Class A offenses.
- (10) *Criminal penalties—Intentional violations.* A user who is found to be intentionally violating any provision of this section or any rule or regulation made pursuant to it or the terms of an approved compliance schedule developed pursuant to it shall, upon conviction thereof by a court of competent jurisdiction, be subject to a fine of not less than \$1,000.00 and not more than the maximum allowed under State law or by imprisonment for not more than six months, or both, for each offense. Each day's continuance of the violation shall be considered a separate offense.
- (11) *Criminal penalties—False statements, tampering, etc.* A person who knowingly makes false statements, representations, or certifications in an application, record, report, plan or other document filed or maintained pursuant to this section or who falsifies, tampers with or knowingly renders inaccurate a metering device or method required under this section shall, upon conviction by a court of competent jurisdiction, be subject to a fine of not less than \$1,000.00 and not more than that allowed by State law or imprisonment for not more than six months, or both, for each offense.
- (12) *Criminal and civil fines—Used for correcting violations.* The Director or a court of competent jurisdiction may specify that all or a portion of an assessed criminal or civil fine be used to correct the violation for which the fine was assessed. Before the correction is made, the Director shall approve the method of correcting the violation.



- (13) *Upset.* An upset shall not constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards.
- (m) *Appeals.* If a public sewerage system user is aggrieved by specific terms of a final permit or a notice of violation issued pursuant to the provisions of the section, then the Director shall afford the user an opportunity to present his grievance at an informal conference to be held by the Director if so requested within 15 days of the action. The Director may modify, reverse or affirm, wholly or partly, the action previously taken. If the user remains aggrieved after being notified of the decision of the Director, then the user may file an appeal with the Board of Appeals as provided by law, within 30 days of notification of the Director's decision. The Board shall have the power to modify, reverse or affirm, wholly or partly, the action of the Director. However, the Board of Appeals may not waive, set aside or change any specific provision of this section or any rule or regulation promulgated pursuant to this section. Actions of the Director pursuant to item (4) "prohibiting discharge; danger to environment or sewerage system," item (5) "prohibiting discharge: information not provided by waste hauler" and item (6) "prohibiting discharge; repeated violations" of subsection (l) "enforcement" of this section are appealable to the Board of Appeals. Use of the public sewerage system shall be prohibited pending resolution of an appeal of actions of the Director taken pursuant to subsections (l)(4), (l)(5) and (l)(6) of this section. The terms of a final permit issued pursuant to the provisions of this section shall remain in force pending resolution of an appeal. An industrial user or waste hauler shall only discharge to the public sewerage system in conformance with the final permit until resolution of the appeal.
- (n) *Severability.* If any provision, paragraph or word of this section or any regulation or procedure promulgated pursuant to this section is invalidated by a court of competent jurisdiction, the remaining provisions, paragraphs and words of this section and the remaining regulations and procedures shall not be affected and shall continue in full force and effect.

(C.B. 37, 1978; C.B. 51, 1984; C.B. 32, 1985; C.B. 53, 1985; C.B. 13, 1987; C.B. 80, 1994)

Sec. 18.122B. - Allocation of water and wastewater capacity.

- (A) *Findings of Fact and legislative Intent.* The County Council finds that, although the County undertakes master planning for the initial construction and subsequent extension of County-owned water and wastewater facilities in accordance with the provisions of section 9-501 et seq. of the health-environmental article of the Annotated Code of Maryland and regulations promulgated pursuant thereto, temporary shortages of available capacity in water and wastewater facilities may occur as a result of health, environmental or financial considerations. The County Council further finds that, in order to strictly adhere to the requirements of the health-environmental article and to provide public knowledge regarding available capacity in the water and wastewater facilities, it is necessary to establish a method by which available capacity is calculated, priority of water and wastewater service is determined, and available capacity is allocated. The intent of the County Council is to promulgate provisions of this section to accomplish those objectives.
- (B) *Definitions.* As used in this section, the following terms have the meanings indicated:
- (1) *Active subdivision* means a subdivision for which an unexpired developer's agreement exists.
  - (2) *Available capacity of wastewater* means the positive difference between the rated capacity of a wastewater system and the annual average daily flow through the system for the preceding calendar year, less any allocations granted since the preceding calendar year.
  - (3) *Annual average daily flow of wastewater* means the total flow of wastewater through a treatment plant for the preceding calendar year, adjusted for malfunctions and divided by the number of days counted.
  - (4) *Available capacity of water* means the positive difference between the maximum daily flow available from the County's water supply agreements and the maximum daily consumption

during the preceding calendar year, less any allocations granted since the preceding calendar year.

- (5) *Degree of inactivity* means a factor, applied to the inventory of vacant lots in recorded subdivisions for which developer's agreements are not in effect, which indicates the number of lots within the subdivision reasonably expected to be constructed.
- (6) *Industrial/commercial annual average daily flow of wastewater* means the total gallons of wastewater billed to industrial/commercial uses during the preceding calendar year, adjusted for malfunctions [and] divided by the number of days counted.
- (7) *Industrial/commercial maximum average daily flow of water* means:

$$I/C \text{ MADF} = \frac{T}{D} \times \frac{MADC}{AADC}$$

Where:

I/C MADF	=	Industrial commercial maximum average daily flow of water
T	=	Total gallons of water billed to industrial commercial uses during the preceding calendar year, adjusted for malfunctions
D	=	The number of days counted
MADC	=	Maximum average daily consumption of water during the preceding calendar year
AADC	=	Annual average daily consumption of water during the preceding calendar year

- (8) *Legal lot* means:
  - (a) Any legally existing lot, tract or parcel of record, created as a separate lot, tract or parcel prior to July 27, 1948;
  - (b) Any lot, tract or parcel of record created on or after July 27, 1948, in compliance with the zoning regulations in effect at the time of its creation; or
  - (c) Any lot, tract or parcel of record created on or after July 1, 1951, in compliance with the zoning and subdivision regulations in effect at the time of its creation; provided, however, that any lot, tract or parcel created prior to February 7, 1976, and which is not exempt from the current subdivision and land development regulations pursuant to the provisions of subsection 16.108(66), title 16, subtitle 1, article II of the Howard County Code, shall not be considered a legal lot unless it is subdivided in compliance with the provisions of the above-mentioned subtitle.
- (9) *Maximum average daily consumption of water* means the quantity of water delivered to Howard County on the single day of the highest use from all supply sources during the preceding calendar year, adjusted for malfunctions or, if sufficient data is not available for determining the single day of highest use:

$$MADC = AADC \times RMAD$$

Where:

MADC	=	Maximum average daily consumption of water during the preceding year
AADC	=	Annual average daily consumption of water
RMAD	=	Ration of maximum daily water consumption to average daily consumption (derived from the design manual).

- (10) *Residential annual average daily flow of wastewater* means the difference between the annual average daily flow of wastewater for the preceding year and the industrial/commercial annual average daily flow of wastewater for the same period.
- (11) *Residential maximum average daily consumption of water* means the difference between the maximum average daily consumption of water and the industrial/commercial maximum average daily flow of water for the same period.
- (12) *Annual average daily consumption of water* means the total quantity of water delivered to Howard County from its supply sources for the preceding calendar year, adjusted for malfunctions, divided by the number of days counted.
- (c) *Allocation of Capacity:*
- (1) The available capacity of wastewater and the available capacity of water shall be apportioned into two major categories. The categories are:
- (a) Residential development of all types; and
  - (b) Commercial and/or industrial development of all types, including public facilities.
- The amount of capacity available for allocation for each category shall be determined by the Director of Public Works to ensure adequate industrial and commercial growth.
- (2) (a) Concurrent with the approval of a final subdivision plat for a subdivision to be served by a public water or wastewater system by the Office of Planning and Zoning, the Department of Public Works shall tentatively allocate water or wastewater capacity when available to the subdivision, subject to compliance with the provisions of paragraph (3) of this subsection, and shall notify the subdivider of the allocation.
- (b) Upon approval of a sketch plan, written inquiry may be made as to the remaining available capacity and the units allocated against that capacity, and the Director of the Department of Public Works shall provide the requested information within a reasonable period of time.
- (3) Within 180 days from the date of approval of the final subdivision plan, the developer shall post with the County all necessary monies or file a developer's agreement covering the developer's financial obligations with appropriate security guaranteeing installation of all required public improvements. If the posting of all necessary monies or the filing of a developer's agreement with the Department of Public Works is not accomplished within the 180-day period or if the Department of Public Works rejects the agreement as submitted, the allocation is forfeited, prior approvals are void, and the final subdivision plat may not be recorded.
- (4) Upon execution of the developer's agreement by the County, the allocation is valid for the duration of the developer's agreement, which may not exceed a period of three years from the date of execution by the County; provided, however, that in the case of a subdivision for multifamily development, the term of the developer's agreement may be up to four years from

the date of execution by the County. A request for an extension or renewal of a developer's agreement for one year may be granted by the County. If the allocated capacity has not been used by the end of the fourth year or fifth year, if applicable, the allocation is forfeited. "Multifamily development," as used herein, shall mean all residential development except single-family detached.

- (5) An allocation of capacity is not assignable or transferable among subdivisions or sections of subdivisions, except that the unused balance of any allocation granted to commercial and/or industrial subdivision may be transferred among sections or lots of that subdivision.
- (6) The developer's agreement shall provide that the owner fully understands all contingencies which may affect water and wastewater capacity allocations, including, but not limited to, the following:
  - (a) Water and wastewater capacity is contingent upon the availability of Federal and State funds to finance water and wastewater capital projects where applicable;
  - (b) The County disclaims any responsibility to provide water or wastewater allocations, or to be liable for monetary damages for the failure to provide such allocation, if the County is unable to acquire, within a reasonable time, rights-of-way necessary for the construction of water or wastewater capital projects; and
  - (c) Federal or State action, including operational moratoria, may suspend, delay or affect an allocation which is otherwise granted.
- (7)
  - (a) [Notice to applicants of contingencies affecting allocation—] The appropriate County offices and departments shall inform potential applicants for developer's agreements of the contingencies set forth in paragraphs 5 and 6 of this subsection and such other contingencies as may arise from time to time which may affect the right to an allocation or the timing of an allocation.
  - (b) [Allocation to property not requiring subdivision approval—] If a property sought to be connected to a water or wastewater system does not require subdivision approval, an allocation shall be granted upon the issuance of a building permit. If the completion and certification of the building's footings and/or foundations have not been completed within six months from the date of the issuance of the original building permit, or if the building permit is revoked, the allocation is thereby forfeited. Extension of the six-month period may be for reasonable cause, authorized by the Director of the Department of Public Works.
  - (c) Grant of conditional use or zoning reclassification not authorization of allocation—The grant of a conditional use or zoning reclassification of property does not entitle any person to an allocation of water or wastewater capacity for that property. The change in use of an existing commercial/industrial property does not entitle any person to an allocation of water and wastewater capacity which would be greater than the previously recorded water or wastewater flows or existing allocation for that property. Any additional usage must be authorized under this subtitle.
  - (d) Amount of allocation—
    - (i) The allocation of available capacity of wastewater to each residential unit shall be an amount equal to the residential annual average daily flow of wastewater for the preceding calendar year divided by the total number of residential connections as of the end of the preceding calendar year.
    - (ii) The allocation of available capacity of water to each residential unit shall be an amount equal to the residential maximum average annual daily flow of water for the preceding calendar year divided by the total number of residential connections as of the end of the highest quarterly use period of the preceding year.
    - (iii) The allocation of available capacity of water and wastewater for each industrial and commercial use shall be determined by the Director of the Department of Public

Works according to the projected needs of the particular use based upon comparisons of water and wastewater usage in similar industrial or commercial developments.

- (e) Priority of allocation—Applications for allocation of available capacity of water and wastewater shall be considered according to the following priority in each major category:
  - (i) Buildings under construction that will be connected to the utility.
  - (ii) Buildings required to connect, but not as yet connected to the utility.
  - (iii) Legal buildable lots in active subdivisions for which building permits have not been issued.
  - (iv) Properties using individual water supply or wastewater systems which may connect to the system upon completion of a capital project then under construction or for which construction grants have been approved or other approved projects certified by the Director of Public Works as meeting applicable County legislation.
  - (v) Other buildable legal lots adjusted for degree of inactivity, including lots in industrial subdivisions from which prior water or wastewater allocations have been transferred to other sections or lots of that subdivision.
  - (vi) Proposed subdivisions at final plat approval stage.
- (f) Allocation commitment—The sum of the capacity requirements in categories (i) through (v) [of subparagraph 18.122B(c)(7)(e) above] equals the allocation commitment against total capacity at any point in time.
- (g) Reporting—The Department of Public Works shall publish annual reports of the allocation process status or more frequently as required by the Director of Public Works. The reports shall as a minimum, cover:
  - (i) Derivation of all the calculations of defined terms.
  - (ii) Wastewater flows and treatment capacity availability at:
    - a. Little Patuxent Wastewater Treatment Plant.
    - b. Patapsco Wastewater Treatment Plant.
    - c. Billed annual average wastewater generation in the Patapsco and Patuxent drainage areas.
  - (iii) Water purchase, consumption, and distribution:
    - a. Total purchased volume by source and 12-month period.
    - b. The volume of highest use for preceding year.
  - (iv) Derivation of capacity reservation for residential, commercial and industrial use.

(C.B. 46, 1979; C.B. 50, 1991; C.B. 71, 1992)

Sec. 18.123. - Severability.

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

(C.B. 17, 1969)

Sec. 18.124. - Additions to metropolitan district.

The following described and referred to parcels of land shall be incorporated into the metropolitan district of Howard County, as of July 1, 1970.

**Editor's note**— Pursuant to instructions of the County, the list of properties formerly contained in this section has been deleted.

Sec. 18.125. - Removal of parcel(s) from metropolitan district.

- (1) *Criteria for Removal of Parcel(s).* Parcel(s) of land which meet all of the following criteria may be removed from the metropolitan district:
  - (a) The parcel is contiguous to non-metropolitan district property; and
  - (b) The parcel is contiguous to the perimeter of the metropolitan district; and
  - (c) There is no water or sewer connection to the parcel, or allocation of water or sewage treatment units; and
  - (d) In accordance with subtitle 5, "Maryland Agricultural Land Preservation Foundation" of title 2 of the Agricultural Article of the Annotated Code of Maryland or subtitle 5, "Agricultural Land Preservation," of title 15 of the Howard County Code:
    - (i) The parcel is all or part of an agricultural land preservation district; and
    - (ii) The owner has made written application to sell an agricultural land preservation easement to the Maryland Agricultural Land Preservation Foundation or to sell development rights to Howard County.
- (2) *Authority to Remove Property from Metropolitan District.* The County Council may enact an ordinance to remove from the metropolitan district parcel(s) of land meeting the criteria of subsection (1) above, if the Council believes that such a removal is in the public interest. In voting upon such an ordinance, the County Council shall consider the recommendation of:
  - (a) The Director of Finance, that removal of the parcel(s) will have minimal or no effect on the revenues of the metropolitan district; and
  - (b) The Director of Planning and Zoning, that removal of the parcel(s) will have minimal or no effect on the planning for, construction or operation of public water or sewer; and
  - (c) The Director of Public Works that removal of the parcel(s) will have minimal or no effect on the planning for, construction or operation of public water or sewer and will have a minimal effect on the revenues of the metropolitan district.
- (3) *Procedure for Preparation and Passage of an Ordinance to Remove Property from Metropolitan District:*
  - (a) An owner of parcel(s) which meet the criteria listed in subsection (1) above may petition the Director of Public Works for removal of parcel(s) from the metropolitan district.
  - (b) The Director of Public Works shall verify whether the parcel(s) meet all criteria listed in subsection (1) above.
  - (c) If all criteria are met, the Director of Public Works shall forward the petition, the verification and a plat of the locality to the County Council, requesting the introduction of legislation to remove parcel(s) from the metropolitan district.
  - (d) Upon introduction of an ordinance to remove the parcel(s) from the metropolitan district, the County Council shall post the property for two weeks prior to the public hearing. The notice poster shall:

- (i) Give the address of the subject property, if available.
  - (ii) Be double-sided and at least 30 inches by 36 inches in size.
  - (iii) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
  - (iv) State that the subject property is proposed to be removed from the Metropolitan District and include a description of the proposal.
  - (v) Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.
  - (e) The Department of Public Works, the Office of Planning and Zoning and the Office of Finance shall make recommendations to the County Council stating whether the parcel meets the criteria of subsection (2) above.
  - (f) The County Council may enact the ordinance, after public hearing, in accordance with its authority under subsection (2) above.
- (4) *Effective Date of Ordinance to Remove Property from Metropolitan District:*
- (a) The effective date of an ordinance to remove property from the metropolitan district shall be concurrent with the settlement date for:
    - (i) Acquisition of an agricultural land preservation easement on the parcel(s) pursuant to subtitle 5, "Maryland Agricultural Land Preservation Foundation," of title 2 of the Agricultural Article of the Annotated Code of Maryland or acquisition of development rights pursuant to subtitle 5, "Agricultural Land Preservation," of title 15 of the Howard County Code; or
    - (ii) Fee simple purchase of the parcel(s) by Howard County for agricultural preservation pursuant to subtitle 5, "Agricultural Land Preservation," of title 15 of the Howard County Code.
  - (b) In no event shall the effective date be earlier than 60 days after enactment of the ordinance.
  - (c) Any ordinance to remove parcel(s) from the metropolitan district shall provide that it shall automatically expire if settlement for acquisition of an agricultural land preservation easement, for the acquisition of development rights or for the fee simple acquisition has not taken place within one year of passage of the ordinance.
- (5) *Administrative Procedures upon Enactment of Ordinance.* Whenever settlement has occurred for the acquisition of an agricultural land preservation easement, for the acquisition of development rights or for the fee simple acquisition for agricultural preservation:
- (a) The owner shall notify the Director of Public Works of the date that settlement has occurred.
  - (b) The Director of Public Works shall notify the County Council and the Office of Planning and Zoning of the date that settlement has occurred.
  - (c) The Director of Public Works shall notify the Director of Finance that the parcel(s) have been removed from the metropolitan district and are no longer subject to provisions of Howard County law affecting the financing of improvements to the metropolitan district.
  - (d) The Director of Public Works shall revise all required copies of the metropolitan district plat to reflect removal of the parcel(s) from the metropolitan district.
- (6) *Reentry into Metropolitan District:*
- (a) *Petition.* If an agricultural land preservation easement is terminated pursuant to the provisions of subtitle 5, "Maryland Agricultural Land Preservation Foundation," of title 2 of the Agriculture

Article of the Annotated Code of Maryland or if the owner of property has repurchased development rights from Howard County, the owner may petition for reentry into the metropolitan district, pursuant to the provision of subtitle 1, "Public Utilities," of title 18, "Public Works," of the Howard County Code.

In making recommendations to the County Council on an ordinance for reentry into the metropolitan district, the Director of Public Works shall state whether:

- (i) Existing water systems, or planned expansions thereto are adequate to serve the property.
  - (ii) Existing downstream sewer systems, or planned expansions thereto, including interceptors, force mains, pumping stations and treatment plants, will be adequate to handle flows generated by the property.
- (b) *Reentry charge.* Owners of property who petition for reentry into the metropolitan district shall pay a reentry charge equal to the greater of the following:
- (i) All ad valorem charges that would have been paid had the property remained in the metropolitan district plus five percent interest; or
  - (ii) five percent of the current assessed valuation of the property times the number of years elapsed since withdrawal of the property from the metropolitan district, up to a maximum of five years.

The ordinance for reinclusion of property in the metropolitan district shall provide for its automatic repeal upon failure of the owner of the property to pay the reentry charge within 60 days of enactment of the ordinance.

- (7) *Severability.* The provisions of this section are severable. If any provision, clause, sentence, word or part is held illegal, invalid, unconstitutional or inapplicable, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, section, words or parts of this subtitle.

(C.B. 3, 1983; C.B. 72, 1988; C.B. 69, 2018, § 1)

#### SUBTITLE 2. - ROADS

##### Sec. 18.200. - General.

This section provides that the Board of Public Works of Howard County shall have the authority to recommend to the Director of Public Works the approval of the acceptance and acquisition of roads, rights-of-way and associated public improvements located within an approved subdivision for Howard County, Maryland.

(C.B. 5, 1969; C.B. 116, 1981)

##### Sec. 18.201. - Procedure.

The developer or subdivider of land in an approved subdivision may petition the Director of Public Works to accept title to roads, rights-of-way and associated public improvements for which an option to acquire for public purposes has already been granted to Howard County, Maryland, in consideration for approval of a subdivision plan. All petitions shall be addressed to the Director of Public Works who, upon receipt of same, shall set a hearing time and date before the Board of Public Works. The Board of Public Works shall hold a hearing, after the petitioner has given at least 30 days' notice of the subject, time and place of the hearing, by publication, two separate insertions at weekly intervals, in one or more of the newspapers published in the County. Counter petitions may be presented to the Board of Public Works,



and the Board shall take into consideration the reasons contained therein together with such other testimony as may come before the Board of the hearing.

(C.B. 5, 1969; C.B. 116, 1981)

Sec. 18.202. - Findings.

The subject property, right-of-way, road or other associated public improvement may be acquired for Howard County, if the Director of Public Works after considering the recommendations of the Public Works Boards shall affirmatively find after hearing:

- (a) That the subject right-of-way, road or other associated public improvement lies wholly within an approved subdivision.
- (b) That the subject road, right-of-way or associated public improvement is adequately described by metes and bounds and by recorded subdivision plat.
- (c) That the subject road, right-of-way or other public improvement is laid out and constructed in accordance with the approved subdivision plan, subdivision regulations of Howard County, and the design manual. However, the required sidewalks and stormwater management facilities need not be complete at the time of acceptance if they meet the criteria of the developer agreement for deferral of sidewalk and stormwater management improvements and surety has been posted with the Director of Public Works for completion of these items pursuant to the provisions of the developer agreement for deferred improvements. Further, the required stabilization, landscaping, and planting of street trees need not be complete at the time of acceptance, if surety has been posted with the Director of Public Works for completion of these items as provided in the developer agreement. The remaining sidewalks, stormwater management facilities, stabilization, landscaping, and planting of street trees shall be inspected and approved by the Department of Public Works prior to release of this surety.
- (d) That the acceptance of the property by Howard County at this time will be in the public interest.

(C.B. 5, 1969; C.B. 116, 1981; C.B. 70, 1988; C.B. 70, 1992)

Sec. 18.203. - Transfer of title.

The person petitioning the Director of Public Works shall cause to be prepared, at his expense, a deed granting and conveying good and sufficient fee simple title to the right-of-way or other public improvement to Howard County, Maryland, a municipal corporation, and it shall be the responsibility of the said petitioner, if the subject road, right-of-way or other public improvement shall be accepted by the Director of Public Works, to cause the said deed to be recorded at his expense.

(C.B. 5, 1969; C.B. 116, 1981)

Sec. 18.204. - Relocation or closing of public roads.

This section refers only to the closing or relocation of existing County public roads.

- (a) *Roads Closed or Relocated Only with Approval of County Council.* No County road may be closed or relocated unless the County Council has approved the closing or relocation either by resolution or by approval of a capital project in the budget ordinance or an amendment thereto.
- (b) *Definitions.* Words and phrases used in this section shall have their usual meanings except words and phrases defined below:
  - (1) *Closing or closure* means permanently prohibiting motorized vehicles from using or from having access to or from a County public road.

Closing does not include prohibiting use of a portion of a roadway if motorized vehicles can continue to use or have access to or from the remainder of the roadway.

- (2) *Relocation* is any permanent improvement or permanent alteration to a County public road where a part or all of the new County public road does not overlap or is not contiguous with the previously existing County public road.
- (c) *Initiating a Road Closing or Relocation:*
- (1) *By petition.* An individual, group of individuals, corporation, partnership, association, or governmental agency other than the County Executive or County Council may initiate the closing or relocation of a road by petitioning the County Council to introduce a resolution approving the closing or relocation. The petitioner shall supply the information required in subsection (d) below with the petition.
  - (2) *County Executive.* The County Executive may initiate the closing or relocation of a road by submitting for County Council approval an annual budget and appropriate ordinance or any amendment thereto which includes the road closing or relocation as a capital project or part of a capital project. The County Executive shall supply the information required in subsection (d) below at the time the annual budget and appropriation ordinance or an amendment to the capital budget is introduced.
  - (3) *County Council.* The County Council or any of its members may initiate the closing or relocation of a road by introduction of a resolution approving the closing or relocation. The sponsor(s) of the resolution shall supply the information required in subsection (d) below in order to prepare the resolution.
- (d) *Information to Be Provided.* The following information shall be supplied in order to prepare a resolution to close or relocate a road or to accompany a budget and appropriation ordinance or an amendment thereto involving a road closing or relocation:
- (1) A detailed description of the County public road to be closed or relocated.
  - (2) A certified plat signed and sealed by a professional land surveyor or property line surveyor particularly describing the County public road to be closed or relocated.
  - (3) Identification of ownership of the roadbed and rights-of-way including any easements which may exist.
  - (4) A plan for changes to traffic control which may result from the proposed closing or relocation.
- (e) *Fee.* An individual, group of individuals, corporation, partnership, association, or governmental agency other than the County initiating a road closing or relocation shall pay a fee; set annually by resolution of the County Council, to cover the costs of advertising the proposed closing, notifying persons whose property adjoins the road, and posting the road.
- (f) *Notification:*
- (1) Road closings and relocations included in a capital project shall be posted and advertised and mailings sent as for any other capital project.
  - (2) When a road is to be closed or relocated at the request of councilmember(s) or upon petition, notification is the responsibility of the County Council and shall include the following:
    - (i) The Department of Public Works, at the request of the County Council, shall post the road for 30 days prior to the public hearing on the County Council resolution. The posting shall indicate that the road is to be closed or relocated and shall indicate the date, the time and place of the public hearing on the proposed closing or relocation. The notice poster shall:
      - a. Give the location or street name of the road.

- b. Be double-sided and at least 30 inches by 36 inches in size.
  - c. Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
  - d. State that the road is proposed to be closed or relocated and include a description of the proposed road closing or relocation.
  - e. Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.
- (ii) The County Council shall provide at least 30 days' notice of the date, time and place of the public hearing on the proposed closing or relocation by advertising the proposed closing with at least two separate insertions at weekly intervals in one or more newspapers of general circulation in the County.
  - (iii) The County Council shall send letters by certified mail to all persons whose property abuts the limits of the proposed road closure or relocation. The letters shall be mailed no later than 30 days prior to the hearing and shall contain a full description of the road closing or relocation, and an announcement of the time, date and place of the County Council's public hearing on that closing or relocation.
- (g) *Reports and Recommendations from County Departments.* The Department of Public Works, Department of Planning and Zoning, Police Department, and Department of Fire and Rescue Services shall report to the County Council on the effect of the closing or relocation on public safety, the traffic network and public convenience and shall recommend denial or approval of the closing or relocation.
  - (h) *Council Approval.* The Council may approve the closure or relocation of a road if it finds that the closing or relocation will not adversely affect public safety, the traffic network, or public convenience.
  - (i) *Disposition of Closed or Relocated Road.* Approval of a road closing or relocation does not affect the legal ownership of the roadbed, rights-of-way, or any easements. Separate legislation pursuant to title 4 of the Howard County Code may be required to deal with disposition of this property.

(C.B. 40, 1969; C.B. 6, 1971; C.B. 30, 1990; C.B. 104, 1992; C.B. 69, 2018, § 1)

**Editor's note**— The provisions of C.B. 104, 1992, which changed "ordinance" to "resolution" in this section, were made effective retroactive to July 17, 1990, the effective date of C.B. 30, 1990.

Sec. 18.205. - Roads, bridges, and rights-of-way—Obstructions, damage, and drainage.

(a) *Definitions:*

- (1) In this section, section 18.206 and section 18.206A, the following terms have the meanings indicated:
- (2) *Department* means the Howard County Department of Public Works.
- (3) *Director* means the Director of the Department.
- (4) *Public property* means a County-owned or controlled road, road right-of-way, shoulder, sidewalk, ditch line, bridge, culvert, curbing, drainage facility, utility easement, or any appurtenances or signs associated with any of the above.

- (5) (i) *Structure* means anything constructed, the use of which requires permanent or temporary location on the ground or attached to something having a temporary or permanent location on the ground.
- (ii) *Structure* does not include:
  - a. A newspaper box, or a mailbox meeting the standards of the United States Postal Service, provided that each is mounted on a post in conformance with "A Guide for Erecting Mailboxes on Highways" by the American Association of State Highway and Transportation Officials, Third Edition, dated 1994;
  - b. A utility pole or utility box which are not a part of a wireless facility as defined in section 18.206A of this Subtitle; or
  - c. A sign permitted in a right-of-way under subtitle 5 "Signs" of title 3 "Buildings" of the Howard County Code.
- (b) *Prohibitions Against Obstructions, Damage, and Drainage of Water.* A person may not:
  - (1) Obstruct, damage, or destroy public property; or
  - (2) Except as provided under an approved plan under title 16, subtitle 1 of the County Code, discharge water or wastewater onto a public road.
- (c) *Structures on Public Property.* A person may not install temporary or permanent structures in, on, over, through, or across public property:
  - (1) Without the permission of the Director; or
  - (2) Unless the person has authority to install the structure without permission under State law, or under a franchise or license issued by the County.
- (d) *Remedies:*
  - (1) A person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, is subject to a fine of not more than \$1,000.00, imprisonment for not more than six months, or both.
  - (2) The Department may also enforce the provisions of this subtitle with civil penalties, under title 24 "Civil Penalties" of the Howard County Code. A first violation is a Class B offense. A subsequent violation is a Class A offense. Each day that a violation continues shall be considered a separate violation.
  - (3) (i) At the request of the Director the person who installed a structure on public property, or who caused water or wastewater to be discharged onto a public road shall remove the structure or stop the discharge. The Director may require removal of a structure even if the Director previously gave permission for the structure.
  - (ii) If, after a notice from the Director under subparagraph (i) of this paragraph, a person fails to remove a structure or to stop the discharge of water or wastewater within the time stated in the notice, the Director may order the removal of the structure or cause the discharge of water or wastewater to be stopped at the expense of the person notified.
  - (iii) The Director shall keep an accurate account of the cost of the removing a structure from public property or the cost of stopping the discharge of water or wastewater onto a road, and shall submit this account to the Director of Finance. The Director of Finance shall bill the person notified under subparagraph (i) or (ii) of this paragraph. The person so notified shall pay the bill for work performed by the Department within 30 days of billing.
  - (4) The recovery of costs and the imposition of civil and criminal penalties shall be in addition to any other remedies the County may have in law or equity.

(C.B. 66, 1997; C.B. 26, 2017, § 1)

**Editor's note**— Section 1 of C.B. 66, 1997, repealed §§ 18.205—18.208 in their entirety. Formerly, §§ 18.205—18.208 pertained to encroachments and damages; securing permits and providing bonds; repair of damages and derived from Ch. 142 of the 1870 Code, P.L.L. 1888, Art. 14, § 113; § 252 of the 1930 Code; Ch. 740 of the 1966 Code and C.B. 32, 1985. Section 2 of C.B. 66, 1997, added §§ 18.205 and 18.206 as herein set out.

Sec. 18.206. - Construction work on public property.

- (a) *Permit Required Prior to Construction.* A person may not install, maintain, repair, relocate, or remove pipe, wire, cable, fiber optics, or other material, or perform any excavation or construction in, on, over, through, or across any public property without first obtaining a permit from the Department authorizing the work.
- (b) *Permit.* An application for a permit under this section shall be made to the Department. The application shall contain a plan and description of the proposed work and restoration of public property satisfactory to the Director. All work shall be performed in accordance with the description and plan authorized under the permit.
- (c) *Permit Fee.* The Department may not issue a permit until the Applicant has paid the permit fee pursuant to a fee schedule adopted by resolution of the County Council.
- (d) *Surety.* If required by the Director, the issuance of a permit under this section shall be conditioned on the posting of a bond, letter of credit, or other surety acceptable to the Director, which shall guarantee the cost of restoration of the public property. The Director shall determine the necessity for and the amount of the surety based on the Director's estimate of restoration that may be required as a result of the proposed work. The surety will be returned to the Applicant when the Director determines that any restoration has been satisfactorily performed.
- (e) *Restoration.* A person who performs work in public property pursuant to a permit under this section shall restore public property to a condition satisfactory to the Director. All restoration work shall conform to standards set forth in the design manual, the permit, or an agreement entered into with the Director.
- (f) *Remedies.* If the holder of a permit under this section does not satisfactorily restore the public property as provided under subsection (e) of this section, the County shall have the right to exercise any or all of the remedies as provided in this section.
  - (1) The Director may order the work done and apply the surety posted by the permit holder to recover the costs incurred by the County in performing the work.
  - (2) The Director may invoke civil penalties against the permit holder under title 24 "Civil Penalties" of the Howard County Code. A first offense is a Class B offense. A subsequent offense is a Class A offense.
  - (3) The County may file a criminal complaint. A person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, is subject to a fine of up to \$1,000.00.
  - (4) The demand on surety and the imposition of civil and criminal penalties shall be in addition to any other remedies the County may have in law or equity.
- (g) *Exemption.* The section does not apply to construction covered by a developer's agreement under title 16, subtitle 1 of the Howard County Code.

(C.B. 66, 1997)

**Note**— See the editor's note following § 18.205.

Sec. 18.206A. - Wireless facilities on public street lights.

- (a) *Application for a Permit* . A permit is required for the installation, operation, maintenance, and removal of wireless facilities on a public street light. A permit shall not be issued by the Director unless and until an agreement for use of public street lights setting forth the terms and conditions for the installation of the wireless facilities has been reached between the County and the applicant and which agreement may include the items listed in subsection (d) of this section.
- (b) *Definitions* . In addition to the terms previously defined in this subtitle, the following terms shall have the meanings indicated:
- (1) *Public right-of-way* means the roads listed as owned and maintained by the County in the "Howard County Master Road Book" and which are classified as arterial or collector.
  - (2) *Public street light* means the existing structure owned by the County, primarily designed for lighting a public right-of-way, including the supporting pole, luminaire, arms, leased electric wires, foundations, internal dividers, hand holes, vaults, pedestals, and bases. A public street light does not include:
    - (i) A lighting system attached to a utility pole, traffic signal pole, building, or similar structure; or
    - (ii) Any facility that is privately owned.
  - (3) *Wireless facility* .
    - (i) Wireless facility means a facility that:
      - a. Is licensed or authorized by the Federal Communications Commission;
      - b. Is at a fixed location; and
      - c. Enables wireless communications between user equipment and a communications network.
    - (ii) A wireless facility includes:
      - a. Equipment associated with wireless communications services such as private, broadcast, and public safety services;
      - b. Unlicensed wireless services and fixed wireless services such as microwave backhaul;
      - c. All elements of the facility, including, without limitation, antennas, cabinets, cables, wires, back-up power supplies, and radio units; and
      - d. Facilities in, at, or near the wireless facility and associated with the facility's operations, including electric meters and electrical wiring irrespective of whether the meters and wiring are owned or maintained by the same person that owns other portions of the wireless facility.
  - (4) *Wireless provider* means the entities that are authorized by the Federal Communication Commission to provide personal wireless services as defined at 47 U.S.C., section 332(c)(7).
- (c) *Information Required* . The County shall create an application form that may require an applicant to submit the following information in the request to use the public street lights:
- (1) A technical description of the proposed wireless facilities including detailed specifications and diagrams accurately depicting the proposed wireless facilities, and the locations of the public street lights on the public rights-of-way the applicant proposes to use;
  - (2) A detailed deployment plan describing construction of the wireless facilities planned for the 12-month period following the issuance of the permit;
  - (3) Engineering certifications relating to the proposed construction;

- (4) A statement describing the applicant's intentions with respect to collocation, and if the applicant is not a wireless provider, the identity of the wireless provider(s) using the proposed wireless facilities;
  - (5) A statement demonstrating the applicant's duty to comply with applicable safety standards for the proposed activities in the public right-of-way including emergency response plan, schedule of maintenance, operation, relocation, and removal of the wireless facilities at applicant's sole cost;
  - (6) Such other information as the County may require in an application form; and
  - (7) Such other information as the County may require in its review of the application.
- (d) *Agreement for Use of Public Street Lights* . An agreement for use of public street lights shall include terms and conditions for the installation of the wireless facilities as agreed upon by the applicant and the County, which shall include fair compensation to the County for the applicant's use of the public street lights and which may also include:
- (1) Provisions that allow for the routine maintenance of the wireless facility;
  - (2) Provisions that allow for the replacement of a wireless facility with another small wireless facility that is substantially similar or smaller in size, weight, and height;
  - (3) Provisions that allow for multiple wireless facilities;
  - (4) The length of time for which an application may be considered; or
  - (5) The length of time for which a permit will be valid.
- (e) *Discretion of Director* . The Director:
- (1) May not issue a permit where, in the judgment of the Director, sufficient capacity no longer exists for additional wireless facilities to be placed in the proposed location without jeopardizing the physical integrity of public water and sewer and other utilities or other facilities already present in the proposed location, or the safe and efficient vehicular or pedestrian use of the public right-of-way; or where the use of the public street light or work associated with the use or maintenance of the wireless facility would violate applicable law.
  - (2) Shall review the application for a permit in light of the application's conformity with applicable regulations and community design guidelines and shall issue a permit on nondiscriminatory terms and conditions.
- (f) *Fees for Permit Review* . The County shall charge and an applicant shall pay a reasonable application review fee for the review of a permit issued under this section. The public street light permit review fee shall be adopted by resolution of the County Council and shall be in addition to any compensation agreed to by the parties under the agreement for use of the public street lights.
- (g) *Use of Public Right-of-Way* . Nothing in this section shall affect or limit the County's right to charge a separate fee or to require a separate consent for access to or the use of the public rights-of-way. Any permit granted pursuant to this section shall be in addition to, and not in lieu of, the fee and permit required to utilize and construct within the public right-of-way.

(C.B. 26, 2017, § 1)

Sec. 18.207. - Nontransit activity on County roads—Prohibited.

- (a) *Purpose*. In order to provide for the public's safety, to maintain the flow of traffic for vehicles using the County roads, to prevent congestion, to facilitate the passage of emergency vehicles, to protect pedestrians, and, generally, to preserve law and order, it is necessary to prohibit, with certain exceptions, activities unrelated to transit from being conducted on a County road.
- (b) *Definitions*:

- (1) *County road* means the paved portion of a County owned or controlled road, road right-of-way, or bridge, including the shoulder, and the median areas, regardless of whether the median areas are paved.
  - (2) *Patronage* means support, benefaction, investment, backing, sponsorship, aid, or donations regardless of whether anything is given in return.
  - (3) *Nontransit activity* means any activity not related to transit and includes, but is not limited to buying, selling, offering, giving of anything, and soliciting or seeking patronage, by any means or media.
  - (4) *Site-specific vending/operating* means selling or offering to sell goods or services from a stationary location on a County road with valid licenses and permits.
  - (5) *Transit* means traveling, crossing, conveying goods or persons, by vehicle or on foot, and includes related activities such as parking, stopping, resting, and observing.
- (c) *Prohibition; Exception:*
- (1) County roads are designed for transit and related activities. Except as provided in subsections (d) and (e) of this section, nontransit activities are prohibited on a County road.
  - (2) A solicitor's or peddler's license issued pursuant to subtitle 7 of title 14 of the Howard County Code, does not give the holder the right to engage in a nontransit activity prohibited by this section on a County road.
- (d) *Exceptions for Temporary Activities with Permit:*
- (1) A person may hold a parade or other activity conducted in accordance with a permit issued under subtitle 3 of title 14 of this Code.
  - (2) A person may conduct a temporary, non-transit activity in the median area of a County road for up to four days per calendar year, as follows:
    - (i) At least 21 days before the date on which the activity is planned to begin, the person shall submit an application for a permit from the County specifying the location and dates for which permission for the activity is being requested;
    - (ii) The application shall be signed by the person or an individual authorized to sign on the person's behalf;
    - (iii) The person shall submit with the application:
      - a. A permit fee of \$100.00; and
      - b. A statement of indemnification holding Howard County harmless against any claim of liability arising out of the activity;
    - (iv) The activity shall be permitted and conducted:
      - a. Only between the hours of 9:00 a.m. and sunset;
      - b. Only in median areas adjacent to a road that has a posted speed limit of 45 miles per hour or less; and
      - c. Without offering an inducement for motor vehicle drivers and passengers to leave their vehicles; and
      - d. Only if the Department of Police determines that the activity at the location will not impede traffic or endanger the person or the public.
- (e) *Exception for Site-Specific Vending/Operating With Licenses and Permits.* Subject to subsection (2) below, a person may conduct site-specific vending/operating in the shoulder area on a County road as follows:
- (1) The activity shall be permitted and conducted:



- (i) Only with appropriate and valid State and local licenses and permits displayed; and
  - (ii) Only between the hours of 8:00 a.m. and sunset; and
  - (iii) Only on roads that have a posted speed limit of 45 miles per hour or less; and
  - (iv) Only at a location in the shoulder that is at least eight feet from the edge line of the travel lane and at least 100 feet from the nearest intersections and other points of ingress or egress.
- (2) If the Department of Police or the Department of Public Works determines that a site-specific vending/operating activity at a given location impedes traffic or endangers the person or the public, then the appropriate department may order the activity to cease operating or relocate to an area deemed safe by the Department.
- (f) *Penalty for Violation.* Any person, firm or corporation who violates any provisions of this section is guilty of a misdemeanor, and, if convicted, shall be subject to a fine not exceeding \$100.00 or imprisonment not to exceed 30 days, or both fine and imprisonment. The provisions of this subtitle shall be enforced with civil penalties under title 24, "Civil Penalties," of the Howard County Code. A violation of this section is a Class B offense.

(C.B. 4, 2004, § 2; C.B. 14, 2004)

Sec. 18.208. - Reserved.

**Note**— See the editor's note following § 18.205.

Sec. 18.209. - Prisoners working roads.

Whenever any person shall have been convicted in any criminal proceeding of any crime or any offense against, or violation of any law, State, County or municipal, and as a punishment therefor or in default of a fine imposed, has been committed to the County jail of Howard County by the judgment of the Circuit Court for Howard County, or any district court thereof, it shall be lawful for the Department of Public Works, and it is hereby authorized and empowered, with the consent of the Sheriff of Howard County, to employ or cause to be employed any such convict or person so committed to jail as aforesaid in manual labor in cleaning, working upon, mending and repairing the public roads of Howard County and the public streets of any municipality in Howard County and in cleaning and maintaining any publicly owned building or property in Howard County, and they are hereby fully authorized and empowered, with the concurrence of the sheriff, to pass all necessary rules and regulations to prevent the escape of such convicts or persons so committed to jail as aforesaid, while so employed, and to pass such other rules and regulations which may be necessary to carry this law into full and efficient operation and effect.

(1957, Ch. 438)

Sec. 18.210. - Authority to adopt Howard County road construction regulations and specifications.

- (a) The Director of Public Works shall be empowered to develop regulations and specifications affecting the design and construction of roads and highways to be used in Howard County and shall publish them in a code to be made available by the Howard County Department of Public Works and the Department of Planning and Zoning at a minimum charge to the general public upon request. The code and its amendments shall include general instructions and specifications for the design and construction of road and highway systems, as well as details for miscellaneous structures used in connection with such systems.
- (b) Any proposed code or amendments shall be submitted to the Board of Public Works, who shall schedule a public hearing on the proposed code or amendments within 30 days of receipt of the

proposed code or amendments. The time and place of the public hearing before the Board of Public Works shall be published in at least two newspapers of general circulation in the County. The Board of Public Works may make recommendations to the Director of the Department of Public Works.

- (c) The Director of Public Works shall thereafter present the regulations and specifications, or amendments, to the County Council for adoption by appropriate resolution.
- (d) Until the County Council adopts standards and specifications under the provisions of this section, the road construction code and standard specifications adopted by the County commissioners of Howard County on March 27, 1962, shall remain in full force and effect and subject to amendment.
- (e) *Maintenance of scenic roads.* Standards for maintenance of scenic roads shall be developed by the Director of Public Works and adopted by resolution of the County Council in accordance with the procedures established in paragraphs (a) through (c) above. The standards shall ensure protection of scenic roadway elements while allowing necessary maintenance.

(C.B. 28, 1972; C.B. 51, 1994; C.B. 16, 1995)

Sec. 18.211. - Notice of preliminary and final design of certain capital projects.

- (a) The Department of Public Works shall give public notice of the availability of preliminary design plans for the following capital projects when such plans are 30 percent completed:
  - (1) Bridge or roadway construction or reconstruction.
  - (2) Installation of street lights, drainage improvements, or water and sewer systems, when such projects affect a scenic road designated pursuant to section 16.1403 of this Code.
- (b) The Department of Public Works shall hold a public meeting on the preliminary design, except the Board of Public Works shall hold the public meeting and shall comment on the design of all capital projects which affect scenic roads. Notice shall be given through the following methods:
  - (1) Posting notices for at least four weeks immediately before the meeting at the site of the project. The notice shall include purpose of meeting, project number, date and place and time of public meeting and contact telephone number.
  - (2) Publication in a newspaper of general circulation in the County for two consecutive weeks prior to meeting.
  - (3) Written notice by first-class mail at least four weeks before the meeting to the registered list of subscribers maintained by the Department of Planning and Zoning pursuant to the subdivision and land development regulations.
- (c) The Department of Public Works shall consider all comments while proceeding to final design, and wherever possible modifications which reflect concerns raised at the meeting on preliminary design may be made in the project.
- (d) When the final design is complete, a public meeting shall be held by the Department of Public Works on capital projects listed in (a) above, except that the public meeting shall be held by the Board of Public Works for all capital projects affecting scenic roads. Notice shall be given two weeks prior to the meeting through the following methods:
  - (1) Publication of notice of meeting shall appear in a newspaper of general circulation in the County for two consecutive weeks prior to meeting.
  - (2) First-class mail notices shall be sent to attendees at the preliminary design meeting on the capital project and citizens who have sent written comments to the Department of Public Works on the project.

(C.B. 42, 1983; C.B. 51, 1994)

Sec. 18.212. - Capital Improvement Master Plan (C.I.M.P.) for transportation.

(a) *Definitions:*

*Capital Improvement Master Plan or C.I.M.P. for Transportation* is a plan proposed by the County Executive upon the recommendations of the Director of Public Works and the Director of Planning and Zoning and adopted by the County Council pursuant to the provisions of section 22.405 of the Howard County Code. The plan indicates the capital improvements to the County's road and bridge network and public transportation system to be constructed during the next ten years in order to implement the housing and employment growth projections of the County's general plan. The C.I.M.P. for Transportation includes the roads, bridges, traffic lights, and public transportation system projects included in the Howard County Capital Budget and Capital Program and Extended Capital Program and the Maryland Consolidated Transportation Program.

(b) *Requirement to Prepare C.I.M.P. and Review it Annually.* The Department of Public Works and the Department of Planning and Zoning shall jointly prepare the C.I.M.P. for transportation pursuant to the provisions of section 22.405 of this Code. The Departments shall review the plan annually and shall submit updates as appropriate for adoption by the County Council.

(C.B. 10, 1992)

SUBTITLE 2A. - SUBSTANDARD PRIVATE ROADS<sup>111</sup>

Footnotes:

--- (1) ---

**Editor's note**— C.B. 4, 1981 created subtitle 2A, §§ 18-204—18.214. After consultation with the County, the provisions have been redesignated §§ 18.250—18.260.

Sec. 18.250. - Council declarations and findings.

The County Council of Howard County hereby declares and finds as follows:

- (1) There exist within the County a substantial number of privately owned roads which are used by the public as if they are owned by the County and are connected to existing State and County roads, but which were not constructed in accordance with any particular standards since they were not subject to subdivision regulations nor developer agreements.
- (2) It may be the desire of the citizens who own and utilize those roads to have the County acquire fee simple ownership or a right-of-way in order to guarantee that the roads will be maintained in a manner which will render them serviceable for the providing of public safety and environmental protection services.
- (3) It is in the public interest that said roads be brought into the County roads system and be improved to a minimum all-weather roadway as referenced in Howard County Design Manual, Vol. III to the extent that they are serviceable for the providing of public safety and environmental protection services.
- (4) While cognizant of the Charter prohibition against the levying of a tax for the purpose of raising revenues for the construction and maintenance of public roads on other than a County-wide basis, the providing of loans for the improvement of the privately owned roads in order to permit them to be brought into the County system is consistent with the responsibility of County Government.

(C.B. 4, 1981)

Sec. 18.251. - Criteria for acceptance.

Notwithstanding the provisions of subtitle 1 hereof, roads which meet the following criteria may be accepted into the County road system:

- (1) They shall be open to the public without restriction and shall have been actually utilized by the public for vehicular traffic by January 1, 1981.
- (2) They shall be directly connected to existing State or County roads.
- (3) They shall not have been subject to subdivision regulations nor developer agreements with the County at the time of their construction nor at the time that the petition is filed.
- (4) They shall serve a minimum of five buildings of multiple ownership for each mile of roadway, and further the buildings may be dwellings or commercial buildings.
- (5) They shall be the subjects of agreements which provide for:
  - (a) The reimbursement to the County of the cost of improving the road in such amounts and under such conditions as determined by the Director of Public Works; provided however that the cost is limited to the actual audited costs of work completed in place, less overhead charges by the Department of Public Works or other County agencies.
  - (b) Liens on the real estate of those who have agreed to reimburse the County for the cost of improving the road.
  - (c) Acquisition of either fee simple title or a right-of-way to the road without any cost to the County.

(C.B. 4, 1981)

Sec. 18.252. - Estimate of improvement of the road.

The Director of Public Works shall provide to any individual who owns a road or property adjacent to a road, upon request, an estimate of the complete cost of improving a privately owned road to the extent that it would provide an all-weather minimum roadway and meet the criteria established for acceptance into the County system under this subtitle. This estimate is to be used in assisting the community in considering a petition. Actual costs of labor and materials will be subsequently determined by the actual costs of work completed to bring the road to a minimum all-weather roadway.

(C.B. 4, 1981)

Sec. 18.253. - Contents of petition.

A petition for acceptance into the County road system of a road meeting criteria as stated in section 18.251 shall be addressed to the Director of Public Works. The petition shall be signed by the owners of not less than two-thirds of the parcels of property abutting a road or of not less than two-thirds of the assessable frontage abutting the road and shall contain the following:

- (1) The names, residence or business addresses and telephone numbers of the petitioners.
- (2) The name, address and telephone number of the representative, if any, of the petitioners.
- (3) A legal description of the road.

- (4) For each parcel of the road, a list of the names, addresses and telephone numbers of the owners of property adjacent to the road, indicating as to each whether or not they are among the petitioners.
- (5) List of names of all owners of roadbed. If an owner of the roadbed is other than an abutting property owner, he shall consent to convey a right-of-way or easement.
- (6) A statement affirming that a shared cost of improving the road must be borne by the petitioners and that a lien to the extent of their agreement will be offered to the County.

(C.B. 4, 1981)

Sec. 18.254. - Review of petition.

Upon receipt of a petition, the Director of Public Works shall submit copies of same to the Director of Planning and Zoning.

(C.B. 4, 1981)

Sec. 18.255. - Hearing procedures.

- (1) Within six months of receipt of the petition, the Director of Public Works shall hold a hearing on the petition.
- (2) The Director of Public Works shall give notice of the pending hearing by publication, in one newspaper published in the County, and send notice to owners of record of the roadway, setting forth the length, location and termini of the road and the time, date and place of the hearing.
- (3) Not less than two weeks prior to the date of the hearing, the Director of Public Works shall post signs at either end of the street. The signs shall set forth the fact that the road is the subject of a petition to accept it into the County road system and that a hearing thereon will be held at the time, location and on the date as scheduled. The notice sign shall:
  - (i) Give the location or street name of the road.
  - (ii) Be double-sided and at least 30 inches by 36 inches in size.
  - (iii) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
  - (iv) State that the road is proposed to be accepted into the County's road system and include a description of the proposed road incorporation.
  - (v) Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.
- (4) The burden shall be upon the petitioners to prove the criteria set forth in section 18.251.
- (5) Individuals who oppose the acceptance of the road into the County road system may be parties to the proceedings.
- (6) The hearing may be continued from time to time in the discretion of the Director of Public Works, but the notice requirements set forth in subparagraphs (2) and (3) above need be given only one time.
- (7) The Director of Public Works may promulgate regulations for the hearing process which are not inconsistent with the Howard County Administrative Procedures Act [section 2.100 et seq.] nor with the procedures set forth herein.

(C.B. 4, 1981; C.B. 69, 2018, § 1)

Sec. 18.256. - Recommendation of Director of Public Works.

Within 60 days of the conclusion of the hearing, the Director of Public Works shall make a recommendation to the County Executive as to whether the petition should be granted. In making his recommendation to the County Executive, the Director of Public Works shall utilize the criteria set forth in section 18.251.

(C.B. 4, 1981)

Sec. 18.257. - Decision of County Executive.

The County Executive shall issue a written decision either granting or denying the petition within 30 days of receipt of the recommendation of the Director of Public Works, which decision shall be mailed forthwith to all parties.

(C.B. 4, 1981)

Sec. 18.258. - Responsibility for costs.

The total project cost as determined by the Director of Public Works, including but not limited to advertising, legal fees, title fees, labor and materials, less overhead charges by the Department of Public Works or other County agencies, will be shared one-third by the County and two-thirds equally by the landowners who sign agreements with the County.

(C.B. 4, 1981)

Sec. 18.259. - Road improvement loan fund.

- (a) A road improvement revolving fund is established for the purpose of making loans available to owners of private roads within Howard County.
- (b) The length of the loan shall be determined by the agreement as set forth in subsection 18.251(5), but in no event shall it exceed 25 years. Interest rates shall be determined by the said agreement.
- (c) The Director of Public Works is authorized to establish and administer rules and procedures for the road improvement loan fund in accordance with section 2.102 of the Howard County Code.

(C.B. 4, 1981)

Sec. 18.260. - Severability.

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

(C.B. 4, 1981)

SUBTITLE 3. - SEDIMENT AND EROSION CONTROL<sup>121</sup>

Footnotes:

--- (2) ---

**Editor's note**— C.B. 3, 2013, amended Subtitle 3 in its entirety to read as herein set out. The previous Subtitle 3 pertained to the same subject matter and its derivation is as follows: Subtitle 3, §§ 18.300, 18.301, entitled "Bridges," derived from §§ 1, 2 of ch. 280 of the Acts of 1892 and P.L.L. 1930, art. 14, §§ 32, 33, was repealed by C.B. 11, 1985. Subsequently, C.B. 6, 2001, enacted a new Subtitle 3 as set out herein.

**State Law reference**— Sedimentation control, Ann. Code of Md., Environment article, § 4-101 et seq.

Sec. 18.300. - Purpose and authority.

- (a) *Purpose.* The purpose of this subtitle is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with land disturbance.
- (b) *Authority.* The goal is to minimize soil erosion and prevent off-site sedimentation by using soil erosion and sediment control practices designed in accordance with the Code of Maryland Regulations (COMAR) 26.17.01, the 2011 Maryland Standards and Specifications (Standards and Specifications) and Title 4 of the Environment Article of the Annotated Code of Maryland. This subtitle represents the minimum erosion and sediment control requirements and is not intended to limit or repeal any other powers granted to the County under State law.

(C.B. 3, 2013, § 1.2)

Sec. 18.301. - Definitions.

Terms used in this subtitle shall have the meanings set forth in section 3.401 of this Code.

(C.B. 3, 2013, § 1.2)

Sec. 18.302. - Applicability.

No person shall disturb land or create or cause a discharge of sediment or stormwater in violation of this subtitle without implementing soil erosion and sediment controls in accordance with the requirements of this subtitle; title 3, subtitle 4 of this Code; and the standards and specifications, except as provided within this subtitle. A person may not clear or grade land unless the person obtains a grading permit under section 3.402 of this Code and implements soil erosion and sediment controls in accordance with the requirements of section 3.403 of this Code.

(C.B. 3, 2013, § 1.2)

Sec. 18.303. - Inspection.

- (a) The Administration is responsible for the inspection and enforcement of all land disturbing activities, including those sites requiring an erosion and sediment control plan as specified by this subtitle and title 3, subtitle 4 of this Code. This enforcement authority may be delegated to the County through a request by the County or required as a condition of a National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System Permit. This section applies to the Administration, or, the County, if delegated enforcement authority.

(b) Inspection; Frequency and Reports:

- (1) The owner/developer shall maintain a copy of the approved erosion and sediment control plan on site.
  - (2) Every active site having a designed erosion and sediment control plan should be inspected for compliance with the plan on average once every two weeks.
  - (3) A written report shall be prepared by the Department of Public Works after every inspection. The report shall describe:
    - (i) The date and location of the site inspection;
    - (ii) Whether the approved plan has been properly implemented and maintained;
    - (iii) Practice deficiencies or erosion and sediment control plan deficiencies;
    - (iv) If a violation exists, the type of enforcement action taken; and
    - (v) If applicable, a description of any modifications to the plan.
  - (4) The Department of Public Works shall notify the on-site personnel or the owner/developer in writing when violations are observed, describing:
    - (i) The nature of the violation;
    - (ii) The required corrective action; and
    - (iii) The time period in which to have the violation corrected.
  - (5) A permittee shall request that the Department of Public Works inspect completed work to ensure compliance with the approved site development plan, erosion and sediment control plan, the grading or building permit, and this subtitle:
    - (i) Upon completion of installation of perimeter erosion and sediment controls, prior to proceeding with any other earth disturbance or grading.
    - (ii) Upon establishment of final grades; and
    - (iii) Upon final stabilization before removal of sediment controls.
  - (6) No other building or grading inspection approvals may be authorized until initial approval by the Department of Public Works under paragraph (5) of this subsection is granted.
- (c) *Modifications to Erosion and Sediment Control Plans.* When inspection of a site indicates that modification of an approved erosion and sediment control plan is appropriate:
- (1) For a major modification to an approved plan, including a modification due to inadequate control of erosion and sediment as revealed through inspection, the permittee shall submit a request for a modification to the Howard Soil Conservation District; or
  - (2) For a minor modification, an inspector may approve a modification in the field based on a documented field inspection report. The Howard Soil Conservation District, in conjunction with the Department of Public Works, shall maintain a list of allowable field modifications approved by the Administration for use by the inspector.
- (d) *Complaints.* The Inspection Agency shall accept and investigate complaints regarding erosion and sediment control concerns from any interested parties and:
- (1) Conduct an initial investigation within three working days from receipt of the complaint;
  - (2) Notify the complainant of the initial investigation and findings within seven days from receipt of the complaint; and
  - (3) Take appropriate action when violations are discovered during the course of the complaint investigation.



(C.B. 3, 2013, § 1.2)

Sec. 18.304. - Enforcement.

- (a) *Enforcement Authority.* The County shall, through the authority of this subtitle and COMAR 26.17.01 and 26.08.01.01b(20), use enforcement actions when violations of this subtitle occur. Any step in the enforcement process may be taken at any time, depending upon the severity of the violation.
- (b) *Right of Entry.* The County may enter upon property to ensure compliance with this subtitle. If a permit is revoked, the County may enter the property and perform work in order to stabilize the soil within the construction areas, to construct sediment control measures on the perimeter of the site to control mud and silt, or to provide positive drainage patterns.
- (c) *Corrective Action Order.* When the County determines that a violation of this subtitle has occurred, the County shall notify the on-site personnel or the permittee in writing of the violation, describe the required corrective action and the time period in which the violation shall be corrected.
- (d) *Stop-Work Order.* If a person clears or grades land in violation of the approved site development plan or erosion and sediment control plan, the County may issue a stop-work order banning any or all construction activity on the site except temporary sediment control measures specified by the County, until a grading permit is issued or the violation is abated.
- (e) *Civil Citation.* When the County identifies a violation of this subtitle, the County may issue a citation to the owner/developer or the permittee, or both, assessing civil penalties in accordance with section 18.306 of this subtitle. The contents and enforcement of the citation shall be governed by title 24 of this Code.
- (f) *Injunctive Relief.* Any agency whose approval is required under this subtitle or any interested person may seek an injunction against any person who violates or threatens to violate any provision of this subtitle.
- (g) *Other Legal Action.* The County may take any of the enforcement actions authorized by this subtitle regardless of whether any other enforcement action has been taken for a violation and may take other legal action including, without limitation, referral for criminal enforcement or a civil action for damages to recover double the amount of costs incurred by the County for actions taken to abate a violation. The county shall use any damages recovered under this section solely for the county's erosion and sediment control program, including correcting failures to implement or maintain sediment and erosion controls.

(C.B. 3, 2013, § 1.2)

Sec. 18.305. - Denial of permits.

The Department of Inspections, Licenses and Permits may deny the issuance of any permits to an applicant when it determines that the applicant is not in compliance with the provisions of a building or grading permit or approved erosion and sediment control plan.

(C.B. 3, 2013, § 1.2)

Sec. 18.306. - Penalties.

- (a) *Criminal Penalties.* Any person who violates any provision of this subtitle, or any rule, regulation, order or permit issued under this subtitle, is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding \$1,000.00, or imprisonment not exceeding six months, or both, for each violation. Each day a violation occurs or continues is a separate offense. Costs may be imposed at the discretion of the court.

- (b) *Civil Penalties.* A violation of this subtitle is a Class A offense and any person who violates any provision of this subtitle, or any rule, regulation, order, or permit issued under this subtitle, is subject to a civil penalty up to \$1,000.00 for each violation. Each day a violation occurs or continues is a separate offense.

(C.B. 3, 2013, § 1.2)

Sec. 18.307. - Severability.

If any portion, section, subsection, sentence, clause, or phrase of this subtitle is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this subtitle, it being the intent of Howard County that this subtitle shall stand, notwithstanding the invalidity of any portion, section, subsection, sentence, clause, or phrase, hereof.

(C.B. 3, 2013, § 1.2)

SUBTITLE 4. - SIDEWALKS

Sec. 18.400. - Sidewalks; obstructions.

The County Council of Howard County is empowered to adopt such reasonable rules and regulations respecting the use of sidewalks in Howard County, including the right to prevent encroachment thereon and obstruction of the same.

(1947, Ch. 590, § 73B)

Sec. 18.401. - Sidewalks; obstructions; penalties.

Any persons violating any rules or regulations that may be adopted in accordance with section 18.400, "Sidewalks; Obstructions," shall, upon conviction, be deemed guilty of a misdemeanor, and be subject to a fine of not less than \$25.00 nor more than \$50.00. Alternatively or in addition to and concurrent with all other remedies, the Department of Public Works or the Police Department may enforce the rules and regulations with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation shall be a Class E offense.

(1947, Ch. 590, § 73C; C.B. 32, 1985)

Sec. 18.402. - Maintenance of sidewalks, driveways and sod.

- (a) It shall be the duty and obligation of the owner of property abutting a public right-of-way to maintain the abutting sidewalk, driveway apron and sod or grass within the public right-of-way in such condition as to be safe for public use. However, if the sidewalk has been damaged solely by the roots of trees in the County right-of-way or by a County water or sewer construction project, then it shall be the responsibility of the County to replace or repair the sidewalk damaged by the tree roots or by the County water or sewer construction project.
- (b) The repair of any sidewalk or driveway apron may be made after first obtaining a permit from the Department of Public Works, and the work shall be done in accordance with County standards.
- (c) A property owner whose property abuts a public sidewalk in need of repair may request the Director of Public Works to do the required sidewalk repair or replacement at the property owner's expense.

- (d) When the Director of the Department of Public Works finds public sidewalk, driveway apron or sod which needs repairs and is not safe for public use, it shall be his duty to give notice to the abutting property owner of the necessary repairs by sending a registered letter to the address of the owner shown on the current tax records in the office of the Director of Finance. The notice shall advise the property owners that they have a 60-day period from the date of notice in order to repair the sidewalk, driveway apron or sod. The notice to repair sent by the Director to the property owner shall also indicate that the Department of Public Works will do the work on the sidewalk at the property owner's request if the property owner agrees to pay the costs of the work. The notice shall advise the owner that he has the right to appeal the Director's decision to the Board of Appeals within 30 days of the issuance of the notice and shall explain the procedures upon failure to comply with the order or repair the sidewalk, driveway apron or sod.
- (e) Any person aggrieved of the action of the Director with regard to subsection (d) shall have the right to appeal the action to the Board of Appeals, within 30 days from the mailing of the notice by the Director of Public Works to the property owner.
- (f) If the property owner has not:
  - (1) Repaired the sidewalk, driveway apron or sod within the 60-day period or within 60 days following a final decision on appeal; or
  - (2) Notified the Department of Public Works of intent to repair by exhibiting a signed contract or other proof satisfactory to the Department of Public Works; or
  - (3) Agreed to repair the driveway apron and/or sod and signed an agreement with the Department of Public Works to have the Department of Public Works do any necessary sidewalk work;

The Director of the Department of Public Works shall order the work done and shall bill the owner of the property an amount equal to 100 percent of the cost of labor and material.

- (g) Whenever the Department of Public Works repairs or replaces sidewalks at the request of the owner of the abutting property or does any repair because the owner has not complied with a notice to do so, the Department shall keep an accurate account of the costs of the work. The Department of Public Works shall provide the Director of Finance with a copy of the accounts.
  - (1) *Billing.* Upon completion of the repair or replacement, the Director of Finance shall bill the property owner for the costs of the work.
  - (2) *Payment.* The property owner shall pay the bill for the work on the driveway apron or sod within 30 days of billing. The property owner may pay the bill for the sidewalk work within 30 days of billing or may pay the costs plus six percent annual interest in installments over a five-year period.
  - (3) *Early repayment:*
    - (i) A property owner who has elected to pay the costs of sidewalk repair or replacement over a five-year period may pay the entire outstanding balance plus interest to date at any time during the five-year period.
    - (ii) If the property owner sells or transfers the property, the outstanding balance plus interest to date shall become due and payable as of the date of transfer of the property.
- (h) (1) Subject to paragraph (2) of this subsection, it shall be the duty and obligation of the owner of property abutting a sidewalk in a public right-of-way to remove snow from the sidewalk within 48 hours after the snow has fallen. In the case of a multiunit building with more than one occupant, it shall be the duty of the lessor to remove the snow unless the lessor has obligated a tenant who is actually occupying the property to do so. Any owner of property abutting a sidewalk in a public right-of-way, lessor of a multiunit building, or tenant obligated by the lessor, who fails to remove the snow from the abutting sidewalk within 48 hours after the snow has fallen shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not less than \$25.00 nor more than \$50.00. Alternatively or in addition to and concurrent with all other remedies, the Department of Public Works or the Police Department may enforce the

subsection with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation shall be a Class E offense.

- (2) If the County Executive declares a state of emergency under section 6.103 of the County Code, the County Executive may extend the time to remove snow.
- (i) The term *property owner* as used in this subtitle includes any interest in property held by a condominium or homeowners' association.

(C.B. 4, 1970; C.B. 21, 1976; C.B. 32, 1985; C.B. 63, 1988; C.B. 105, 1989; C.B. 13, 2016, § 1)

#### SUBTITLE 5. - STORM DRAINAGE SYSTEMS<sup>3</sup>

#### Footnotes:

---- (3) ----

**Editor's note**— Section 5 of C.B. 5, 2005 amended former subtitle 5 in its entirety to read as herein set out. Former subtitle 5, §§ 18.500—18.503 pertained to private drainage systems in residential areas and derived from C.B. 7, 1980; C.B. 32, 1985; C.B. 56, 2000.

**State Law reference**— Stormwater management, Ann. Code of Md., Environment article, § 4-201 et seq. Sec. 18.500. - Purpose.

The purpose of this subtitle is to provide for the proper functioning of the storm drainage systems within the County, including waterways, to prohibit certain stormwater and nonstormwater discharges to storm drainage systems or waterways, to require the repair and maintenance of privately owned storm drainage facilities, and to provide that the failure to maintain certain privately owned storm drainage facilities is a violation of this subtitle.

(C.B. 3, 2005, § 5; C.B. 10, 2019, § 1)

#### Sec. 18.501. - Definitions.

Terms used in this subtitle have the meaning indicated.

- (a) *Best management practice* shall have the meaning set forth in title 18, subtitle 9 of the Howard County Code.
- (b) *Department* means the Department of Public Works.
- (c) *Director* means the Director of the Department of Public Works or the Director's authorized designee.
- (d) *Discharge* means:
- (1) The addition, introduction, leaking, spilling, or emitting of a pollutant into the waters of this State; or
  - (2) The placing of a pollutant in a location where the pollutant is likely to pollute.
- (e) *Hazardous material* means a material, including a substance, waste, or combination thereof, which, because of its quantity, concentration, physical, chemical, or infectious characteristics, may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

- (f) *Illicit connection* means either:
- (1) A drain or conveyance, either on the surface or subsurface, which allows a discharge, prohibited under section 18.502 of this subtitle, to enter a public storm drainage facility or waterway, regardless of whether the drain or conveyance had been previously allowed, permitted, or approved by the Department; or
  - (2) A drain or conveyance connected to a public storm drainage facility or waterway which has not been documented in a plan, map, or equivalent record and approved by the Department.
- (g) *National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit* means a permit issued by the Environmental Protection Agency or by a State acting under authority delegated pursuant to 33 U.S.C. § 1342(b) that authorizes the discharge of pollutants to waters of the United States. The permit may be applicable on an individual, group, or general area-wide basis.
- (h) *Nonstormwater discharge* means any discharge to a storm drainage facility or waterway that is not composed entirely of stormwater.
- (i) *Person* means an individual, corporation, firm, partnership, association, organization, a group acting as a unit, or an executor, Administrator, trustee, receiver or other representative appointed according to law.
- (j) *Pollutant* means anything which causes or contributes to pollution. A pollutant may include, but is not limited to, paints, varnishes and solvents, oil or other automotive fluids, nonhazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter, other discarded or abandoned objects, ordinances and accumulations which may cause or contribute to pollution, floatables, pesticides, herbicides, fertilizers, hazardous substances and wastes, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal wastes, construction wastes and residues, noxious or offensive matter of any kind, or any other chemical substance.
- (k) *Premises* means a building, lot, parcel of land, or portion of land whether improved or unimproved including, without limitation, adjacent sidewalks or parking strips.
- (l) *Storm drainage facility* means a facility in which stormwater is collected or conveyed, including, without limitation, a road with a drainage facility, a municipal street, gutter, curb, inlet, piped storm drain, pumping facility, best management practice, reservoir, or other drainage structure.
- (m) *Storm Drainage System* means public and privately-owned storm drainage facilities and waterways.
- (n) *Stormwater* means any surface flow, runoff, or drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.
- (o) *Waterway* means any natural, manmade, or altered stream, river, creek, ditch, gully, ravine, lake, or wash, in and including any adjacent area that is subject to inundation from overflow or flood water.

(C.B. 3, 2005, § 5; C.B. 10, 2019, § 1)

Sec. 18.502. - Prohibited discharges and illicit connections.

- (a) *Prohibited Discharges.* Except as provided in subsection (b) of this section, a person shall not discharge or cause or allow to be discharged any pollutant or nonstormwater discharge into a storm drainage facility or waterway which shall contaminate or otherwise alter the physical, chemical, or biological properties of any water conveyed to a storm drainage facility including, without limitation, a change in the temperature, taste, color, turbidity, or odor.
- (b) *Exceptions.* The following discharges are exempt from the prohibitions set forth in subsection (a) of this section:
  - (1) Waterline flushing or discharges from other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, foundation or footing drains, air conditioning

- condensate, irrigation waters, springs, individual residential vehicle washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and fire fighting activities; or
- (2) Discharges permitted under a NPDES stormwater discharge permit or a nonstormwater discharge permitted under a NPDES discharge permit.
- (c) *Prohibited Illicit Connections.* A person shall not construct, use, maintain, or allow the continued existence of an illicit connection.
- (d) *Remedies:*
- (1) *Written notice.* The Director shall provide written notice to the owner, tenant, licensee, or any other person causing or permitting a prohibited discharge or illicit connection to cease the prohibited discharge or illicit connection or to remove the illicit connection. The Director may require removal of an illicit connection even if the Director previously gave permission for the connection. The Director's written notice shall specify the time allowed for completion of the remedial action and shall be served by personal service or certified mail, restricted delivery. In the event that service cannot be obtained by personal service or certified mail, restricted delivery, the notice may be posted on the property in a conspicuous location.
  - (2) *Court order.* Upon failure to cease the prohibited discharge or failure to remove an illicit connection within the time allowed in the notice, the Director shall petition the court for an order to enter the property, to conduct remedial repairs, and to be awarded the costs to complete those repairs.
  - (3) *Emergency repairs.* If the Director has evidence that a prohibited discharge or illicit connection threatens the public health and safety, the Director may enter the property and make repairs in order to abate the public health or public safety hazard without prior written notice to the owner, tenant, licensee, or any other person causing or permitting a prohibited discharge or illicit connection. The Director may seek a court order assessing the costs of the abatement against the owner, tenant, licensee, or any other person causing or permitting a prohibited discharge or illicit connection.
  - (4) *Additional penalties.* The recovery of costs and the imposition of civil and criminal penalties shall be in addition to and concurrent with any other remedies the County may have in law or equity.

(C.B. 3, 2005, § 5)

Sec. 18.503. - Right of entry.

- (a) *Generally.* Except as provided in subsection (b) of this section, the Director may enter any building, structure, or premises at any reasonable time for the purpose of enforcing this subtitle and for performing duties related to this subtitle.
- (b) *Consent.* The Director may enter a private dwelling to inspect for a violation of this subtitle with the consent of the occupant or owner. If entry is refused, the Director may seek a court order to permit entry to the dwelling.
- (c) *Threat to Public Health and Safety.* Upon providing proof of identity prior to entry, the Director may enter a building, structure, or premises:
  - (1) Where there is evidence that a violation of this subtitle exists which threatens or may threaten the public health and safety for the purpose of performing duties pursuant to the provisions of this subtitle; or
  - (2) To remove natural and man-made obstructions in stream channels and in the floodway of streams, which may impede the passage of water during rain events. This provision does not create any responsibility of the County for the clearance or maintenance of the stream, or for

flooding, and does not affect the rights and obligations of private property owners regarding the floodplain or maintenance of stream channels.

(C.B. 3, 2005, § 5; C.B. 10, 2019, § 1)

Sec. 18.504. - Repair and maintenance of private storm drain facilities in residential areas.

(a) *Single Residential Lot Storm Drainage Facilities:*

- (1) Privately owned storm drainage facilities which are associated with the development of a lot or parcel for a single residence and which primarily benefit the owner or user of the lot or parcel shall be the responsibility of the property owner to maintain, repair, or replace.
- (2) The repair or replacement of any storm drainage facility associated with the development of a lot or parcel for a single residence may be made by the property owner after written approval is obtained from the Department, and the work shall be done in accordance with such approval.
- (3) If the County determines that deficiencies exist in a private stormwater drainage facility associated with the development of a lot or parcel for a single residence, the County shall give notice to the property owner in writing of the deficiencies, describe the required corrective action, and the time period to have the deficiencies corrected. The notice shall be given by sending a letter by certified mail to the address of the owner as shown in the current tax records kept by the Department of Finance. Failure of the property owner to complete the required corrective action in the specified time is a violation of this subtitle.
- (4) If the property owner fails to correct the deficiencies within the specified time frame, the County may apply to the appropriate court for an order allowing the County to enter the property and to make, at the property owner's expense, the necessary repairs or replacement of the facility.
- (5) Following entry of the order and completion of the repair or replacement, the County shall send to the property owner a bill for the costs to correct the deficiencies. If the bill is not paid within 30 days, the County may file with the court a verified statement of costs, for the purpose of entering a civil judgment in the County's favor against the property owner.

(b) *Storm Drainage Facilities Serving More Than a Single Residential Lot:*

- (1) For purposes of this subsection, a residentially developed lot or parcel shall not include an apartment building or other residential property owned or operated for a commercial use. Privately owned storm drainage facilities that primarily serve residentially developed lots or parcels and which convey or retain stormwater from other upstream lots or parcels, public rights-of-way, easements, or fee simple lands shall be the responsibility of Howard County to maintain, repair, or replace after:
  - (i) The Director determines that the facility is in compliance with County standards in design, construction, and maintenance; and
  - (ii) An easement, public right-of-way, or fee simple land is dedicated by the property owner, accepted by Howard County, and recorded in the land records of Howard County.
- (2) If a privately owned storm drainage facility is not in compliance with County standards, the property owner may request the Director to repair or replace the storm drainage facility at the property owner's expense in order to bring the facility into compliance with County standards after an easement, public right-of-way, or fee simple land is dedicated by the property owner to the County. The property owner shall enter into an agreement with the County to have the County repair or replace the storm drainage facility. The agreement shall be recorded among the land records of Howard County. The agreement shall include the terms and conditions for completion of the work and for payment by the property owner of the costs to repair or replace the storm drainage facility. The cost to repair or replace the storm drainage facility shall be paid in full upon the transfer of all or any portion of the property served by the storm drainage facility.

With the consent of the County, the property owner may elect to pay the costs in annual installments.

- (3) If the Director determines that a privately owned storm drainage facility that primarily serves residential developed lots or parcels is adversely affecting the function, performance, or physical condition of a structure or storm drainage facility on publicly owned land or within a public right-of-way, other downstream property, or represents a safety or health hazard, the Director may enter into an agreement with the property owner to make such repairs or replace the facility as may be deemed necessary to relieve the adverse condition. The cost of the repairs or replacement shall not be charged to the private property owner unless the adverse condition on the private property is directly attributable to the property owner's failure to perform adequate maintenance, in which case the owner may be charged any amount of the cost of repairs or replacement up to 100 percent of the total cost. The agreement between the property owner and the County shall include the terms and conditions for completion of the work and for payment by the property owner of any amount of the cost of repairs or replacement which is charged to the property owner.
- (4) In lieu of repairing or replacing a storm drainage facility that primarily serves residentially developed lots or parcels, as provided in paragraphs (1) and (2) of this subsection, it is within the discretion of the Director to construct alternative storm drainage facilities to relieve the adverse condition caused by the existing facility.
- (5) If a property owner does not permit the County to repair or replace a storm drainage facility that primarily serves residentially developed lots or parcels, as provided in paragraph (3) of the subsection, and the Director deems it appropriate not to exercise the option of constructing alternative storm drainage facilities to relieve the adverse condition, as provided in paragraph (4) of this subsection, then the repair or replacement of the storm drainage facility shall be the responsibility of the property owner. In such case, the provisions of subsections (a)(3) through (5) of this section shall apply, and the procedures therein shall be followed.

(C.B. 3, 2005, § 5; C.B. 10, 2019, § 1)

#### Sec. 18.505. - Implementation.

The County Executive is authorized to create a fund and appropriate capital projects to implement the provisions of section 18.504 of this subtitle. The Director shall be responsible for implementing the provisions of section 18.504 of this subtitle to the extent that funds for such are approved in the annual budget.

(C.B. 3, 2005, § 5)

#### Sec. 18.506. - Annual report.

The Director shall publish an annual report on April 1, which shall contain the following information relating to the repair or replacement of storm drainage facilities on private land:

- (a) The location, description of the work, and costs involved in each case, of:
  - (1) Any storm drainage facilities repaired or replaced by owners under the provisions of subsection 18.504(a)(2) of this subtitle;
  - (2) Any storm drainage facilities repaired or replaced by the County, or otherwise, under the provisions of subsection 18.504(a)(4) of this subtitle;
  - (3) Any storm drainage facilities repaired or replaced by the County under the provisions of subsection 18.504(b)(3) of this subtitle; and



- (4) Any storm drainage facilities repaired or replaced by owners under the provisions of subsection 18.504(b)(5) of this subtitle;
- (b) The location, description of the work, and cost of any alternative storm drainage facilities constructed under the provisions of subsection 18.504(b)(4) of this subtitle;
- (c) The location and description of any storm drainage facilities dedicated to Howard County under the provisions of subsections 18.504(b)(1) and (2) of this subtitle; and
- (d) An accounting of the fund authorized under section 18.505 of this subtitle if such a fund is established.

(C.B. 3, 2005, § 5)

Sec. 18.507. - Penalties and remedies.

- (a) *Criminal Penalties.* Any person, firm or corporation violating any section of this subtitle is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding \$900.00, or imprisonment not exceeding five months or both.
- (b) *Civil Penalties.* Alternatively or in addition to and concurrent with all other remedies, the Department may enforce the provisions of this subtitle with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle is a Class A offense. Each day that a violation continues is a separate offense.
- (c) *Injunctive and Other Relief.* The Director is authorized to institute on behalf of Howard County any legal action, including an action for appropriate injunctive relief, in order to compel compliance with any of the provisions of this subtitle.

(C.B. 3, 2005, § 5)

SUBTITLE 6. - SANITARY LANDFILL REGULATIONS

Sec. 18.600A. - Capital Improvement Master Plan (C.I.M.P.) for Solid Waste.

- (a) Definitions:
  - (1) *Capital Improvement Master Plan; C.I.M.P. for Solid Waste* is a plan proposed by the County Executive upon the recommendation of the Director of Public Works and adopted by the County Council pursuant to the provisions of section 22.405 of the Howard County Code. The plan indicates the capital improvements to the County's solid waste acceptance and disposal systems to be constructed during the next ten years in order to implement the housing and employment growth projections of the County's general plan and the master plan for solid waste adopted pursuant to the requirements of the natural resources article of the Annotated Code of Maryland. The C.I.M.P. for Solid Waste included the solid waste acceptance and disposal projects included in the Howard County Capital Budget and Capital Program and Extended Capital Program.
- (b) *Requirement to Prepare C.I.M.P. and Review It Annually.* The Department of Public Works shall prepare the C.I.M.P. for Solid Waste pursuant to the provisions of section 22.405 of this Code. The Department shall review the plan annually and shall submit updates as appropriate for adoption by the County Council.

(C.B. 10, 1992)

Sec. 18.600. - Authority of Director of Public Works to adopt landfill rules and regulations.

The Director of Public Works is empowered to adopt such reasonable rules and regulations in the interest of public health and safety, respecting the design, construction and operation of any sanitary landfills in Howard County, including establishing operating hours, schedules and administrative procedures for County-owned sanitary landfills, not inconsistent with this subtitle.

(C.B. 12, 1978)

Sec. 18.601. - Definitions.

- (a) *Cell* means compacted solid wastes that are enclosed by natural soil or cover material in a land disposal site.
- (b) *Cover material* means other suitable material that is used to cover compacted solid wastes in a land disposal site.
- (c) *Daily cover* means cover material that is spread and compacted on the top and side slopes of compact solid waste (to densities averaging 593 kilograms/cubic meter (1,000 pounds/cubic yard)) at the end of each operating day in order to control vectors, fire, moisture and erosion and to assure an aesthetic appearance.
- (d) *Director* means the Director of the Howard County Department of Public Works or his designated agent.
- (e) *Final cover* means cover material that serves the same functions as daily cover but, in addition, is permanently exposed on the surface of the disposal area.
- (f) *Free moisture* means liquid that will drain freely by gravity from solid materials.
- (g) *Groundwater* means water present in the saturated zone of the soil; water within the earth that supplies wells and springs.
- (h) *Reserved*.
- (i) *Leachate* means liquid that has percolated or seeped through solid waste and has extracted dissolved or suspended materials from it.
- (j) *Open burning* means burning of solid wastes in the open.
- (k) *Plans* means reports and drawings, including a narrative operating description, prepared to describe the land disposal site and its proposed operation.
- (l) *Runoff* means the portion of precipitation that drains from an area as surface flow.
- (m) *Operating area* means the area where construction of refuse cells is performed within the land disposal site.
- (n) *Salvaging* means the controlled removal of waste materials for utilization in a manner approved in writing by the Director.
- (o) *Sanitary landfill* means a land disposal site permitted by the State Department of Health and Mental Hygiene and employing an engineered method of disposing of solid wastes on land in a manner that minimizes environmental hazards by spreading the solid wastes in thin layers, compacting the solid wastes to the smallest practical volume, and applying and compacting cover material at the end of each operating day.
- (p) *Scavenging* means unauthorized removal of solid waste materials.
- (q) *Solid wastes* means garbage, refuse, sludges, and other discarded solid materials resulting from residential, industrial and commercial operations and from other activities of the community.
- (r) *Site* means the entire property, including buffer and operating area, on which the land disposal operation is located.

- (s) *Vector* means a carrier, such as an insect or rodent, that is capable of transmitting a disease-causing agent from one organism to another.
- (t) *Water table* means the upper water level of a body of groundwater.
- (u) *Working face* means that portion of the land disposal site where solid wastes are discharged and are spread and compacted prior to the placement of cover material.

(C.B. 12, 1978)

Sec. 18.602. - Design and construction standards.

- (a) Plans for the design and construction of sanitary landfill sites or modifications to existing sanitary landfill sites shall be prepared and signed by a registered professional engineer, and approved by the Director. The plans shall be in accordance with all applicable procedures and regulations for evaluating and designing sanitary landfill sites as promulgated by the Maryland Department of Health and Mental Hygiene and the Maryland Department of Natural Resources or any other permitting agencies. Such plans shall be consistent with public health and welfare, State and Federal air and water quality standards, noise standards, and the Howard County general plan. The following design procedures shall be followed prior to submission of plans to the appropriate agencies for the issuance of an approved operating permit:
  - (1) The types and quantities of all solid wastes expected to be generated in Howard County through the year 2,000 (as a minimum) and disposed of at the facility shall be determined by survey and analysis to form a basis for design.
  - (2) Quantitative measurements of the solid wastes handled at the landfill site shall be provided for in the plans. This may be accomplished by planning for utilization of scales and topographic surveys of the site at various intervals of the landfill site life, or by other suitable means approved by the Director.
- (b) Site development plans shall include:
  - (1) Initial and final topographies of contour intervals of 0.6 meters (two feet) or less.
  - (2) Land use and zoning within 0.8 kilometers (one-half mile) of the site, including location of all residences, buildings, wells, watercourses, rock outcroppings, roads, and soil or rock borings. Topography and visual impact analysis shall also be developed for the site and surrounding area.
  - (3) Location of all utilities within the site and within a 30.5-meter (100-foot) distance beyond its boundaries.
  - (4) Narrative descriptions, with associated drawings, indicating site development and operation procedures.
  - (5) Location of the sole access point to the Alpha Ridge landfill site from Marriottsville Road at a point as near as possible to Maryland Route I-70.
- (c) The hydrogeology of the site shall be evaluated in order to design landfill site development in a manner to protect groundwater resources. Unacceptable hydrogeologic conditions may be altered to render the site acceptable, but such alterations must be detailed and justified in the plans. Precipitation, evapotranspiration, and other climatological conditions shall be considered in site design.
- (d) The location, design, construction and operation of the working disposal area of the landfill site shall conform to the most stringent of applicable water quality standards established in accordance with Federal, State and local provisions. In order to achieve these standards, plans should include:
  - (1) Current and projected use of water resources in the potential zone of influence of the landfill site.

- (2) Groundwater elevation and movement and proposed separation between the lowest point of the lowest cell and the predicted maximum water table elevation.
  - (3) Potential interrelationship of the land disposal site, local aquifers and surface waters, based on historical records or other sources of information.
  - (4) Background and initial quality of water resources within the land disposal site.
  - (5) Proposed location of observation wells, sampling stations, and the testing and monitoring program which is planned for implementation.
  - (6) Description of soil and other geologic material to a depth adequate to allow evaluation of the water quality protection provided by the soil and other geologic material.
  - (7) Potential of leachate generation and proposed control systems, where necessary, for the protection of ground and surface water resources.
- (e) Characteristics of on-site soil shall be evaluated with respect to their effects on-site operations, such as vehicle maneuverability, and use as cover material. Plans shall specify cover material sources and soil classifications; surface grades and side slopes needed to promote maximum runoff, without excessive erosion, and to minimize infiltration; procedures to promote vegetative growth as promptly as possible to combat erosion and improve appearance of idle and completed areas; and information as to the character and attenuation characteristics of the soil to the depth of at least one and one-half meters (five feet) below the proposed or intended excavation operations, and the elevation of the groundwater table in that area.
- (f) An all-weather access road, negotiable by loaded refuse vehicles, shall be provided to the entrance of the landfill site. All access to the landfill site shall be through permanent gates or barricades which can be locked. Appropriate physical measures such as fencing, ditching or banking shall be planned to prevent indiscriminate access at all other locations. Temporary roads shall be provided for in the planning as needed to deliver wastes to the working face of the landfill operation.
- (g) The sanitary landfill site design shall provide that the operating area of the landfill not be closer than 76.2 meters (250 feet) from the site property line.
- (h) The design of the operating area of the landfill shall not encroach into the natural 100-year floodplain of any stream, tributary area, creek, river or natural watercourse. Therefore, where floodplains may exist on or bordering the proposed site, the effect of the proposed fill operation shall be investigated to assure no interference with stream flow at flood stages. Diversion channels of adequate size and grade based upon runoff estimates from the area surrounding and within the landfill site shall be provided in the plans in order to provide for surface water runoff control to minimize infiltration and erosion of cover material. Such diversion design shall also minimize the impacts of drainage off the landfill site on adjacent properties. Siltation or retention basins or other approved methods of retarding runoff shall be designed where necessary to avoid stream siltation or flooding problems due to excessive runoff. Design computations shall be prepared to determine the effect of landfill construction on the surface water flows adjacent to the site. All applicable State, Federal and local stormwater management regulations and standards shall be adhered to in the design plans.
- (i) Plans shall include an effective dust control program to protect public health and eliminate nuisance conditions. Air quality monitoring at site perimeter locations shall be provided on a quarterly basis to ensure compliance with appropriate Federal, State and local air quality provisions.
- (j) Plans shall assess the need for gas control and indicate the location and design of any vents, barriers, collection or other control measures to be provided. Air quality monitoring at site perimeter locations shall be provided on a quarterly basis to ensure compliance with appropriate Federal, State and local air quality provisions.
- (k) Plans shall include contingency programs for vector control and eradication in the event that a problem does occur.

- (l) Plans shall include an effective litter control program, both on-site and encompassing the immediate area surrounding the site. Portable litter collection fences shall be placed adjacent to and on the leeward side of the active fill and be directed toward prevention of litter being left or transmitted from the site to the surrounding area.
- (m) The plans shall include:
  - (1) Arrangements whereby substitute equipment will be available to provide uninterrupted service during routine equipment maintenance periods or equipment breakdowns.
  - (2) An equipment maintenance facility on-site, or appropriate contract arrangements to receive such service.
- (n) A manual, which shall be in accordance with the Maryland Occupational and Safety Health Act, describing safety precautions and procedures to be employed, shall be developed prior to landfill site operations.
- (o) Plans shall prescribe methods to be used in maintaining records and monitoring the environmental impact of the land disposal site, including air, water, noise, etc.
- (p) Landscaping shall be included in the plans to provide adequate buffer to screen the landfill activity from the surrounding area. Buffer and site layout shall be planned so as to ensure adherence to Maryland Department of Health and Mental Hygiene regulations governing the control of noise pollution. On-site vegetation shall be cleared only as necessary, and a schedule providing for progressive clearance of trees shall be developed.
- (q) Plans shall describe the projected use of the completed land disposal site. In addition to maintenance programs and provisions, where necessary, for monitoring and controlling decomposition gases and leachate, the plans shall address the following ultimate use criteria:
  - (1) *Cultivated or open space area.* If the completed landfill site is to be cultivated or retained as open space, the integrity of the final cover shall not be disturbed by agricultural cultivation or stabilization activities. In this regard, a sufficient depth of cover material to allow cultivation and to support vegetation shall be designed for in addition to that recommended for final cover.
  - (2) *Structures.* If any enclosed structures are to be built within the landfill site, the Director shall review and approve their design and construction, including provision for protection against potential hazards of solid waste decomposition gases.

(C.B. 12, 1978)

Sec. 18.603. - Future use of landfill site upon completion of fill operations.

- (a) Prior to the completion of the final design of the landfill site and the operating area, the Director of Public Works, in conjunction with the Director of recreation and parks and other appropriate County, State and Federal agencies, shall develop a plan broadly outlining the ultimate use of the landfill site upon completion of the filling operation thereon. Said plan may address a phasing-in of uses prior to the completion of filling operations and may address possible use alternatives.
- (b) Upon completion, the above plan shall be presented to the County Council for their consideration and approval. The Department of Public Works may propose alternatives to the future use plan from time to time, for either the entire site or for a portion thereof, by submitting a proposal to the County Council.

(C.B. 12, 1978)

Sec. 18.604. - Operational procedures.

- (a) Sanitary landfill techniques of spreading and compacting solid wastes and placing cover material at the end of each operating day should be used to dispose of municipal solid wastes. The following details of daily operations shall be followed as the operators conduct all operations in accordance with the approved design and development plans and specifications; solid waste handling equipment shall on any operating day perform the following functions and adhere to the following requirements:
- (1) Spread the solid waste accepted in layers no more than 0.6 meters (two feet) thick while confining it to the smallest practicable area.
  - (2) Compact the spread solid wastes to the smallest practicable volume (several such completed layers will form a cell).
  - (3) Place, spread and compact the cover material over the cell at least by the end of each day's operation.
  - (4) Daily cover shall be applied regardless of weather; sources of cover material shall, therefore, be accessible on all operating days. The thickness of the compacted daily cover shall not be less than 0.15 meters (six inches).
  - (5) Intermediate cover shall be applied on areas where additional cells are not to be constructed for extended periods of time; normally, a period which may vary between one week to one year. The thickness of the compacted intermediate cover shall not be less than 0.3 meters (1.7 foot).
  - (6) Final cover shall be applied on each area as it is completed or if the area is to remain idle for over one year. The thickness of the compacted final cover shall not be less than 0.6 meters (two feet).
  - (7) No refuse shall remain uncovered for more than eight hours from the time of deposit.
  - (8) Dead animals shall not be accepted for disposal at sanitary landfill sites.
- (b) During day-to-day operations, solid wastes and any leachate therefrom shall not be allowed to contact ground or surface water. If such contact occurs, as noted by water quality monitoring, immediate action shall be taken to correct the situation and eliminate any water quality impairment. Such action shall provide for elimination of the source of leachate and the collection, treatment and safe disposal of any impaired water. The water quality of all streams, ponds, springs, and any other bodies of water within the site and within 30.5 meters (100 feet) of the site boundary, to include the groundwater table shall be tested, as a minimum, quarterly. The following tests shall provide indicators of any potential contamination of surface and groundwater prior to any migration of contamination off-site: pH; specific conductance; five-day biochemical oxygen demand; total organic carbon; nitrogen as ammonia (as N), nitrite-nitrate (as N), organic nitrogen (as N); total phosphate; sulfate ( $\text{SO}_4$ ); chloride (Cl); iron, total (Fe); zinc; alkalinity (as  $\text{CaCO}_3$ ). Additional testing and the required physical and chemical analyses shall be prescribed by the Director and/or by the Maryland Department of Health and Mental Hygiene and the Maryland Department of Natural Resources. Leachate collection and treatment systems shall be used where necessary to protect ground and surface water resources.
- (c) Open burning of solid waste in Howard County is prohibited.
- (d) Measures to control dust shall be initiated as necessary to protect the health and safety of facility personnel, nearby residents, and persons using the facility.
- (e) Gases resulting from decomposition of organic materials shall be monitored at strategic locations around the perimeter of the landfill quarterly to prevent explosive concentrations (five percent to 15 percent methane) or toxicity hazard to adjacent properties. If such concentrations or hazards occur, immediate actions shall be taken to correct the situation. Monitoring of any gases generated on the site shall be provided by purchase of equipment or through contractual services.
- (f) Continual inspection for any evidence of vermin and rodent life shall be performed, and any vermin or rodent life shall be eliminated by the immediate implementation of a planned program of eradication.

- (g) Portable litter fences or other devices shall be used in the immediate vicinity of the working face and at other appropriate locations to control blowing litter. At the end of each operating day, or more often as required, litter shall be removed from the fences and incorporated into the cell area being used. Alternatively, the litter may be containerized for disposal on succeeding operating days. Wastes that are easily moved by wind shall be covered, as necessary, to prevent their becoming airborne and scattered.
- (h) Certain bulky wastes, such as appliances, shall be salvaged in a controlled manner at a point other than the working face, or otherwise they shall be crushed on solid ground and then pushed onto the working face near the bottom of the cell.
- (i) A safety manual shall be available for use by employees, and they shall be instructed in application of its procedures. A training program shall be developed and implemented for all employees.
- (j) Personal safety devices, such as hard hats, gloves, safety glasses, and footwear, shall be provided to facility employees as required. Safety devices, including, but not limited to, such items as rollover protective structures, seat belts, audible reverse warning devices, and fire extinguishers, shall be provided on all equipment used to spread and compact solid wastes or cover material at the facility. All such safety equipment shall be in accordance with the Maryland Occupational Safety and Health Act. All specifications for the purchase of heavy equipment shall include provisions for adherence to applicable State, Federal and local noise standards.
- (k) No scavenging of refuse delivered to the sanitary landfill shall be permitted by Howard County employees or by citizens.
- (l) Access to the site shall be limited, and the gates and barricades shall be open only when an attendant or operator is on duty. Gates or barricades shall be locked at all other times. Traffic and informational signs and markers shall be provided to promote an orderly traffic pattern to and from the discharge area, maintain efficient operating conditions, inform as to the hours of landfill operation, and restrict access to hazardous areas. No vehicle shall be left unattended at the working face or along traffic routes. If a regular user persistently poses a safety hazard, this user shall be barred from the site.
- (m) Records shall be maintained to cover the following, as a minimum:
  - (1) Major operational problems, complaints or difficulties.
  - (2) Qualitative and quantitative evaluation of the environmental impact of the sanitary landfill, with regard to the effectiveness of gas and leachate control, including results of leachate sampling and analyses, gas sampling and analyses, ground and surface water quality sampling and analyses upstream and downstream of the site.
  - (3) Vector control efforts.
  - (4) Dust and litter control efforts.
  - (5) Quantitative measurements of the solid wastes handled and disposed and progressive records showing area and subarea fill completion and remaining disposal capacity.
  - (6) Description of solid waste materials received, identified by source of materials.
- (n) Fire protection shall be provided by any or all of the following methods:
  - (1) An adequate supply of water shall be available at all times at the site;
  - (2) A stockpile of cover material shall be maintained reasonably close to the working face of the fill;  
or
  - (3) Means and devices mutually agreeable in writing to the Director and the Howard County Fire Administrator may be used.
- (o) There shall be an adequate number of large waste containers with adequate volume located inside the entrance to all sanitary landfills. These containers shall be accessible during normal hours of landfill operations to private passenger vehicles as a citizens' convenience center.

- (p) Upon completion of a sanitary landfill cell, the entire surface of the intermediate cover shall be inspected monthly. All cracked, eroded or uneven covers shall be repaired.
- (q) No solid waste or special waste generated from out-of-County sources will be accepted at landfill(s) owned and operated by Howard County, Maryland.

(C.B. 12, 1978; C.B. 20, 1982; C.B. 41, 1983)

Sec. 18.605. - Regulatory requirements.

- (a) The Director shall develop a feasible plan of action for the rescue of all recoverable materials accepted at the sanitary landfill. Such materials shall include:
  - (1) Automobile tires.
  - (2) Leaf waste.
  - (3) Bulky residential appliances ("white goods").
  - (4) Christmas trees.
  - (5) Waste oil.
  - (6) Batteries.
- (b) The Director shall ensure that existing sanitary landfills in Howard County shall meet the provisions of section 18.604 contained herein.
- (c) Any Howard County citizen may direct written inquiry or written notice of alleged violations of this subtitle or of any rules or regulations promulgated pursuant thereto to the Director of Public Works and the County Health Department. The Director/Health Officer shall review such written evidence and perform such investigation as may be necessary to determine the nature of the alleged violation. The Director of Public Works, in cooperation with the County health department, shall take such action as may be necessary to correct any suspected violation within a specified period of time, not to exceed 30 days. Appeal of the Director's action or decision shall be to the Board of Appeals.

(C.B. 12, 1978; C.B. 116, 1981)

Sec. 18.606. - Penalties; other remedies.

- (a) Any person, firm or corporation violating any rules or regulations specified herein, or that may be adopted in accordance with the subtitle shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$1,000.00, or imprisoned for not more than six months or both, at the discretion of the court, for each offense.
- (b) Alternatively or in addition to and concurrent with all other remedies, the Department of Public Works may enforce the provisions of this subtitle with civil penalties pursuant to title 24, Civil Penalties," of the Howard County Code. A first violation shall be a Class E offense. A second violation shall be a Class B offense and subsequent violations shall be Class A offenses.
- (c) The Director of Public Works or the Director's designee is authorized to institute on behalf of Howard County any legal action in order to compel compliance with any of the provisions of this subtitle, including prohibition of entry to any sanitary landfill in Howard County.

(C.B. 12, 1978; C.B. 32, 1985)

SUBTITLE 6A. - SOLID WASTE COLLECTION



Sec. 18.610. - Unauthorized removal of recyclable materials.

(a) *Definition:*

- (1) In this section, *recyclable material* means any solid waste that is separated from the solid waste stream for collection and return to the marketplace in the form of raw materials or products.
- (2) *Recyclable material* includes paper, glass, plastic, aluminum, cardboard, and any other material included in the County's recycling program.

(b) *Removal of Recyclable Material Prohibited:*

- (1) Except as provided in paragraph (2) of this subsection, an individual may not remove or cause to be removed any recyclable material that is separated for collection under the County's recycling collection program and placed at curbside or other pickup location.
- (2) Paragraph (1) of this subsection does not apply to:
  - (i) A law enforcement official conducting a search or seizure; or
  - (ii) A County employee, contractor, or other individual authorized by the County to collect recyclable material.

(c) *Penalties.* A person who violates the provisions of this section is guilty of a civil violation under title 24 "Civil Penalties" of the County Code. A first offense is a Class C offense. A subsequent offense is a Class B offense.

(d) *Enforcement.* A civil citation under this section may be issued by:

- (1) The Howard County Police Department; and
- (2) County employees designated by the Director of the Department of Public Works to serve as enforcement personnel empowered to issue civil citations under this section.

(C.B. 62, 1996)

Sec. 18.611. - Apartment and condominium recycling.

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

- (1) *Plan* means the "apartment and condominium recycling plan", adopted as part of the County's solid waste management plan, pursuant to Subtitle 5 and Subtitle 7, both of Title 9 of the Environment Article of the Annotated Code of Maryland.
- (2) *Responsible party* means the property owner or manager of an apartment building that contains ten or more dwelling units or the council of unit owners for a condominium that contains ten or more dwelling units.

(b) *Requirements.* In accordance with Section 9-1711 of the Environment Article of the Annotated Code Of Maryland, the responsible party shall:

- (1) Provide for the collection of recyclable materials from residents of the dwelling units;
- (2) Provide for the removal for further recycling of recyclable materials collected from residents of the dwelling units; and
- (3) Comply with the plan.

(c) *Inspections.* The County may conduct inspections of an apartment complex or condominium to enforce the provisions of this section and the plan.

(d) *Civil penalties.* Alternatively or in addition to and concurrent with other remedies at law or equity, the County may enforce the provisions of this subtitle and the plan with civil penalties pursuant to the

provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle is a class E offense. Each day that a violation occurs or continues is a separate offense.

- (e) *Injunctive and other relief.* In addition, the County may institute injunctive, mandamus or other appropriate legal action or proceedings for the enforcement of or to correct violations of this subtitle or the plan. Any court of competent jurisdiction may issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.

(C.B. 2, 2014, § 1)

Sec. 18.612. - Special events recycling.

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

- (1) *Plan* means the county's Solid Waste Management Plan that includes special events recycling, adopted pursuant to Subtitle 5 and Subtitle 17, both of Title 9 of the Environment Article of the Annotated Code of Maryland.
- (2) *Special event* means an event that:
  - a. Includes temporary or periodic use of a public street, publicly owned site or facility, or public park;
  - b. Serves food or drink; and
  - c. Is expected to have 200 or more persons in attendance.

- (b) *Requirements.* In accordance with Section 9-1712 of the Environment Article of the Annotated Code of Maryland, and in addition to any other conditions required as part of a special events or other permit, the organizer of a special event shall:

- (1) Provide a recycling receptacle immediately adjacent to each trash receptacle at the special event;
- (2) Ensure that all recycling receptacles are clearly distinguished from trash receptacles by color or signage;
- (3) Ensure that all recyclable materials deposited into recycling receptacles at the special event are collected for recycling; and
- (4) Comply with the Plan.

- (c) *Inspections.* The County may conduct inspections of a special event to enforce the provisions of this section and the Plan.

- (d) *Civil Penalties.* Alternatively or in addition to and concurrent with other remedies at law or equity, the county may enforce the provisions of this subtitle and the Plan with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle is a Class E offense. Each day that a violation occurs or continues is a separate offense.

- (e) *Injunctive and Other Relief.* In addition, the county may institute injunctive, mandamus or other appropriate legal action or proceedings for the enforcement of or to correct violations of this subtitle or the Plan. Any court of competent jurisdiction may issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.

(C.B. 15, 2015, § 1)

SUBTITLE 7. - FEES

Sec. 18.700. - Approval of subdivision and site development plans—Review and inspection fees.

- (a) The Director of Public Works shall prepare a proposed fee schedule to cover the cost of services performed by the Department of Public Works related to the physical inspection and approval of construction of roads and storm drainage structures as shown on the approved subdivision and site development plans. The Director shall submit the proposed fee schedule to the Public Works Board, which shall set a time and date of a public hearing and advertise the same in two separate insertions at weekly intervals in one or more of the newspapers published in the County. Within 15 days subsequent to the date of the hearing, the Public Works Board shall forward the proposed fee schedule, with its recommendations, to the County Executive. The County Executive, after considering the recommendations of the Public Works Board, shall forward the proposed fee schedule as may be amended by the County Executive to the County Council for adoption by resolution.
- (b) The Director of Finance shall collect the fee provided herein at the same time that the financial assurance requirement set forth in section 16.103 of this Code is posted.

(C.B. 44, 1972; C.B. 43, 1977; C.B. 116, 1981; C.B. 16, 1995)

#### SUBTITLE 8. - STREETLIGHTS

##### Sec. 18.800. - Council findings and declarations.

- (a) The County Council hereby finds and declares that illumination of the public roads enhances the general safety and welfare, but that in some areas of Howard County the illumination is inadequate.
- (b) The County Council also finds and declares that for those areas which are not new developments or subdivisions where installation of streetlights is required under the provisions of section 16.130 of the Howard County Code, the creation of streetlight districts would be an appropriate method of providing the enhancement of the safety and welfare desired.
- (c) The County Council also finds and declares that in order to guarantee the continuance of sufficient street lighting in those areas currently being served by privately owned streetlights, the acquisition by gift of those streetlights would be an appropriate method of providing the enhancement of the safety and welfare desired.

(C.B. 99, 1980)

##### Sec. 18.801. - Streetlight districts.

- (a) New streetlights may be installed in a streetlight district on public roads and public rights-of-way and on private property adjacent to public roads if Howard County has acquired an easement therefor as provided in section 4.200 of the Howard County Code.
- (b) Two years after the installation of the first new streetlight in a district, Howard County may, by gift, accept title to streetlights that existed in a streetlight district prior to creation of the district located on public roads and public rights-of-way and on private property adjacent to public roads, if Howard County has acquired an easement therefor as provided in section 4.200 of the Howard County Code. Such streetlights shall be acceptable to the Director of Public Works with regard to spacing, height, illumination and hardware.

(C.B. 99, 1980)

##### Sec. 18.802. - Petition for streetlight district.

- (a) A petition to create a streetlight district shall be filed with the Director of Public Works by a majority of the property owners within the district sought to be created; provided, however, that at least 25 property owners shall be signatories to a petition.
- (b) A petition to create a streetlight district shall contain:
  - (1) The name and address of each petitioner.
  - (2) The street address or legal description of each property as to which a property owner claims ownership.
  - (3) A description of the boundaries of the district sought to be created, which description shall be sufficient if it contains only the roads which would serve as the boundaries of the district.
  - (4) The name and address of a contact person for the petitioners.
  - (5) A certification by the petitioners acknowledging:
    - (i) That new streetlights may be installed in the proposed district on public roads and public rights-of-way and on private property adjacent to public roads, if Howard County has acquired an easement therefor; and
    - (ii) That Howard County may, by gift, accept title to existing streetlights in the proposed district located on public roads and public rights-of-way and on private property adjacent to public roads, if Howard County has acquired an easement therefor.

(C.B. 99, 1980)

Sec. 18.803. - Verification of signatures on petition.

Upon receipt of a petition to create a streetlight district, the Director of Public Works shall forthwith refer the petition to the Director of Finance for verification. Within one week thereof, the Director of Finance shall certify to the Director of Public Works as to whether the petition contains the signatures of a majority of property owners within the district sought to be created.

(C.B. 99, 1980)

Sec. 18.804. - Plat of district.

- (a) Upon receipt of certification that the petition contains the signatures of a majority of property owners within the district sought to be created, the Director of Public Works shall complete a plat of the proposed district, which can modify the boundaries of the district as proposed in the petition.
- (b) The plat shall conform to section 4.5 of the Howard County Design Manual, Volume III, "Road and Bridge Design," as amended. However, the Director of Public Works may vary the standards of the design manual with respect to spacing, height and illumination of streetlights in order to take into account existing street lighting, type of housing developments in the area and other factors related to safety or security.
- (c) The plat shall indicate:
  - (1) The location of all existing streetlights.
  - (2) The location of the proposed new streetlights.
  - (3) The design specifications for each proposed new streetlight.
  - (4) The total estimated material and installation cost for the proposed new streetlights.

- (5) The total projected operating and maintenance cost, including but not limited to energy consumption, for the proposed new streetlights for the two-year period following installation of the first new streetlight in the district.
- (6) The estimated annual charge for each parcel in the district.

(C.B. 99, 1980)

Sec. 18.805. - Notice to the community.

- (a) Immediately upon completion of the plat, the Director of Public Works shall advertise in at least one newspaper published in the County for two consecutive weeks that the petition will be presented to the Public Works Board for its recommendation and that a public hearing will be held on a particular date and time.
- (b) The Director of Public Works shall also post notice advising of the time, date and place of the Public Works Board hearing throughout the district sought to be created for three consecutive weeks prior to the Public Works Board hearing.
  - (1) The notice sign shall:
    - (i) Give the location of the district.
    - (ii) Be double-sided and at least 30 inches by 36 inches in size.
    - (iii) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
    - (iv) State that the area is proposed to have streetlights installed.
    - (v) Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.
- (c) Both the newspaper advertisement and the notice shall contain the boundaries of the district sought to be created and contain a notice that a plat has been prepared, that it contains all of the information outlined in subsection 18.804(c), that the plat is available for inspection in the Office of the Director of Public Works and that any interested person may be heard by the Public Works Board, pursuant to its rules, at a time specified in the notice.
- (d) The Director of Public Works shall also send a copy of the plat and notice and a list containing the names of each property owner within the district sought to be created to the contact person designated in accordance with subsection 18.802(b).

(C.B. 99, 1980; C.B. 69, 2018, § 1)

Sec. 18.806. - Public Works Board recommendation.

- (a) The Public Works Board shall hold a hearing for the purpose of providing a recommendation to the Director of Public Works relative to the creation of the streetlight district.
- (b) Within 30 days of its hearing, the Public Works Board shall provide its recommendation to the Director of Public Works as to whether or not to proceed with the creation of the streetlight district as proposed or with modifications.

(C.B. 99, 1980)

Sec. 18.807. - Determination by Director of Public Works.

- (a) Upon receipt of the recommendation of the Public Works Board, the Director of Public Works shall make a determination as to whether or not a streetlight district should be created. The determination shall be made within 30 days of receipt of the recommendation of the Public Works Board.
- (b) In the event that the Director of Public Works determines that a streetlight district should not be created, then the district shall not be created nor shall the area which was the subject of the petition be the subject of another petition for at least one year from the date on which it was received by the Director of Public Works.
- (c) In the event that the Director of Public Works determines that a streetlight district should be created, he shall:
  - (1) Complete a final plat, which can modify the boundaries of the district based on recommendations of the Public Works Board.
  - (2) Mail to each property owner within the proposed streetlight district the following material, with notice to each property owner being effective on the date the material is mailed by the Director of Public Works:
    - (i) A copy of the final plat, which shall contain all of the information outlined in subsection 18.804(c).
    - (ii) Notice to each property owner of the charge as computed in accordance with section 20.701 of the Howard County Code for the parcel owned by the property owner.
    - (iii) A form which, if signed by a property owner and returned to the Director of Public Works, would indicate that the property owner is opposed to the creation of the streetlight district. The notice shall indicate that it will not be considered by the Director of Public Works unless it is received on or before a specified date.

(C.B. 99, 1980)

Sec. 18.808. - Opposition notices.

- (a) In the event that a majority of property owners within the proposed streetlight district return the opposition notices to the Director of Public Works indicating that they are opposed to the creation of the district, then the district shall not stand created nor shall the area which was the subject of the petition be the subject of another petition for at least one year from the date on which it was received by the Director of Public Works.
- (b) In the event that a majority of property owners within the proposed streetlight district fail to return the opposition notices to the Director of Public Works indicating that they are opposed to the creation of the district, then the district shall be created.
- (c) All opposition notices must be received by the Director of Public Works within 30 days of their having been sent to the property owners in order for them to be counted.
- (d) The Director of Public Works shall issue a final order reflecting the outcome of the return of opposition notices.

(C.B. 99, 1980)

Sec. 18.809. - Records of streetlight district.

- (a) Upon creation of a streetlight district, the Director of Public Works shall cause a copy of the final plat to be filed in the Office of the Director of Public Works and available for public inspection.

- (b) Upon creation of a streetlight district, the Director of Public Works shall cause a copy of the final plat to be filed among the land records of Howard County.

(C.B. 99, 1980)

Sec. 18.810. - Operation.

- (a) After creation of the streetlight district, the Director of Public Works shall provide for the installation of the new streetlights in the district in accordance with the final plat.
- (b) Howard County shall assume the operating and maintenance costs for the new streetlights in the district, as shown on the final plat, with financing to be in accordance with section 20.700 of the Howard County Code.
- (c) Upon accepting title to any existing streetlights in the district, the County shall also assume their operating and maintenance costs. The County shall acquire an easement before accepting title to, or assuming operating and maintenance costs for, such existing streetlights located on private property adjacent to public roads.

(C.B. 99, 1980)

Sec. 18.811. - Property ownership and definitions.

- (a) Joint owners of a single parcel shall constitute a single owner for the purpose of this subtitle.
- (b) Each unit owner of a condominium shall constitute a single owner for the purpose of this subtitle.
- (c) The property tax records maintained by the Director of Finance of Howard County shall determine the names and mailing addresses of property owners for the purpose of this subtitle.
- (d) The term *majority of property owners* as used in this subtitle shall mean the owners of a majority of the parcels within a district sought to be created.
- (e) The term *public road* as used in this subtitle for street lighting purposes shall mean the entire width between the boundary lines of every way or thoroughfare in any residential area, excluding rental apartment areas, used by the public for purposes of vehicular travel, whether actually dedicated to the public and accepted by the proper authorities or otherwise, where the owners of the road agree as a condition of creation of a district not to restrict access or close any part of the road to the public.

(C.B. 99, 1980)

Sec. 18.812. - Petition for gift of streetlights.

- (a) The legal or equitable owner of existing streetlights may petition the Director of Public Works to accept, by gift, lien-free title to streetlights which were constructed in subdivisions recorded prior to the effective date of this legislation [December 5, 1980].
- (b) A petition shall include a copy of the recorded subdivision or a plat shown on a map of suitable scale marked to indicate the location of the subject streetlights.
- (c) A petition may be filed with respect to streetlights which are located on public roads and public rights-of-way and on private property adjacent to public roads, if Howard County will be granted an easement therefor.

(C.B. 99, 1980)

Sec. 18.813. - Public hearing; criteria for acquisition of streetlights.

- (a) Upon receipt of a petition to accept by gift streetlights, the Director of Public Works shall schedule a hearing before the Board of Public Works after giving at least 30 days' notice of the subject, time and place of hearing by publication on two separate occasions at weekly intervals in one newspaper published in Howard County. The notice shall also include the total projected operating and maintenance costs as determined by the Director of Public Works for the subject streetlights for a two-year period following acquisition of the streetlights by Howard County. The Board of Public Works shall make its recommendations to the Director of Public Works not later than 30 days after the public hearing on the petition.
- (b) The streetlights which are the subject of the petition may be acquired by gift if the Director of Public Works finds:
  - (1) That either:
    - (i) The subject streetlights have been installed in accordance with a developer's agreement with Howard County in subdivisions recorded prior to the effective date of this legislation [December 5, 1980] wherein streetlights were not installed at the time of initial development, such streetlights to be acceptable to the Director of Public Works with regard to spacing, height, illumination and hardware; or
    - (ii) The subject streetlights have been installed prior to the effective date of this legislation in subdivisions recorded prior to the effective date of this legislation in a manner determined by the Director of Public Works to be acceptable with regard to spacing, height, illumination and hardware.
  - (2) That the acceptance of the subject streetlights by Howard County at that time will be in the public interest.
  - (3) That the petitioner has agreed to pay in advance for the projected operating and maintenance costs for the subject streetlights for a period of two years after acquisition of ownership and assumption of responsibility for the streetlights by Howard County.
- (c) In connection with making the findings required under subsection (b) above, the Director of Public Works shall take into consideration the recommendations of the Board of Public Works. The Director of Public Works shall have absolute discretion and final authority to accept or acquire the subject streetlights on behalf of the County.

(C.B. 99, 1980)

Sec. 18.814. - Transfer of title and assumption of responsibility.

- (a) The petitioner shall cause to be prepared, at its expense, an instrument of conveyance by gift granting and conveying to Howard County lien-free title to the subject streetlights.
- (b) Upon acceptance of the subject streetlights by the Director of Public Works, Howard County shall thereafter assume responsibility for operating and maintenance costs in connection with said streetlights; provided, however, that the petitioner shall have paid to Howard County in advance of such conveyance a sum equal to two years of operating and maintenance costs as determined by the Director of Public Works as provided in section 18.813.

(C.B. 99, 1980)

Sec. 18.815. - Appeals and procedure.

- (a) The following actions may be appealed to the Howard County Board of Appeals:



- (1) Certification by the Director of Finance pursuant to section 18.803 that a petition fails to contain the signatures of a majority of property owners within the district sought to be created.
  - (2) The final order of the Director of Public Works pursuant to subsection 18.808(d) creating the streetlight district or failing to create the streetlight district.
- (b) Only the following shall have standing to the appeal:
- (1) A property owner who signed a petition to create a streetlight district may appeal as provided in subsection 18.815(a)(1).
  - (2) Any owner of property within the streetlight district as created, as proposed by petition or as shown on the plat prepared by the Director of Public Works, may appeal as provided in subsection 18.815(a)(2).
- (c) All proceedings in connection with a petition to create a streetlight district and a petition to accept by gift existing streetlights shall be exempt from all provisions of section 2.100 of the Howard County Code.

(C.B. 99, 1980)

Sec. 18.816. - Severability.

If any provision of this subtitle or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this subtitle which can be given effect without the invalid provision or application; and to this end the provisions of this subtitle are severable.

(C.B. 99, 1980)

SUBTITLE 9. - STORMWATER MANAGEMENT<sup>(4)</sup>

Footnotes:

--- (4) ---

**Editor's note**— C.B. 13, 2010, § 1, amended subtitle 9 in its entirety to read as herein set out. Former subtitle 9, §§ 18.900—18.909, pertained to similar subject matter and derived from C.B. 28, 1984, C.B. 32, 1985, C.B. 101, 1990, C.B. 16, 1995, C.B. 42, 1995, C.B. 58, 1997 and C.B. 57, 2000.

**State Law reference**— Stormwater management, Ann. Code of Md., Environment article, § 4-201 et seq.

Sec. 18.900. - Purpose and authority.

- (a) The purpose of this subtitle is to protect, maintain and enhance public health, safety and welfare by establishing minimum requirements and procedures to control the adverse impacts associated with stormwater runoff. The goal is to manage stormwater by using environmental site design (ESD) to the maximum extent practicable (MEP) in order (i) to maintain, after development and as nearly as possible, the predevelopment runoff characteristics; (ii) to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding; and (iii) to use appropriate structural best management practices (BMPs) only when necessary. The intent is to restore, enhance, and maintain the chemical, physical, and biological integrity of streams; to minimize damage to public and private property; and to reduce the impacts of land development through Stormwater Management and Watershed Protection and Restoration Programs as authorized by Title 4, Subtitle 2 of the Environment Article of the Annotated Code of Maryland.

- (b) The provisions of this subtitle, pursuant to Title 4, Subtitle 2 of the Environment Article, Annotated Code of Maryland, are adopted under the authority of the Howard County Code and shall apply to all development and redevelopment occurring in Howard County. The application of this subtitle and provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by State law. Howard County is responsible for the coordination and enforcement of the provisions of this subtitle.
- (c) For the purpose of this subtitle, the following documents are incorporated by reference:
  - (1) The 2000 Maryland Stormwater Design Manual Volumes I and II (Maryland Department of the Environment, April 2000), and all subsequent revisions, is incorporated by reference by Howard County and shall serve as the official guide for stormwater principles, methods, and practices.
  - (2) USDA Natural Resources Conservation Service Maryland Conservation Practice Standard Pond Code 378 (latest edition).
  - (3) The Howard County Design Manual.
- (d) It is also the purpose of this subtitle and Title 20, Subtitle 11 of this Code to authorize and establish a system of charges in accordance with Title 4, Subtitle 2 of the Environment Article of the Annotated Code of Maryland to adequately and equitably finance the County's Stormwater Management, Storm Drainage, and Water Quality Programs.

(C.B. 13, 2010, § 1; C.B. 8, 2013, § 1)

Sec. 18.901. - Definitions.

The following terms have the meanings indicated:

- (a) *Administration* means the Maryland Department of the Environment (MDE) Water Management Administration (WMA).
- (b) *Adverse impact* means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity or stability, or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
- (c) *Agricultural land management practices* means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.
- (d) *Applicant* means a person, firm, or governmental agency who applies for approval of a project to carry out construction activities involving stormwater management.
- (e) *Approving agency* means the entity responsible for the review and approval of stormwater management plans. As set forth in the Howard County Design Manual and depending on the nature of the project, the approving agency is the Department of Planning and Zoning or the Department of Public Works.
- (f) *Best management practice (BMP)* means any structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, or provide other amenities.
- (g) *Channel protection storage volume (cPv)* means the volume used to design structural management practices to control stream channel erosion. Methods for calculating the channel protection storage volume are specified in the 2000 Maryland Stormwater Design Manual.
- (h) *Clearing* means the removal of trees and brush from the land, but shall not include the ordinary mowing of grass.

- (i) *Concept stage* means the first stage of the stormwater management design process. Approval of the environmental concept plan constitutes the approval of the concept stage.
- (j) *County* means Howard County, Maryland.
- (k) *Design manual* means the 2000 Maryland Stormwater Design Manual, and all subsequent revisions, that serves as the official guide for stormwater management principles, methods, and practices. The 2000 Maryland Stormwater Design Manual VOLUME I AND II MAY be supplemented by the Howard County Design Manual.
- (l) *Develop land* means to change the runoff characteristics of a parcel of land or lot in conjunction with residential, commercial, industrial, or institutional construction or alteration.
- (m) *Drainage area* means an area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.
- (n) *Easement* means a grant or reservation by the owner of land for the use of such land by others for a specific purpose, and which shall be recorded in the land records of Howard County.
- (o) *Environmental concept plan* means the first of three required plan approvals that includes the information necessary to allow an initial evaluation of a proposed project.
- (p) *Environmental site design (ESD)* means using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources. Methods for designing ESD practices are specified in the design manual.
- (q) *Exemption* means those land development activities that are not subject to the stormwater management requirements of this subtitle.
- (r) *Extended detention* means a stormwater design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events. Methods for designing extended detention BMPs are specified in the design manual.
- (s) *Extreme flood volume (Qf)* means the storage volume required to control those infrequent but large storm events in which the overbank flows reach or exceed the boundaries of the 100-year floodplain.
- (t) *Final stage* means the third stage of the stormwater management design process. Approval of the grading plan constitutes the approval of the final stage.
- (u) *Flow attenuation* means prolonging the flow time of runoff to reduce the peak discharge.
- (v) *Grading* means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled, or any combination thereof.
- (w) *Grading plan* means the last of a multi-step plan-approval process that includes the information necessary to allow all approvals and permits to be issued by the approving agency.
- (x) *Impervious area* or *impervious surface* means any surface that does not allow stormwater to infiltrate into the ground.
- (y) *Infiltration* means the passage or movement of water into the soil surface.
- (z) *Maximum extent practicable (MEP)* means designing stormwater management systems so that all reasonable opportunities for using ESD planning techniques and treatment practices are exhausted and, only where absolutely necessary, implementing a structural BMP.
- (aa) *Off-site stormwater management* means the design and construction of a facility necessary to control stormwater from one or more properties other than the one on which the stormwater management facility lies.
- (bb) *On-site stormwater management* means the design and construction of a facility necessary to control stormwater from one property within the boundary of the subject property.

- (cc) *Overbank flood protection volume (Qp)* means the volume controlled by structural practices to prevent an increase in the frequency of the out of bank flooding by development. Methods for calculating the overbank flood protection volume are specified in the design manual.
- (dd) *Person* means the Federal Government, the State, any County, Municipal Corporation, or other political subdivision of the State, or any of their units; an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind; or any partnership, firm, association, public or private corporation, or any other entity.
- (ee) *Planning techniques* means a combination of strategies employed early in project design to reduce the impact from development and to incorporate natural features into a stormwater management plan.
- (ff) *Private stormwater management facility* means any best management practice which is not to be owned and maintained by the County.
- (gg) *Recharge volume (REv)* means that portion of the water quality volume used to maintain groundwater recharge rates at development sites. Methods for calculating the recharge volume are specified in the design manual.
- (hh) *Redevelopment* means any construction, alteration, or improvement performed on sites where existing site impervious area exceeds 40 percent and where existing land use is commercial, industrial, institutional, or multifamily.
- (ii) *Retrofitting* means the implementation of ESD practices, the construction of a structural BMP in a previously developed area, the modification of an existing structural BMP, or the implementation of a nonstructural practice to improve water quality over current conditions.
- (jj) *Sediment* means soil or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.
- (kk) *Site* means a tract of land, lot or parcel of land or combination of tracts, lots, or parcels of land, which are in one ownership, or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision or project.
- (ll) *Site development stage* means the second stage of the stormwater management design process. Approval of one of the following plans constitutes the approval of the site development stage: sketch plan, preliminary plan, preliminary equivalent sketch plan, final plan, or site development plan as defined in section 16.108 of the Howard County Subdivision and Land Development Regulations. The applicable plan will act as the second of three required plan approvals that include the information necessary to allow a detailed evaluation of a proposed project.
- (mm) *Stabilization* means the prevention of soil movement by any of various vegetative or structural means.
- (nn) *Stormwater management design process* means the three stage process required by MDE for the review of stormwater management. The three stages include concept, site development and final stages as defined herein.
- (oo) *Stormwater management system* means natural areas, ESD practices, stormwater management measures, and any other structure through which stormwater flows, infiltrates, or discharges from a site.
- (pp) *Stripping* means any activity which removes the vegetative cover including tree removal, clearing, grubbing, and storage or removal of topsoil.
- (qq) *Waiver* means the reduction of stormwater management requirements for a specific development on a case-by-case basis.
- (rr) *Watershed* means the total drainage area contributing runoff to a single point.
- (ss) *Watershed management plan* means a plan developed by the County for the purpose of implementing different stormwater management policies for waivers and redevelopment. A watershed management plan shall contain the items set forth in section 18.908 of this subtitle.

- (tt) *Watershed protection and restoration fee* means a fee, as set forth in title 20, subtitle 11 of this Code.
- (uu) *Water quality volume (WQv)* means the storage needed to capture and treat the runoff from 90 percent of the average annual rainfall at a development site. Methods for calculating the water quality volume are specified in the design manual.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1; C.B. 8, 2013, § 2; C.B. 38, 2013, § 1(1))

Sec. 18.902. - Applicability.

- (a) *Definitions.* For purposes of this section only, the following terms have the meanings indicated:
  - (1) Approval shall mean a documented action by the County following review to determine and acknowledge the sufficiency of submitted materials to meet the requirements of a specified stage in the development process. Approval shall not mean an acknowledgement by the County that submitted materials have been received for review.
  - (2) Final project approval shall mean that the County has approved:
    - (i) The grading plan which includes final stormwater and erosion and sediment control design; and
    - (ii) If applicable, bond or financing, or both, has been secured based on the final plans for the development.
  - (3) Preliminary project approval shall mean projects for which the Department of Planning and Zoning has reviewed and determined the project to be technically complete. A plan that has received preliminary project approval shall include the following information:
    - (i) Number of planned dwelling units or lots and proposed density;
    - (ii) Proposed size and location of all land uses in the project;
    - (iii) A plan that identifies:
      - a. The proposed drainage patterns;
      - b. Locations of all points of discharge from the site; and
      - c. The type, location, and size of all stormwater management controls based upon site-specific computations of stormwater management requirements;
    - (iv) The proposed alignment, location, and construction type and standard for all proposed roads, access ways, and areas of vehicular travel;
    - (v) The general location, size, type, and adequacy of all infrastructure proposed for water and wastewater systems; and
    - (vi) Any other information deemed necessary by the County to adequately review the proposal.
- (b) *Applicability.* This subtitle shall apply to all development projects, except projects that received preliminary project approval prior to May 4, 2010 are subject to stormwater management regulations in effect at the time of approval provided that:
  - (1) Final project approval is received prior to May 4, 2013; and
  - (2) Construction is complete prior to May 4, 2017.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

Sec. 18.902A. - Requirement to provide stormwater management measures, exemptions.

- (a) *Requirement to Provide.* A person shall not develop any land for residential, commercial, industrial, or institutional uses without providing stormwater management measures that control or manage runoff from such developments, except as provided within this subtitle. Stormwater management measures must be designed consistent with the design manual and constructed according to an approved plan for new development or redevelopment.
- (b) *Exemptions.* Stormwater management is not required for:
  - (1) Additions or modifications to existing single-family detached residential structures that do not disturb over 5,000 square feet of land area;
  - (2) Developments that disturb less than 5,000 square feet of land area;
  - (3) Land development activities which are regulated under specific State laws regarding the management of stormwater; or
  - (4) Agricultural land management practices.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

Sec. 18.903. - Design criteria; minimum control requirements; alternatives.

- (a) The minimum control requirements established in this section and the design manual are as follows:
  - (1) The County shall require that the planning techniques, nonstructural practices, and design methods specified in the design manual be used to implement ESD to the MEP. The use of ESD planning techniques and treatment practices must be exhausted before any structural BMP is implemented. Stormwater management for development projects subject to this subtitle shall be designed using ESD sizing criteria, recharge volume, water quality volume, and channel protection storage volume criteria according to the design manual. The MEP standard is met when channel stability is maintained, predevelopment groundwater recharge is replicated, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary.
  - (2) Control of the two-year and ten-year frequency storm event is required according to the design manual and all subsequent revisions if the County determines that additional stormwater management is necessary because historical flooding problems exist and downstream floodplain development and conveyance system design cannot be controlled.
  - (3) One-hundred-year peak management control is required according to the design manual. For purposes of calculating the 100-year 24-hour storm event, 8.51 inches of rainfall depth shall be the minimum depth used.
  - (4) The County may require more than the minimum control requirements if:
    - (i) Hydrologic or topographic conditions warrant; or
    - (ii) Flooding, stream channel erosion, or water quality problems exist downstream from a proposed project.
- (b) Stormwater management where applicable, shall be consistent with adopted and approved watershed management plans or flood management plans as approved by the Maryland Department of the Environment in accordance with the Flood Hazard Management Act of 1976.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1; C.B. 79, 2016, § 1)

Sec. 18.904. - Stormwater management measures.

- (a) *Required.* The ESD planning techniques and treatment practices and structural stormwater management measures established in this subtitle and the design manual shall be used, either alone

or in combination, in a stormwater management design. A developer shall demonstrate that ESD has been implemented to the MEP before the use of a structural BMP is considered in developing the stormwater management design.

- (b) *ESD Planning Techniques.* The following planning techniques shall be applied in accordance with the design manual to satisfy the applicable minimum control requirements established in this subtitle:
- (1) Preserving and protecting natural resources;
  - (2) Conserving natural drainage patterns;
  - (3) Minimizing impervious area;
  - (4) Reducing runoff volume;
  - (5) Using ESD practices to maintain 100 percent of the annual predevelopment groundwater recharge volume;
  - (6) Using green roofs, permeable pavement, reinforced turf, and other alternative surfaces;
  - (7) Limiting soil disturbance, mass grading, and compaction;
  - (8) Clustering development; and
  - (9) Any practices approved by the administration.
- (c) *ESD Treatment Practices.* The following ESD treatment practices shall be designed in accordance with the design manual to satisfy the applicable minimum control requirements established in this Code:
- (1) Disconnection of rooftop runoff;
  - (2) Disconnection of non-rooftop runoff;
  - (3) Sheetflow to conservation areas;
  - (4) Rainwater harvesting;
  - (5) Submerged gravel wetlands;
  - (6) Landscape infiltration;
  - (7) Infiltration berms;
  - (8) Dry wells;
  - (9) Micro-bioretenion;
  - (10) Rain gardens;
  - (11) Swales;
  - (12) Enhanced filters; and
  - (13) Any practices approved by the administration.
- (d) *Structural Stormwater Management Practices.* The following structural stormwater management practices shall be designed in accordance with the design manual to satisfy the applicable minimum control requirements established in this Code:
- (1) Stormwater management ponds;
  - (2) Stormwater management wetlands;
  - (3) Stormwater management infiltration;
  - (4) Stormwater management filtering systems; and
  - (5) Stormwater management open channel systems.

- (e) *Structural Stormwater Management Selection.* The following requirements shall apply when selecting structural stormwater management:
  - (1) The performance criteria specified in the design manual with regard to general feasibility, conveyance, pretreatment, treatment and geometry, environment and landscaping, and maintenance shall be considered; and
  - (2) Structural stormwater management practices shall be selected to accommodate the unique hydrologic or geologic regions of the State.
- (f) *Requirement to Record; Alterations Prohibited.* A maintenance agreement or easement setting forth the ESD planning techniques and treatment practices and structural stormwater management measures used to satisfy the minimum requirements in this subtitle shall be recorded in the land records of Howard County and remain unaltered by subsequent property owners. Prior approval from the County shall be obtained before any stormwater management practice is altered.
- (g) *Alternatives.* Alternative ESD planning techniques and treatment practices and structural stormwater measures may be used for new development runoff control if they meet the performance criteria established in the design manual and all subsequent revisions. Practices used for redevelopment projects shall be approved by the County. All alternative ESD practices shall be approved by the Administration.
- (h) *Modifications.* For the purposes of modifying the minimum control requirements or design criteria, the owner or developer shall submit to the County an analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon a dam, highway, structure, or natural point of restricted streamflow. The point of investigation is to be established with the concurrence of the County, downstream of the first downstream tributary whose drainage area equals or exceeds the contributing area to the project or stormwater management facility.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

Sec. 18.905. - Stormwater management design process.

- (a) *Review and Approval of Stormwater Management.* The County shall perform a comprehensive review of the stormwater management for each step of plan review. The County shall remove design impediments from the review process that prohibit the implementation of ESD to the MEP unless inconsistent with public safety, health, and the public welfare. Coordinated comments will be provided by the department of planning and zoning for each design stage that reflects input from all appropriate agencies including, but not limited to, the Soil Conservation District (SCD), the Department of Public Works, and specific divisions within the Department of Planning and Zoning. All comments from the County and other appropriate agencies shall be addressed and approval received at each stage of the project design before subsequent submissions.
- (b) *Contents and Submission of Stormwater Management.* Stormwater management design shall contain the following:
  - (1) A concept stage that provides sufficient information for an initial assessment of the proposed project and whether stormwater management can be provided according to this subtitle. Plans submitted for concept stage approval shall include, but are not limited to:
    - (i) A map at a scale specified by the Department of Planning and Zoning showing site location, existing natural features, water and other sensitive resources, topography, and natural drainage patterns;
    - (ii) The anticipated location of all proposed impervious areas, buildings, roadways, parking, sidewalks, utilities, and other site improvements;



- (iii) The location of the proposed limit of disturbance, erodible soils, steep slopes, and areas to be protected during construction;
  - (iv) Preliminary estimates of stormwater management requirements, the selection and location of ESD practices to be used, and the location of all points of discharge from the site;
  - (v) A narrative that supports the concept design and describes how ESD will be implemented to the MEP; and
  - (vi) Any other information required by the County.
- (2) Following concept stage approval by the County, the owner or developer shall submit plans meeting requirements for the site development stage.
- Plans submitted for site development stage approval shall be of sufficient detail to allow the plan to be reviewed and shall include, without limitation, the following items:
- (i) All information provided during the concept stage;
  - (ii) Site layout, exact impervious area locations and acreages, proposed topography, delineated drainage areas at all points of discharge from the site, and stormwater volume computations for ESD practices and quantity control structures;
  - (iii) A proposed erosion and sediment control plan that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to natural resources, and an overlay plan showing the types and locations of ESD and erosion and sediment control practices to be used;
  - (iv) A narrative that supports the site design, describes how ESD will be used to meet the minimum control requirements, and justifies any proposed structural stormwater management measure; and
  - (v) Any other information required by the County.
- (3) Following site development stage approval by the County, the owner or developer shall submit plans meeting requirements for final stage. Plans submitted for final stage approval shall be of sufficient detail to allow all approvals and permits to be issued according to the following:
- (i) Final erosion and sediment control plans shall be submitted according to COMAR 26.17.01.05; and
  - (ii) Final stormwater management design shall be submitted for approval in the form of construction drawings and shall be accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design.
- (4) Reports submitted for final stormwater management design shall include, but are not limited to:
- (i) Geotechnical investigations including soil maps, borings, site specific recommendations, and any additional information necessary for the final stormwater management design;
  - (ii) Drainage area maps depicting post development runoff flow path and land use;
  - (iii) Hydrologic computations of the applicable ESD and unified sizing criteria according to the design manual for all points of discharge from the site;
  - (iv) Hydraulic and structural computations for all ESD practices and structural stormwater management measures to be used;
  - (v) A narrative that supports the final stormwater management design; and
  - (vi) Any other information required by the County.
- (5) Construction drawings submitted for final stormwater management design approval shall include, but are not limited to:

- (i) A vicinity map;
  - (ii) Existing and proposed topography and proposed drainage areas, including areas necessary to determine downstream analysis for proposed stormwater management facilities;
  - (iii) Any proposed improvements including location of buildings or other structures, impervious surfaces, storm drainage facilities, and all grading;
  - (iv) The location of existing and proposed structures and utilities;
  - (v) Any easements and rights-of-way;
  - (vi) The delineation, if applicable, of the 100-year floodplain and any on-site wetlands;
  - (vii) Structural and construction details including representative cross sections for all components of the proposed drainage system or systems, and stormwater management facilities;
  - (viii) All necessary construction specifications;
  - (ix) A sequence of construction;
  - (x) Data for total site area, disturbed area, new impervious area, and total impervious area;
  - (xi) A table showing the ESD and unified sizing criteria volumes required in the design manual;
  - (xii) A table of materials to be used for stormwater management facility planting;
  - (xiii) All soil boring logs and locations;
  - (xiv) An inspection and maintenance schedule;
  - (xv) Certification by the owner/developer that all stormwater management construction will be done according to this plan;
  - (xvi) An as-built certification signature block to be executed after project completion; and
  - (xvii) Any other information required by the County.
- (6) If a stormwater management plan involves direction of some or all runoff off of the site, the developer shall obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water.
- (c) [Reserved.]
- (d) [Reserved.]
- (e) *Preparation of Plans and Reports.* The design of stormwater management shall be prepared by any individual whose qualifications are acceptable to the County as follows:
- (1) The County shall require that the design be prepared by either a professional engineer, professional land surveyor, or landscape architect licensed in the State, as necessary to protect the public or the environment; and
  - (2) If a stormwater BMP requires either a dam safety permit from the Maryland Department of the Environment or small pond approval from the Howard Soil Conservation District, the County shall require that the design be prepared by a professional engineer licensed in the State.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

**Editor's note**— C.B. 47-2011, § 1, amended § 18.905 title to read as herein set out. Former § 18.905 title pertained to stormwater management plans.

Sec. 18.906. - Grading or building permits.

- (a) *Permit Requirement.* A grading or building permit may not be issued for any parcel or lot unless final erosion and sediment control and stormwater management design has been approved by the County as meeting all the requirements of the design manual and this Code. Where appropriate, a building permit may not be issued without:
- (1) Recorded easements for the stormwater management facility and easements to provide adequate access for inspection and maintenance from a public right-of-way;
  - (2) A recorded stormwater management maintenance agreement as described in this subtitle; and
  - (3) A performance bond as described in this subtitle.
- (b) *Permit Suspension and Revocation.* Any grading or building permit issued by the County may be suspended or revoked after written notice is given to the permittee for any of the following reasons:
- (1) Any violation of the conditions of the stormwater management design approval;
  - (2) Changes in site runoff characteristics upon which an approval or waiver was granted;
  - (3) Construction is not in accordance with the approved plan;
  - (4) Noncompliance with any correction notice or stop work order issued for the construction of any stormwater management practice; and
  - (5) In the opinion of the County, an immediate danger exists in a downstream area.
- (c) *Permit Conditions.* In granting an approval for any phase of site development, the County may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this subtitle and the preservation of public health, safety, and welfare.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

Sec. 18.907. - Watershed protection and restoration fee.

There is a watershed protection and restoration fee as established in Title 20, Subtitle 11 of this Code.

(C.B. 8, 2013, § 1)

Sec. 18.908. - Waivers; watershed management plans.

- (a) *Waiver Requests.* A request for a waiver under this section shall:
- (1) Be in writing;
  - (2) Contain sufficient descriptions, drawings, and any other information that is necessary to demonstrate that ESD has been implemented to the MEP; and
  - (3) Be prohibited for any property located in the Tiber Branch Watershed unless the waiver:
    - (i) Was requested on or before November 7, 2016;
    - (ii) Is necessary for the reconstruction of existing structures or infrastructure damaged by flood, fire, or other disaster;
    - (iii) Is necessary for the construction of a stormwater management or flood control facility as part of a redevelopment project;
    - (iv) Is necessary for the retrofit of existing facilities or installation of new facilities intended solely to improve stormwater management or flood control for existing development;

- (v) Is requested as part of a development proposal and the Director of the Department of Public Works, or his designee serving as Floodplain Administrator, finds that upon completion of construction of the development, which may include off-site improvements within the Tiber Branch Watershed, there will be improvement to flood control in the Tiber Branch Watershed at least ten percent more than what would otherwise be required by law; or
  - (vi) Is necessary for the construction of an addition, garage, driveway or other accessory use improvement of an existing residential structure on property located within the Tiber Branch Watershed that increases the square footage of the impervious surfaces on the property by no more than 25 percent over the square footage of impervious surfaces that existed on the property prior to the effective date of this bill [Dec. 9, 2016].
- (b) *Criteria to Grant Waivers.* The approving agency may grant a waiver when it has been demonstrated that ESD has been implemented to the MEP and any grant shall:
  - (1) Be on a case-by-case basis;
  - (2) Consider the cumulative effects waivers; and
  - (3) Reasonably ensure the development will not adversely impact stream quality and one of the following requirements are satisfied:
    - (i) Off-site ESD implementation for a drainage area comparable in size and percent of increased imperviousness to that of the project;
    - (ii) Watershed stream restoration as approved by the approving agency;
    - (iii) Retrofitting of an existing stormwater management system to meet or exceed the current design criteria;
    - (iv) A fee in lieu, as established in section 18.909 of this subtitle, where physical constraints do not allow implementation of an MDE approved stormwater management system; or
    - (v) Other practices approved by MDE and the County.
- (c) *Quantitative Control Waivers—Requirement to have Watershed Management Plan.* Except as provided in subsection (e) of this section, the County shall grant stormwater management quantitative control waivers only to those projects within areas where watershed management plans have been developed consistent with this section.
- (d) *Watershed Management Plan.* A watershed management plan shall:
  - (1) Include detailed hydrologic and hydraulic analyses to determine hydrograph timing;
  - (2) Evaluate both quantity and quality management and opportunities for ESD implementation;
  - (3) Include a cumulative impact assessment of current and proposed watershed development;
  - (4) Identify existing flooding and receiving stream channel conditions;
  - (5) Be conducted at a reasonable scale;
  - (6) Specify where on-site or off-site quantitative and qualitative stormwater management practices are to be implemented;
  - (7) Be consistent with the general performance standards for stormwater management in Maryland found in the design manual; and
  - (8) Be approved by the administration.
- (e) *Quantitative Control Waivers Without Watershed Management Plans.* If a watershed management plan consistent with this section has not been developed, a stormwater management quantitative control waiver may be granted provided that it has been demonstrated that ESD has been implemented to the MEP when the approving agency determines that circumstances exist that prevent the reasonable implementation of quantity control practices.

- (f) *Quantitative Control Waiver—Additions, Extensions, or Modifications.* If there are subsequent additions, extensions, or modifications to a development that has received a quantitative control waiver, a separate written waiver request is required that shall comply with subsection (b) of this section.
- (g) *Qualitative Control Waiver.* A stormwater management qualitative control waiver applies only to:
  - (1) In-fill development projects where ESD has been implemented to the MEP and it has been demonstrated that other BMPs are not feasible;
  - (2) Redevelopment projects if the approving agency determines that the requirements of this subtitle are satisfied; or
  - (3) Sites where the approving agency determines that circumstances exist that prevent the reasonable implementation of ESD to the MEP.
- (h) Stormwater management quantitative and qualitative control waivers may be granted for phased development projects if a system designed to meet the Administration's 2000 regulatory requirements and Howard County Code requirements for multiple phases, as set forth in this subtitle, has been constructed by May 4, 2010. If the 2009 regulatory requirements cannot be met for future phases constructed after May 4, 2010, all reasonable efforts to incorporate ESD in future phases must be demonstrated.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1; C.B. 80, 2016, § 1)

**Editor's note—** C.B. 47-2011, § 1, amended § 18.908 title to read as herein set out. Former § 18.908 title pertained to stormwater management waivers; watershed management plans.

Sec. 18.909. - Fee in lieu of implementing best management practices.

- (a) If the Department of Public Works or the Department of Planning and Zoning determines that implementation of ESD to the MEP or structural practices required to control the quantity of stormwater or runoff is not feasible or will be ineffective, then the Department of Public Works or the Department of Planning and Zoning may allow the person obligated under this subtitle to pay a fee to the County instead of implementing the best management practice.
- (b) The amount of the fee in lieu of implementing best management practices shall be calculated by methods established by the County.
- (c) The County Executive shall recommend and the County Council shall set by resolution the amount per acre-foot of storage volume used to calculate the fee. This storage volume shall be determined using assumed ESD practices.
- (d) Amounts collected from this fee shall be deposited in the watershed protection and restoration fund in accordance with the provisions of Title 20, Subtitle 11 of this Code.
- (e) Payment of a fee-in-lieu shall not relieve the property owner of the obligation to pay the annual watershed protection and restoration fee as required by Title 20, Subtitle 11 of this Code.

(C.B. 13, 2010, § 1; C.B. 8, 2013, § 3)

Sec. 18.910. - Redevelopment.

- (a) Stormwater management design for redevelopment shall be consistent with the design manual.
- (b) All redevelopment projects shall reduce existing impervious area within the limit of disturbance by at least 50 percent. Where site conditions prevent the reduction of impervious area, then ESD practices shall be implemented to provide qualitative control for at least 50 percent of the site's impervious

area. When a combination of impervious area reduction and stormwater management practice implementation is used, the combined reduction shall equal or exceed 50 percent of the existing impervious area within the limit of disturbance.

- (c) Alternative stormwater management measures may be used to meet the requirements in subsection (b) of this section if the owner or developer satisfactorily demonstrates to the County that impervious area reduction has been maximized and ESD has been implemented to the MEP. Alternative stormwater management measures include, but are not limited to:
  - (1) An on-site structural BMP;
  - (2) An off-site structural BMP to provide water quality treatment for an area equal to or greater than 50 percent of the existing impervious area; or
  - (3) A combination of impervious area reduction, ESD implementation, and an on-site or off-site structural BMP for an area equal to or greater than 50 percent of the existing site impervious area within the limit of disturbance.
- (d) The County may develop separate policies for providing water quality treatment for redevelopment projects if the requirements of subsections (b) and (c) of this section cannot be met. Any separate redevelopment policy shall be reviewed and approved by the Administration and may include, but not be limited to:
  - (1) A combination of ESD and an on-site or off-site structural BMP;
  - (2) Retrofitting including existing BMP upgrades, filtering practices, and off-site ESD implementation;
  - (3) Participation in a stream restoration project;
  - (4) Pollution trading with another entity;
  - (5) Payment of a fee-in-lieu; or
  - (6) A partial waiver of the treatment requirements if ESD is not practicable.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

Sec. 18.911. - Performance bond.

- (a) *Requirement to Provide.* The developer shall provide a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the County prior to the issuance of any building or grading permit for the construction of a development requiring stormwater management.
- (b) *Amount.* The amount of the security shall not be less than the estimated construction cost of all stormwater management facilities.
- (c) *Required Provisions.* The bond required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this subtitle, and other applicable laws and regulations, and any time limitations.
- (d) *Release.* The bond shall not be fully released without a final inspection of the completed work by the County, submission of "as-built" plans, and certification of completion by the County that all stormwater management facilities comply with the approved plan and the provisions of this Code. At the County's discretion, a procedure may be used to release parts of the bond held by the County after various stages of construction have been completed and accepted by the County. The procedures used for partially releasing performance bonds must be specified by the county in writing prior to stormwater management design approval.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

Sec. 18.912. - Right of entry and inspection.

- (a) *Right of Entry.* The County may enter upon property to ensure compliance with this subtitle.
- (b) *Inspection During Construction.* The County shall make regular inspections at various stages of construction as provided in Chapter 5, stormwater management, of Volume I (Storm Drainage) of the Howard County Design Manual. Inspections shall be documented in writing by the County.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1; C.B. 8, 2013, § 4)

**Editor's note**— C.B. 8, 2013, § 4, amended § 18.912 title to read as herein set out. Former § 18.912 title pertained to inspection.

Sec. 18.913. - Howard County Design Manual.

- (a) The Howard County Design Manual Volume I (Storm Drainage) shall include the minimal control requirements and design criteria for stormwater management; procedures for the approval of plans; and construction inspection requirements.
- (b) The County Executive shall submit the Howard County Design Manual to the County Council for the Council's approval by resolution. Amendments to the manual shall be prepared and approved in the same manner.
- (c) The County Executive shall review the Howard County Design Manual at least every third year to ensure that the figures used to calculate rainfall depth and intensity are consistent with those published by the National Oceanic and Atmospheric Administration, the Natural Resources Conservation Service, and any other federal government agency which tracks and publishes local precipitation data as the County Executive may deem appropriate and, subject to section 22.1000 of the County Code, report to the County Council:
  - (1) Whether the figures are consistent; and
  - (2) If the figures are not consistent, a plan to amend the Design Manual to be consistent with the current figures published by the National Oceanic and Atmospheric Administration, the Natural Resources Conservation Service, and any other federal government agency consulted as part of the review required by this section.

(C.B. 13, 2010, § 1; C.B. 79, 2016, § 1; C.B. 43, 2018, § 1)

Sec. 18.914. - Maintenance.

The County or property owner or both the County and the property owner, shall perform periodic maintenance as required in chapter 5, stormwater management, of volume I (storm drainage) of the Howard County Design Manual.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1)

Sec. 18.915. - Appeals.

Any person aggrieved by any final decision made by the Official charged with the enforcement of this subtitle may appeal the action to the Board of Appeals. The appeal shall be filed in writing within 30 days of the date of official transmittal of the final decision or determination to the applicant, state clearly the grounds on which the appeal is based, and be processed in the manner prescribed for hearing administrative appeals in Howard County.

(C.B. 47, 2011, § 1)

**Editor's note**— C.B. 47-2011, § 1, repealed former § 18.915, and enacted a new § 18.915 as set out herein. Former § 18.915 pertained to the same subject matter and derived from C.B. 13, 2010, § 1.

Sec. 18.916. - Penalties.

- (a) *Criminal Penalties.* Any person who violates any provision of this subtitle, or any rule, regulation, order or permit issued under this subtitle, is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding \$1,000.00, or imprisonment not exceeding six months, or both, for each violation. Each day a violation occurs or continues is a separate offense. Costs may be imposed at the discretion of the court.
- (b) *Civil Penalties.* Alternatively or in addition to and concurrent with other remedies at law or equity, the county may enforce the provisions of this subtitle with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. A violation of this subtitle is a Class A offense. Each day that a violation occurs or continues is a separate offense.
- (c) *Injunctive and Other Relief.* In addition, the County may institute injunctive, mandamus or other appropriate legal action or proceedings for the enforcement of or to correction violations of this subtitle. Any court of competent jurisdiction may issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.

(C.B. 13, 2010, § 1; C.B. 47, 2011, § 1; C.B. 8, 2013, § 5)

Sec. 18.917. - Severability.

If any portion of this Code is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall not affect the validity of the remaining portions of this subtitle. It is the intent of the County that this subtitle shall stand, even if a section, subsection, sentence, clause, phrase, or portion may be found invalid.

(C.B. 13, 2010, § 1)

SUBTITLE 10. - DEPARTMENT OF PUBLIC WORKS<sup>51</sup>

Footnotes:

--- (5) ---

**Editor's note**— Subtitle 10, §§ 18.1000, 18.1001, was added by § 89 of C.B. 62, 1988. Section 101 declared the bill effective July 1, 1989.

Sec. 18.1000. - General provisions.

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

(C.B. 62, 1988)



Sec. 18.1001. - Department of Public Works.

- (a) *Head.* The Director of Public Works shall be the head of the Department of Public Works.
- (b) *Qualifications of Director of Public Works.* The Director of Public Works shall be appointed solely with regard to qualifications for the duties and responsibilities of the office. The Director shall be a registered professional engineer in Maryland. The Director shall have comprehensive knowledge of the principles and practices of civil engineering and Public Works administration. The Director shall have at least ten years of increasingly responsible experience in engineering and Public Works administration, including a minimum of five years in a managerial position in Public Works.
- (c) *Duties and Responsibilities.* The Department of Public Works shall be responsible for the following functions:
  - (1) Developing and administering the capital projects, including, but not limited to:
    - (i) Preparation of necessary plans, and other documents.
    - (ii) Management and inspection, as appropriate, of construction.
    - (iii) Participation with the Purchasing Agent in the tabulation and evaluation of bids and recommendation of contract awards.
  - (2) Preparation of reports, studies, surveys, maps, plans, specifications and estimates for the County's public facilities and utilities.
  - (3) Preparation of specifications in connection with the purchasing of materials, services, supplies and equipment.
  - (4) Construction of County-owned buildings and improvements to them. Construction, improvement, alteration, operation, maintenance and repair of all County-owned roads, bridges, water systems, sewerage systems and drainage facilities.
  - (5) Administration and enforcement of laws, rules and regulations relating to the use of the water and sewerage systems.
  - (6) Ensuring that the Howard County Design Manual is reviewed and revised in accordance with subsection (d) of this section.
  - (7) Acceptance, on behalf of the County, of roads, drainage facilities and water and sewerage systems, and right-of-way, and easements related thereto, as provided by law.
  - (8) Care and maintenance of County-owned or leased space, including alterations, repairs, cleaning, heating, cooling, lighting, power supply, floor covering, painting, and gardening.
  - (9) Acquisition of land as prescribed by law and as directed by the County Executive.
  - (10) Obtaining and administering agreements which provide for the construction of public facilities which the County may acquire upon completion of the terms of the agreement.
  - (11) Collection of refuse and operation of facilities for the processing, handling, recycling and disposal of refuse.
  - (12) Provision of engineering, architectural and surveying services for all agencies of County Government.
  - (13) Managing property owned by the County and for obtaining leased space to be used by the County and agencies for which the County provides space, including:
    - (i) Renting or leasing land to be used by the County;
    - (ii) Renting or leasing buildings to be used by the County;
    - (iii) Renting or leasing County property to private individuals or companies, if the County does not have an immediate use for the property; and

- (iv) Coordinating with agencies to determine their needs for additional or alternate space and arranging for securing that space in property owned or leased by the County.
- (14) Such other duties and responsibilities as may be prescribed by directive of the County Executive or by law.
- (d) *Design Manual.*
  - (1) With the assistance of each appropriate agency of County government, the Department of Public Works shall review each volume of the Howard County Design Manual to ensure that each volume is complete, accurate, and reflects the latest available data and best practices.
  - (2) Subject to paragraph (4) of this subsection, the review of each volume shall occur, at the latest, every fifth year in accordance with the staggered schedule established by Council Bill 4-2017.
  - (3) Subject to section 22.1000 of the County Code, within 18 months after each review is complete, the Department of Public Works:
    - (i) Shall submit revisions to the County Council for approval; or
    - (ii) Shall notify the County Council that the volume of the Howard County Design Manual does not require any revisions.
  - (4) For good cause, including budgetary constraints, the Director may adjust the schedule required by this subsection. The Director shall notify promptly the County Council whenever an adjustment is made and include the reasons for the adjustment.

(C.B. 62, 1988; C.B. 117, 1989; C.B. 8, 1993; C.B. 11, 1994; C.B. 28, 1996; C.B. 4, 2017, § 1; C.B. 43, 2018, § 1)

#### SUBTITLE 11. - PUBLIC WORKS BOARD<sup>[6]</sup>

##### Footnotes:

--- (6) ---

**Editor's note**— Subtitle 11, § 18.1100, was added by § 90 of C.B. 62, 1988. Section 101 declared the bill effective July 1, 1989.

#### Sec. 18.1100. - Public Works Board.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members.* The Public Works Board shall have five members.
- (c) *Qualifications.* All members of the Public Works Board shall be residents of Howard County.
- (d) *Executive Secretary.* The Director of Public Works or the Director's designee shall be the Executive Secretary of the Public Works Board and shall attend all meetings of the Board.
- (e) *Duties and Responsibilities.* The Public Works Board shall have the following duties:
  - (1) Make recommendations to the County Executive and to the County Council relating to plans and policies on matters under the jurisdiction of the Department of Public Works.
  - (2) At the directive of the County Executive or by resolution of the County Council, the Board of Public Works shall review and make recommendations on any matter related to Public Works.

(C.B. 62, 1988)

SUBTITLE 12. - SHARED SEWAGE DISPOSAL FACILITIES<sup>21</sup>

Footnotes:

--- (7) ---

**Editor's note**— Sections 1 of C.B. 6, 2006 amended and restated former Subtitle 12 in its entirety to read as herein set out. Former Subtitle 12 pertained to the same subject matter and derived from C.B. 8, 2005, §§ 1 and 2.

**Cross reference**— Shared sewage disposal facilities charges and assessments, § 20.1200 et seq.

Sec. 18.1200. - COMAR authority; application; purpose.

- (a) *COMAR Authority.* This subtitle is enacted pursuant to provisions of the Code of Maryland Regulations that regulate shared sewage disposal facilities.
- (b) *Application.* This subtitle applies to shared sewage disposal facilities that serve cluster developments in RR and RC zoned land.
- (c) *Purpose.* The purpose of this subtitle is to protect the public health, safety, and welfare by establishing requirements and procedures for the ownership, operation, repair, ownership, and maintenance of shared sewage disposal facilities.

(C.B. 16, 2006, § 1)

Sec. 18.1201. - Definitions.

Terms used in this subtitle have the meanings indicated.

- (a) *Board of Education* means the Board of Education of Howard County.
- (b) *COMAR* means the Code of Maryland Regulations.
- (c) *Controlling authority* means the County, the Board of Education, or a governmental body empowered by the County or the Board of Education by a written agreement to provide for management, operation, and preventive and corrective maintenance of a shared sewage disposal facility.
- (d) *Covenants* means the declaration of covenants required by subsection 18.1203(a) of this subtitle.
- (e) *Department* means the Department of Public Works.
- (f) *Drainfield* means an area upon which all or a portion of the subsurface wastewater disposal area of a shared sewage disposal facility is located, including, without limitation:
  - (1) A preservation parcel;
  - (2) A public right-of-way; or
  - (3) Land owned by the Board of Education.
- (g) *Easement* means the easement to the County required by subsection 18.1204(d) of this subtitle.
- (h) *Land owned by the Board of Education* means land owned, leased, or dedicated for the beneficial use of the Board of Education, including by easement or right-of-way.

- (i) *Permit* means the State groundwater discharge permit issued by the Maryland Department of the Environment pursuant to title 9 of the environment article of the Annotated Code of Maryland permitting the discharge of effluent from the shared sewage disposal facility to the groundwaters of the State of Maryland in accordance with the terms of the permit.
- (j) *Preservation parcel* means a nonbuildable parcel created under the Howard County zoning regulations upon which all or a portion of the subsurface wastewater disposal area is located.
- (k) *Residential lot* means in a subdivision, a privately-owned lot containing one, single-family dwelling unit that is served by a shared sewage disposal facility.
- (l) *Shared sewage disposal facility* means a sewage system that:
  - (1) Serves more than one residential lot;
  - (2) Is located on one or more of the following:
    - (i) A public right-of-way;
    - (ii) Land owned by the Board of Education; or
    - (iii) A preservation parcel; and
  - (3) Is subject to the easement and covenants; and
  - (4) Consists of:
    - (i) All mainline collection sewers and appurtenances, including pumping units, located within a public right-of-way that act to convey wastewater to the subsurface wastewater disposal area;
    - (ii) A subsurface wastewater disposal area required to operate the sewage system, including:
      - a. All conveyance, collection, treatment, piping, and components of the facility, and disposal equipment; and
      - b. Any area that has been approved as suitable to support a soil absorption system or drainfield to safely dispose of effluent in conformity with COMAR requirements governing sewage disposal;
    - (iii) Cables, wires, control panels, or other electrical or mechanical systems and controls used to operate and maintain the system on a residential lot or on land owned by the Board of Education; and
    - (iv) Other related equipment, chemicals, and materials.

(C.B. 16, 2006, § 1)

Sec. 18.1202. - Types of approved shared sewage disposal facilities.

A shared sewage disposal facility may be approved by the Department if the shared sewage disposal facility meets all of the requirements of this subtitle and:

- (a) A permit is not required for the shared sewage disposal facility; or
- (b) A permit is required for the shared sewage disposal facility and:
  - (1) The Health Department determined that, on or before July 14, 2004, the field work was substantially completed;
  - (2) Approval for the shared sewage disposal facility was denied as of July 14, 2004, in writing, by the Department; or
  - (3) Is operated by the Board of Education:
    - (i) Under a permit issued prior to June 30, 2006; or

- (ii) Solely to serve Howard County Public Schools.

(C.B. 16, 2006, § 1)

Sec. 18.1203. - Plan approval; covenants; design and construction; construction inspection.

(a) *Plan Approval and Covenants.* If a developer or the Board of Education proposes a shared sewage disposal facility, the Department and the Department of Planning and Zoning may not approve the final subdivision plan for the development unless:

- (1) The Department and the Health Department have approved the proposed shared sewage disposal facility;
- (2) If applicable, the permit has been approved; and
- (3) The developer has:
  - (i) Created a perpetual incorporated homeowners association that is in good standing with the State Department of Assessments and Taxation;
  - (ii) Executed and delivered the easement; and
  - (iii) Executed and delivered to the County a declaration of covenants that:
    - a. Is binding upon the developer and all subsequent owners of preservation parcels and residential lots;
    - b. Is approved by the County and, if applicable, the controlling authority;
    - c. Is enforceable by the homeowners association or the controlling authority by injunction or any other means, cumulatively and concurrently, allowed under Maryland law or this Code;
    - d. Is in proper form for recordation in the land records for Howard County;
    - e. Prohibits activities by owners of residential lots or preservation parcels to ensure that there is no adverse effect on the continued functioning of the shared sewage disposal facility, no violation of the terms of the permit, and no violation of the COMAR requirements governing sewage disposal;
    - f. Requires payment by each residential lot owner of an annual fee for sewage that includes the cost of operations, maintenance, and repair for the continued functioning and future replacement of the shared sewage disposal facility, as authorized in title 20, subtitle 8 of this Code;
    - g. Limits the use of the shared sewage disposal facility to ensure that:
      - 1. There is no adverse effect on the continued functioning of the facility; and
      - 2. If a permit is required, the facility complies with all conditions of the permit and with all COMAR requirements governing sewage disposal; and
    - h. Allows the Department to enter the drainfield and to access the portions of the shared sewage disposal facility on a residential lot, preservation parcel, or land owned by the Board of Education in accordance with section 18.1213 of this subtitle to make required repairs and maintenance;
    - i. Requires the owner of a residential lot to maintain the pipes, control panels, and components serving the residential lot up to the County or Board of Education right-of-way where connected to the shared sewage disposal facility in good repair; and
    - j. Restricts the owner from altering:

1. The pumps, pipes, control panels, and components without prior written consent of the Department; or
  2. The drainfield without the prior written consent of the Department.
- (b) *Design and Construction Standards.* The design and construction of a shared sewage disposal facility shall comply with standards of the following:
- (1) The Department's Design Manual;
  - (2) If a permit is required, the permit;
  - (3) If a controlling authority is required by the permit, the standards of the controlling authority;
  - (4) The Health Department; and
  - (5) The Maryland Department of the Environment.
- (c) *Construction Inspection.* The Department, controlling authority, and the Health Department shall inspect a shared sewage disposal facility during construction to determine whether the construction is consistent with the approved plan.

(C.B. 16, 2006, § 1)

Sec. 18.1204. - Designation of drainfield; requirements applicable to the subsurface wastewater disposal area; preservation parcel; easement.

- (a) *Drainfield.* A drainfield shall be located on a preservation parcel, public right-of-way, or land owned by the Board of Education and shall be subject to the easement and covenants.
- (b) *Requirements Applicable to the Subsurface Wastewater Disposal Area.* The subsurface wastewater disposal area shall satisfy the requirements of the Design Manual, COMAR, and, if a controlling authority is required by the permit, the controlling authority that govern the size of the area and the methods of determining whether the area is suitable for use as a subsurface wastewater disposal area.
- (c) *Preservation Parcel.* Except for a preservation parcel owned by the Board of Education, a preservation parcel containing a drainfield shall be:
- (1) Nonbuildable;
  - (2) Owned in perpetuity by the homeowners association serving the residential lots; and
  - (3) Subject to the easement and covenants.
- (d) *Easement.* The developer shall grant an easement to the County for the shared sewage disposal facility on a residential lot or preservation parcel that:
- (1) Gives a right of access to inspect and monitor all pumps, components, pipes, and the subsurface wastewater disposal area, including the pumps, pipes, control panels, and components located on a residential lot;
  - (2) Gives a right of entry for the inspection, maintenance, repair, replacement, and operation of the shared sewage disposal facility;
  - (3) Shall be in a form approved by the County; and
  - (4) Restricts use of a residential lot or preservation parcel to protect pumps, pipes, control panels, and components that serve each lot.

(C.B. 16, 2006, § 1)

Sec. 18.1205. - Developer agreement.

- (a) *Timing.* After final plan approval and signature approval of all construction drawings and prior to the submission of the original final plat, the developer shall enter into a developer agreement with the County.
- (b) *Requirements.* The agreement shall:
  - (1) Guarantee the construction of the shared sewage disposal facility in accordance with the approved final plan and all applicable regulations and standards of the State and the County; and
  - (2) Include guarantees by the developer that shall include the following:
    - (i) A performance surety in a form acceptable to the County in an amount that:
      - a. Is equal to 100 percent of the estimated cost of construction;
      - b. Guarantees timely and satisfactory completion of the shared sewage disposal facility; and
      - c. Guarantees the operation of the facility in accordance with the developer agreement; and
    - (ii) A payment surety in a form acceptable to the County in an amount that:
      - a. Is equal to 50 percent of the estimated cost of construction; and
      - b. Guarantees the payment of debts owed for labor and materials used in the construction of the shared sewage disposal facility; and
    - (iii) A maintenance and repair surety in a form acceptable to the County and in an amount that:
      - a. Is equal to 50 percent of the original amount of the performance surety; and
      - b. Guarantees the developer's obligation to complete repairs to the shared sewage disposal facility and to remedy damages.

(C.B. 16, 2006, § 1)

Sec. 18.1206. - Board of Education as the controlling authority.

- (a) *Powers and Authorities.* If the Board of Education is the controlling authority or if a shared sewage disposal facility is located on land owned by the Board of Education, the Board of Education shall construct, own, operate, and maintain the shared sewage disposal facility with respect to this subtitle, as follows:
  - (1) The covenants and easement shall be to the benefit of the Board of Education;
  - (2) The Board of Education shall have all of the rights and responsibilities of the County and the Department as provided in this subtitle and title 20, subtitle 8 of this Code; and
  - (3) The obligations of the developer required by this subtitle shall not apply to the Board of Education.
- (b) *Written Agreement.* The Board of Education and the County may enter into a written agreement that shall set forth all the rights and responsibilities of each party including, without limitation, construction, inspection, and billing procedures.

(C.B. 16, 2006, § 1)

Sec. 18.1207. - Responsibility of the developer.

- (a) *Construction.* The developer shall construct a shared sewage disposal facility in accordance with the approved plans and terms of the developer agreement required by this subtitle and the shared facilities developer agreement entered into pursuant to section 16.147 of this Code.
- (b) *Operation.* The developer shall operate the shared sewage disposal facility in accordance with the developer agreement until the facility is accepted by the County.
- (c) *Deed.* The deed for the sale of each residential lot shall state that the lot is subject to the obligations and restrictions set forth in the easement and covenants and shall recite the covenants set forth in section 18.1203 of this subtitle.
- (d) *Required Disclosures.* Upon the initial sale of a residential lot by the developer or its assigns, the developer or its assigns shall disclose:
  - (1) The estimated annual cost of the operation, maintenance, repair, and replacement of the shared sewage disposal facility for the residential lot served by the facility; and
  - (2) Restrictions in the easement and covenants in accordance with the requirements of the Maryland Contract Lien Act.

(C.B. 16, 2006, § 1)

Sec. 18.1208. - Power and authority of the County.

- (a) *Controlling Authority.* The County or the Board of Education may, by written agreement, designate a governmental body to be the controlling authority.
- (b) *Agreement.* The agreement shall authorize the controlling authority to perform one or more of the following functions:
  - (1) Purchasing, holding, leasing, building, or constructing a shared sewage disposal facility;
  - (2) In conjunction with the Department and the Department of Planning and Zoning, reviewing and approving plans for a shared sewage disposal facility;
  - (3) Establishing minimum design criteria;
  - (4) Establishing and collecting a fee for the design approval and construction inspection of a shared sewage disposal facility;
  - (5) Establishing and collecting a fee for the operation, maintenance, repair, and replacement of a shared sewage disposal facility as provided in title 20, subtitle 8 of this Code;
  - (6) Operating, repairing, improving, and maintaining a shared sewage disposal facility, including but not limited to:
    - (i) Periodically inspecting the shared sewage disposal facility and components of the facility on residential lots, preservation parcels, and land owned by the Board of Education;
    - (ii) Periodically removing septage;
    - (iii) Repairing tanks, piping, pumps, and electrical systems;
    - (iv) Repairing the subsurface wastewater disposal area;
    - (v) Replacing, at the end of their anticipated useful lives, tanks, pumps, piping, electrical systems or other components within the subsurface wastewater disposal area or residential lot;
    - (vi) Relocating the subsurface wastewater disposal area at the end of its anticipated useful life;



- (vii) Repairing, replacing, or maintaining the wastewater treatment facilities;
  - (viii) Paying electrical costs that are not the responsibility of the owner of a residential lot;
  - (ix) Performing administrative tasks and making payments associated with being a controlling authority; and
  - (x) Enforcing the restrictions in the easement and covenants; and
- (7) Maintaining records of its operation and maintenance activity at the shared sewage disposal facility.
- (c) *Inspection of Records.* The agreement shall provide that records maintained by the controlling authority are subject to inspection and review during regular business hours.
- (d) *Delegated Functions.* For each function delegated to the controlling authority by the agreement, the controlling authority and the Board of Education, if the Board is the controlling authority, shall have all the rights and responsibilities that are conferred on the County and the Department in this subtitle.

(C.B. 16, 2006, § 1)

Sec. 18.1209. - Responsibilities of a residential lot owner; damage to shared sewage disposal facility; reimbursement for damage.

- (a) *Residential Lot Owner.* The owner of a residential lot shall:
- (1) Pay the annual operating, maintenance, repair, and replacement fee for the shared sewage disposal facility pursuant to title 20, subtitle 8 of this Code;
  - (2) In accordance with the covenants and easement, prevent damage to the shared sewage disposal facility or to the operation of the facility;
  - (3) Pay electrical costs for a pump or other components located on the owner's lot;
  - (4) Notify the controlling authority if the facility's system alarm sounds or if the facility loses power; and
  - (5) Comply with all of the obligations and restrictions set forth in the covenants and the easement to ensure that the shared sewage disposal facility is in compliance with the provisions of the permit and COMAR requirements governing sewage disposal.
- (b) *Damage to Facility.* If the controlling authority determines that a residential lot owner has performed an activity that damages or is likely to damage any part of a shared sewage disposal facility or the operation of the facility, the controlling authority shall:
- (1) Notify the owner in writing of the damage;
  - (2) Require the owner to stop the activity causing or likely to cause the damage; and
  - (3) Repair any damage.
- (c) *Reimbursement.* The residential lot owner who causes any damage to the shared sewage disposal facility or to the operation of the facility is responsible for reimbursing the controlling authority for all costs incurred in repairing the damage, including administrative charges, engineering costs, reasonable attorney's fees, and court costs.
- (d) *Proportionate Share.* If the Department cannot determine which residential lot owner caused damage to the shared sewage disposal facility or to the operation of the facility, each residential lot owner shall be responsible for a proportionate share of all costs caused by or related to the damage based on the number of residential lots.

(C.B. 16, 2006, § 1)

Sec. 18.1210. - Ownership.

- (a) *County.* Except as provided in subsection (b) of this section, upon completion of a shared sewage disposal facility and its acceptance by the Department, the shared sewage disposal facility becomes the property of the County.
- (b) *Board of Education.* If the Board of Education is the controlling authority, the shared sewage disposal facility is owned by the Board of Education.

(C.B. 16, 2006, § 1)

Sec. 18.1211. - Uses on the drainfield; applicability of COMAR; maintenance.

- (a) *Structures.* A structure may not be placed on a drainfield unless:
  - (1) The drainfield is located on land owned by the Board of Education;
  - (2) The structure is a playground or athletic equipment located in a recreational area or athletic field as permitted by COMAR; and
  - (3) The Department, the controlling authority, and the Health Department have approved the structure.
- (b) *Drainfield Covered or Disturbed.* The drainfield may not be:
  - (1) Covered with gravel, asphalt, concrete, or any other covering or topping that impedes the growth of vegetation; or
  - (2) Without prior authorization from the controlling authority, the Health Department, and the Department, disturbed by earth moving or grading.
- (c) *Crops.* Only a crop approved by the Health Department, the Soil Conservation Service, and, if required, the Maryland Department of the Environment may be grown on the drainfield.
- (d) *COMAR.* Notwithstanding the requirements of this section, if COMAR prohibits a structure or use on a drainfield that is not prohibited by this section, the prohibition in COMAR shall apply.
- (e) *Maintenance.* The drainfield shall be maintained as required by the terms of the permit and the COMAR requirements governing sewage disposal.

(C.B. 16, 2006, § 1)

Sec. 18.1212. - Fee for design approval and construction inspection.

- (a) *Approval and Construction Fee.* There is a fee for design approval and construction inspection of a shared sewage disposal facility.
- (b) *Fee Additional.* The fee is in addition to the Health Department fee for an on-site sewage system permit.
- (c) *County is Controlling Authority.* If the County is the controlling authority, the fee shall be adopted annually by resolution of the County Council.
- (d) *County is Not the Controlling Authority.* If another governmental body is the controlling authority, the fee shall be established by the controlling authority or, if an agreement exists between the County and the controlling authority, the fee shall be established in accordance with the agreement.

(C.B. 16, 2006, § 1)

Sec. 18.1213. - Right of entry.

- (a) *Generally.* The Department may enter any residential lot, shared sewage disposal facility, drainfield, preservation parcel, or other property at any reasonable time for the purpose of enforcing the requirements of this subtitle, including, without limitation, making surveys, conducting inspections, reading meters, or repairing any portion of a shared sewage disposal facility.
- (b) *Notice.* Except as provided in subsection (e) of this section, the Department shall provide reasonable notice prior to entry onto a residential lot.
- (c) *Proof of Identity.* The Department shall produce proof of identity prior to entry.
- (d) *Entry Refused.* If entry is refused, the Department may seek a court order to permit entry to the dwelling.
- (e) *Imminent Danger.* The Department shall have the right to enter a building, structure, or premises at any time where there is evidence that an imminent danger exists that may threaten the public health and safety.

(C.B. 16, 2006, § 1)

Sec. 18.1214. - Civil penalties; other rights of enforcement.

- (a) *Civil Penalties:*
  - (1) The Department may enforce the provisions of this subtitle, the easement, covenants, or permit with civil penalties in accordance with title 24 "civil penalties" of this Code.
  - (2) A first violation of this subtitle is a Class D offense.
  - (3) A subsequent violation of this subtitle is a Class C offense.
  - (4) Each day that a violation continues is a separate offense.
- (b) *Other Rights of Enforcement.* The County may take any action at law or in equity against the owner of a preservation parcel or residential lot, as needed from time to time, to enforce the terms of this subtitle, the easement, covenants, or permit.

(C.B. 16, 2006, § 1)

SUBTITLE 13. - PUBLIC WATER SYSTEM CONNECTION COST ASSISTANCE PROGRAM

Sec. 18.1300. - Purpose.

The purpose of this subtitle is to provide financial assistance to certain property owners in the Mariottsville area in order to encourage as many property owners as possible to connect to the public water system so that the capital expenditure by the County in the construction of the water system improvements to the Mariottsville area is utilized to the fullest extent.

(C.B. 72, 1996)

Sec. 18.1301. - Program established.

There is a public water system connection cost assistance program, administered by the Department of Public Works, to assist owners of eligible property pursuant to this subtitle, in payment of certain costs associated with the connection of eligible property to the public water system.

(C.B. 72, 1996)

Sec. 18.1302. - Definitions.

In this section the following terms have the meanings indicated.

- (a) *County connection costs* are the following:
  - (i) Water-house connection charge in the amount of \$1,530.00 or as amended subsequent to the passage of this act.
  - (ii) In-aid-of construction charge in the amount of \$600.00 or as amended subsequent to the passage of this act.
  - (iii) Plumbing permit fee in the amount of \$130.00 or as amended subsequent to the passage of this act.
- (b) *Eligible work* is the following:
  - (i) Extension of the water house connection up to 150 linear feet; and
  - (ii) Installation of the pipe through or under the foundation wall; and
  - (iii) Installation of a pressure reducing valve and related fittings; and
  - (iv) Installation of any necessary plumbing tie-ins.

Eligible work does not include any other work which may be performed as a result of connection to the public water system.

- (c) *Eligible costs* are those costs incurred by the property owner for eligible work subject to the following limitations:
  - (i) Ten dollars per linear foot (up to 150 feet) to extend the water-house connection to the property; and
  - (ii) Up to \$400.00 for other eligible work.

(C.B. 72, 1996)

Sec. 18.1303. - Eligibility.

Any owner of a property located in the Marriottsville area, as identified in council resolution 8-1996 or by subsequent amendment, is eligible for the assistance program under this subtitle if:

- (a) The owner of the property acquired title to the property prior to July 22, 1993 or a building permit was issued prior to July 22, 1994; and
- (b) The property is in the metropolitan district or the property owner has submitted a petition to the Director of Public Works to incorporate the property into the metropolitan district.

(C.B. 72, 1996; C.B. 38, 1999)

Sec. 18.1304. - Costs for which the County may provide assistance.

An eligible property owner may receive assistance for the payment of County connection costs and eligible costs for eligible work.

(C.B. 72, 1996)

Sec. 18.1305. - Application.

The application for assistance for payment of County connections costs and eligible costs for eligible work shall be signed by each person with an ownership interest in the property and shall be submitted to the Director of Public Works on a form authorized by the Director of Public Works. The application shall contain the following information and acknowledgments:

- (a) The property owner's name and mailing address;
- (b) The address and tax account number of the property which is to be connected;
- (c) A petition to incorporate into the metropolitan district the property to be connected to the public water system unless the property is in the metropolitan district;
- (d) A list of the costs for which the property owner is requesting assistance;
- (e) A statement acknowledging that the property owner is responsible for the selection of the contractor and for the performance of all work needed to connect to public water and that the County does not warrant the work performed by the contractor;
- (f) A statement that the property owner agrees not to connect any on-site well to the public water system and will comply with all applicable laws and regulations;
- [(g) Reserved.]
- (h) A statement that assistance provided pursuant to this subtitle is subject to the availability of funds.

(C.B. 72, 1996)

Sec. 18.1306. - Administration.

(a) *Verification of Eligibility and Application:*

- (1) When the water line serving an eligible property in the Marriottsville area has been placed in service, a property owner may submit verification of eligibility for the public water system connection cost assistance program to the Department of Public Works.
- (2) After the Department verifies eligibility, the property owner may submit an application, including a signed petition to incorporate the property into the metropolitan district, if necessary, to the Director of Public Works for assistance in the payment of eligible costs.
- (3) Subject to the availability of funds, the Director of Public Works shall process the application and shall prepare legislation incorporating the property into the metropolitan district, if necessary.
- (4) The property owner and the County shall enter into an agreement in which the County agrees to provide assistance for the payment of County connection costs and eligible costs for eligible work and the property owner agrees to comply with the conditions of the assistance program including the provisions of subsection 18.1306(b).
- (5) The agreement shall be signed by each owner of the property and the County Executive or designee.
- (6) The Director of Public Works shall notify the Director of Finance and the Director of Inspections, Licenses and Permits when the property owner and the County have executed an agreement for the County to provide assistance for payment of County connection costs and eligible costs eligible work.
- (7) After the property owner submits a plumbing application, the Department of Inspections, Licenses and Permits shall issue a plumbing permit to the property owner and shall notify the

Director of Finance of the issuance of such permit who shall transfer the amount of County connection costs from the general fund to the water and sewer fund.

(b) *Connection to the Public Water System:*

- (1) Within 12 months of the date of application, the property owner shall complete the work needed to connect the property to the public water system in accordance with all applicable Howard County standards and specifications.
- (2) Upon completion of the eligible work, the property owner shall submit an itemized receipt for eligible costs, not to exceed \$1,900.00, for which the County has agreed to provide assistance, to the Director of Inspections, Licenses and Permits.
- (3) After the Department of Inspections, Licenses and Permits completes a satisfactory inspection of the work, the Director of Inspections, Licenses and Permits shall notify the Director of Finance that the work to connect the property to the public water system has been completed in accordance with all applicable County standards and specifications.
- (4) Upon notification that the work has been completed satisfactorily within 12 months of the date of application, the Director of Finance shall reimburse the property owner for the eligible costs for which the County has agreed to provide assistance, not to exceed \$1,900.00.

(C.B. 72, 1996)

Sec. 18.1307. - Time for application.

Applications for the program must be filed with the Department of Public Works no later than December 31, 1999 and shall be processed on a first come, first served basis subject to the availability of appropriated funds.

(C.B. 72, 1996; C.B. 38, 1999)

SUBTITLE 14. - ROAD AND STORMWATER MANAGEMENT IMPROVEMENTS FOR PRE-1961 PLATTED SUBDIVISIONS

Sec. 18.1400. - Application for subtitle; definitions.

- (a) *Application.* This subtitle applies to pre-1961 platted subdivisions which created residential lots and road rights-of-way to provide access to existing State and County roads. Because the plats were not subject to the 1961 subdivision regulations or developer agreements, neither the public roads nor the necessary stormwater management facilities were constructed.
- (b) *Subtitle Does Not Levy Tax.* This subtitle is not intended, nor shall it be construed to levy a tax for the purpose of raising revenues for the construction and maintenance of public roads on other than a County-wide basis. In order for the improvements to road rights-of-way and stormwater management facilities to be brought into the County system, and subject to the provisions of this subtitle, the owners of real property within the area served by the improvements shall agree to reimburse the County for its expenses in providing them. This program is consistent with the responsibility of County Government.
- (c) *Exclusive Method.* The procedures under this subtitle shall be the exclusive method for owners of property described under subsection (a) of this section to participate in the construction of improvements in pre-1961 platted subdivisions. Such property owners may not utilize the procedures under subtitle 2A, "substandard private roads" of this title.
- (d) *Definitions.* In this subtitle, the following terms have the meanings indicated.

- (i) *Improvements* means a road and necessary stormwater management facilities that meet the engineering and legal criteria established for acceptance into the County system.
- (ii) *Director* means the Director of the Howard County Department of Public Works.

(C.B. 4, 1997)

Sec. 18.1401. - Eligible road rights-of-way.

Notwithstanding the provisions of subtitle 1 of this title, a road right-of-way is eligible to be constructed as part of a capital project under this subtitle if:

- (1) The existing road right-of-way was not accepted into the County road system as a prescriptive road by resolution of the County Council;
- (2) The road right-of-way is located in a subdivision that was not subject to subdivision regulations or a developer agreement with the County at the time of plat recordation;
- (3) The road right-of-way has been included in a capital project by the Director under section 18.1402 of this subtitle; and
- (4) The road right-of-way will be, when constructed, open to the public.

(C.B. 4, 1997)

Sec. 18.1402. - Capital project; estimate of cost of improvements.

(a) *Capital Project Defined:*

- (1) The Director, after evaluating the public road and stormwater management alternatives, may define one or more capital projects to design and construct improvements in pre-1961 platted subdivisions.
- (2) A capital project under this subsection shall:
  - (i) Be determined on the basis of an engineering study;
  - (ii) Provide a plan to serve adjacent properties with necessary access and stormwater management facilities;
  - (iii) Be self-sufficient and function independently if no additional improvements are constructed within the subdivision in the future;
  - (iv) Serve a sufficient number of lots to be cost-effective;
  - (v) Meet the minimum requirements under the Howard County design manual for acceptance of the improvements into the County system; and
  - (vi) Ensure that when a road is constructed, it is directly connected to an existing public road.

(b) *Preparation of Cost Estimate.* A person who owns property adjacent to a road right-of-way that meets the requirements under section 18.1401 of this subtitle may ask the Director to prepare an estimate of the cost of design and construction of the capital project that serves the person's property.

(c) *Use of Cost Estimate.* A cost estimate provided under subsection (b) of this section may be used only in considering whether to make a formal request under section 18.1403 of this subtitle. If a formal request is approved and the improvements are constructed, the costs of the project will be the actual costs of labor and materials as determined under section 18.1407 of this subtitle.

(C.B. 4, 1997)

Sec. 18.1403. - Formal request.

One or more owners of property adjacent to a road right-of-way that meets the requirements under section 18.1401 of this subtitle may submit a formal request, in writing to the Director, for construction of improvements in accordance with the capital project defined under subsection 18.1402(a) of this subtitle.

(C.B. 4, 1997)

Sec. 18.1404. - Meeting on formal request.

- (a) *Meeting Held within Three Months.* Within three months of receipt of a formal request under section 18.1403 of this subtitle, the Director shall hold an informational meeting on the request.
- (b) *Notice of Meeting.* The Director shall give notice of the meeting by publication, in a newspaper of general circulation in the County, and shall send a notice to the owner of record of each lot that is adjacent to the defined capital project, setting forth the length, location and termini of the project and the time, date and place of the meeting.
- (c) *Posting of Notice.* Not less than two weeks prior to the date of the meeting, the Director shall post signs at appropriate and conspicuous places, which shall set forth the fact that the road right-of-way is the subject of a proposed capital project to construct the road and necessary stormwater management facilities for acceptance into the County system and that a meeting thereon will be held at the time, location, and on the date as scheduled.
  - (1) The notice sign shall:
    - (i) Give the location of the subject property.
    - (ii) Be double-sided and at least 30 inches by 36 inches in size.
    - (iii) Include a three-digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be attached by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster.
    - (iv) State that the property is the subject of a proposed capital project and include a description of the proposed capital project and the capital project number.
    - (v) Give the website address of the Department of Planning and Zoning plans in process webpage or a central inter-departmental webpage for searching for additional information, including plans for public review, for all projects assigned a three-digit alphanumeric code and a phone number for additional information.

(C.B. 4, 1997; C.B. 69, 2018, § 1)

Sec. 18.1405. - Action on formal request.

- (a) *Director to Issue Decision.* Within 60 days of the conclusion of the meeting under section 18.1404 of this subtitle, the Director shall conditionally approve or disapprove a formal request.
- (b) *Notice of Decision.* The Director shall immediately mail a written decision either conditionally approving or denying the formal request to the owner of record of each parcel adjacent to the proposed improvements.

(C.B. 4, 1997)

Sec. 18.1406. - Conditions on approval.



- (a) *Conditional Approval.* If the Director conditionally approves a formal request, the County may begin to design and construct the improvements only after the conditions under this section have been satisfied.
- (b) *Property Owner Participation.* Subject to the provisions of subsection (c) of this section, as a condition of approval of a formal request, the owners of all property adjacent to proposed improvements shall agree in writing:
  - (1) To reimburse the County for the costs of engineering services and construction of the improvements as provided in section 18.1407 of this subtitle;
  - (2) To have a lien placed on the real property of the owners in the amount owed for reimbursement; and
  - (3) To transfer to the County, at no cost to the County, fee simple title to the road right-of-way plus, where appropriate, an access, drainage, and/or maintenance easement for stormwater management facilities.
- (c) *Other Conditions.* If the owners of 100 percent of the property abutting the improvements do not agree to the conditions under subsection (b) of this section, the conditions on approval under subsection (a) of this section may be satisfied if:
  - (1) The owners who did not agree to reimburse the County for costs of the improvements under subsection (b) of this section consent, in writing, to transfer to the County, at no cost to the County, fee simple title to the road right-of-way plus, where appropriate, a drainage or access easement for maintenance of stormwater management facilities; and
  - (2) The County Council, by resolution, instructs the office of law to institute condemnation proceedings against any property:
    - (i) That is necessary to complete the capital project; and
    - (ii) Whose owner has not agreed to either the conditions under subsection (b) of this section or item (1) of this subsection.
- (d) *One Hundred Percent of Property to Be Accounted For.* The properties subject to the conditions under subsection (b) of this section, when combined with the properties that satisfy the conditions of approval by complying with subsection (c) of this section, shall equal 100 percent of the property necessary to complete the capital project.

(C.B. 4, 1997)

Sec. 18.1407. - Road and stormwater management facilities improvement financing program.

- (a) *Program Established.* A road stormwater management facilities improvement financing program is established for the purpose of financing improvements in pre-1961 platted subdivisions within Howard County.
- (b) *Terms of Financing:*
  - (1) When construction of improvements under this subtitle is completed, reimbursement to the County shall commence as provided in the agreement under subsection 18.1406(b) of this subtitle.
  - (2) The agreement shall:
    - (i) Provide for reimbursement over a term of 20 years;
    - (ii) Apportion the total costs of the project equally among the property owners who agree to the conditions under subsection 18.1406(b) of this subtitle; and
    - (iii) Establish a mechanism for determination of the interest rate under the agreement.

- (3) The amount to be reimbursed shall be the actual audited costs of work completed, less overhead charges by the Department of Public Works or other County agencies.
- (c) *Rules.* The Director may establish and administer rules and procedures for the road and stormwater management financing program.

(C.B. 4, 1997)

#### SUBTITLE 15. - MULTI-USED RESIDENTIAL SEWERAGE SYSTEM

Sec. 18.1500. - Application; purpose.

- (a) *Application.*
  - (1) This subtitle applies to multi-used residential sewerage systems that serve a single parcel and for which a permit is issued after January 1, 2008.
  - (2) Except for subsections 18.1503(a)(1) and (b) and subsection 18.1504(e)(1), this subtitle applies to a multi-used residential sewerage system:
    - (i) For which a permit was issued on or before January 1, 2008; and
    - (ii) For which installation has not been completed on or before July 1, 2008.
  - (3) This subtitle does not apply to community sewerage systems, as defined in COMAR 26.03.01.01.
- (b) *Purpose.* The purpose of this subtitle is to protect the public health, safety, and welfare by establishing requirements and procedures for the oversight of multi-used residential sewerage systems in Howard County.

(C.B. 49, 2008, § 1)

Sec. 18.1501. - Definitions.

Terms used in this subtitle have the meanings indicated.

- (a) *Approving authority* has the meaning stated in COMAR 26.03.01.01.
- (b) *COMAR* means the Code of Maryland Regulations.
- (c) *Department* means the Department of Public Works.
- (d) *Financial management plan* has the meaning stated in COMAR 26.03.01.01 and shall comply with section 18.1505 of this subtitle.
- (e) *Health Department* means the Howard County Health Department.
- (f) *Installation* means construction of a multi-used residential sewerage system that meets the effluent requirements of the system's permit.
- (g) *Multi-used residential sewerage system* means:
  - (1) A single sewerage system serving a single parcel for the collection and disposal of residential sewage of a liquid nature, including various devices for the treatment of residential sewage having a treatment capacity in excess of 5,000 gallons per day.
  - (2) Includes a system serving a group of individuals:
    - (i) Whether owned or operated by an individual or group of individual: and
    - (ii) Whether under private or collective ownership.

- (3) Shall not include a community sewerage system, as defined in COMAR 26.03.01.01.
- (h) *Permit* means the State groundwater discharge permit issued by the Maryland Department of the Environment pursuant to title 9 of the environment article of the Annotated Code of Maryland permitting the discharge of effluent from a multi-used residential sewerage system to the groundwaters of the State of Maryland in accordance with the terms of the permit.
- (i) *Responsible party* means:
  - (1) During the development of a parcel served by a multi-used residential sewerage system, the developer and owner of the parcel; and
  - (2) After development, the successors or assigns of the developer or owner, as applicable, including, without limitation, a homeowner's association or condominium association.

(C.B. 49, 2008, § 1)

Sec. 18.1502. - Designation of approving authority.

The Department is the approving authority for certain responsibilities set forth in this subtitle and COMAR. The Department shall enter into an agreement with the Health Department and the Maryland Department of the Environment to carry out the purposes of this subtitle and COMAR.

(C.B. 49, 2008, § 1)

Sec. 18.1503. - Responsibilities of the approving authority; design and construction standards.

- (a) *Responsibilities of the Approving Authority.* As the approving authority and in accordance with the Department's agreement with the Health Department and the Maryland Department of the Environment, the Department may:
  - (1) Review design and construction plans, specifications, and engineering reports for a multi-used residential sewerage system to ensure compliance with required design and construction standards;
  - (2) Review the financial management plan for the multi-used residential sewerage system;
  - (3) Annually review financial statements in a form acceptable to the Department that may include, without limitation, a balance sheet, income statement, statement of cash flow, and statement of capital reserves to ensure consistency with the financial management plan;
  - (4) Review the qualifications of the operator of a multi-used residential sewerage system and the operator's contract to ensure that the operator has met the necessary licensing requirements;
  - (5) Inspect a multi-used residential sewerage system during construction to ensure compliance with construction plans that are approved by the Maryland Department of the Environment; and
  - (6) Monitor compliance with the terms of the permit and provide recommendations to the Maryland Department of the Environment and the responsible party regarding any needed corrective actions.
- (b) *Design and Construction Standards.* The design and construction of a multi-used residential sewerage system shall comply with the following:
  - (1) Standards of the Maryland Department of the Environment;
  - (2) The permit;
  - (3) Standards of the Health Department;
  - (4) Standards of the Department acting as the approving authority; and

(5) Volume II and Volume IV of the Department's Design Manual.

(C.B. 49, 2008, § 1)

Sec. 18.1504. - Duties of the responsible party.

- (a) *Construction.* The responsible party shall construct a multi-used residential sewerage system in accordance with the plans approved by the Maryland Department of the Environment and as required by this subtitle.
- (b) *Operator Information.* The responsible party shall submit to the Department a copy of the operator's contract.
- (c) *Declaration of Covenants.* The responsible party shall execute a declaration of covenants, or similar document, to run with the land as required under section 18.1506 of this subtitle.
- (d) *Required Disclosures.* Prior to the initial sale of a residential unit, the responsible party shall disclose to a prospective purchaser:
  - (1) The estimated annual cost of the operation, maintenance, repair, and replacement of the multi-used residential sewerage system for the residential unit served by the system; and
  - (2) Terms, covenants, and restrictions in any declaration of covenant, or similar document, as required under section 18.1806 of this subtitle.
- (e) *Financial Management Plan and Financial statements.* The responsible party shall provide to the Health Department and the Department:
  - (1) Before the Health Department signs the final plat, the financial management plan; and
  - (2) Annually, financial statements in a form acceptable to the Department that may include, without limitation, a balance sheet, income statement, statement of cash flow, and statement of capital reserves in order to show compliance with the financial management plan.
- (f) *Financial Security.* The responsible party shall provide financial security in the form of a bond, cash deposit, irrevocable letter of credit, or other security approved by the Department to guarantee the cost of completing and maintaining the multi-used residential sewerage system:
  - (1) Before the homeowners' association or condominium association becomes the responsible party for the system, if construction of the system begins on or before September 8, 2008; or
  - (2) Before beginning construction of the system, if construction of the system begins after September 8, 2008.
- (g) Financial security required by subsection (f) of this section shall:
  - (1) Guarantee the construction of the multi-used residential sewerage system in accordance with all applicable regulations and standards of the Maryland Department of Environment and the County; and
  - (2) Include guarantees by the responsible party that shall include the following:
    - (i) Performance financial security in a form acceptable to the County in an amount that:
      - a. Is equal to 100 percent of the estimated cost of construction;
      - b. Guarantees timely and satisfactory completion of the multi-used septic system; and
      - c. Guarantees the operation of the multi-used septic system in accordance with the permit; and
    - (ii) Payment financial security in a form acceptable to the County in an amount that:
      - a. Is equal to 50 percent of the estimated cost of construction; and

- b. Guarantees the payment of debts owed for labor and materials used in the construction of the multi-used septic system; and
  - (iii) A maintenance and repair financial security in a form acceptable to the County and in an amount that:
    - a. Is equal to 50 percent of the original amount of the performance security; and
    - b. Guarantees the responsible party's obligation to complete repairs to the multi-used sewerage system and to remedy damages.
- (h) Financial security required by subsection (f) of this section shall be released as follows:
  - (1) The approving authority shall retain the performance financial security until the later of:
    - (i) One year after the date of issuance of a use and occupancy permit for the residential lots which establishes occupancy of 80 percent of the residential lots served by the system, if during the year after issuance of the use and occupancy permit the reports for the system's operation complied with effluent requirements of the groundwater discharge permit; or
    - (ii) One year after the date the responsible party has operated the system in compliance with the permit for 12 consecutive months;
  - (2) The approving authority shall retain the payment financial security until the later of:
    - (i) The date the performance financial security is released; or
    - (ii) Any claims against the payment financial security have been resolved; and
  - (3) The approving authority shall retain the maintenance and repair financial security until the later of:
    - (i) One year after the date the performance financial security is released; or
    - (ii) One year after the date the responsible party has operated the system in compliance with the permit for 12 consecutive months.

(C.B. 49, 2008, § 1)

Sec. 18.1505. - Financial management plan.

- (a) The financial management plan shall demonstrate that adequate fiscal resources will be available to construct, operate, maintain, repair, and replace the multi-used residential sewerage system for existing and future needs.
- (b) The financial management plan shall contain the estimated cost of service to each residential unit on an annual basis and shall provide adequate detail to support the estimate.

(C.B. 49, 2008, § 1)

Sec. 18.1506. - Declaration of covenants.

- (a) *Declaration of Covenants.* A declaration of covenant, or similar document, relating to the construction, operation, maintenance, repair, replacement, and use of a multi-used residential sewerage system shall include the following terms and conditions:
  - (1) Responsibilities of the residents served by the multi-used residential sewerage system; and
  - (2) A statement that, to secure all shared cost obligations of the resident benefiting from the multi-used residential sewerage system, the resident shall be subject to the Maryland Contract Lien Act if the resident fails to pay the responsible party all fees and charges necessary to construct, operate, maintain, repair, replace, and use the multi-used residential system.

- (b) *Requirement to Record.* The declaration of covenant, or similar document, required by this section shall be recorded among the land records of Howard County.

(C.B. 49, 2008, § 1)

Sec. 18.1507. - Right of entry.

- (a) *Generally.* A representative of the Department may enter a parcel, including any residential unit, to inspect a multi-used residential sewerage system at any reasonable time to enforce the requirements of this subtitle.
- (b) *Notice.* Except as provided in subsection (e) of this section, the representative of the Department shall provide reasonable notice prior to entry onto a parcel or into a residential unit.
- (c) *Proof of Identity.* The representative of the Department shall produce proof of identity prior to entry.
- (d) *Entry Refused.* If entry is refused, the Department may seek a court order to permit entry onto the parcel, including into a residential unit.
- (e) *Imminent Danger.* The Department may enter a parcel, including a residential unit, at any time where there is evidence that an imminent danger exists that may threaten the public health and safety.

(C.B. 49, 2008, § 1)

Sec. 18.1508. - Fees.

- (a) The Director of the Department may recommend a schedule of fees to be paid by a responsible party for:
  - (1) The review of design and construction plans, specifications, and engineering reports and the review of the operator;
  - (2) The review of the financial management plan and financial statements;
  - (3) Construction inspection;
  - (4) Ongoing monitoring; and
  - (5) Other duties as the approving authority of a multi-used residential sewerage system.
- (b) The schedule of fees shall be adopted by resolution of the County Council.

(C.B. 49, 2008, § 1)

Sec. 18.1509. - Enforcement.

- (a) *Civil Penalties.* The Department may enforce the provisions of this subtitle with civil penalties in accordance with title 24 "civil penalties" of this Code. A violation of this subtitle is a Class A offense and each day that a violation continues is a separate offense.
- (b) *Other Rights of Enforcement.* The Department:
  - (1) Shall notify the Maryland Department of the Environment regarding any defects in the operation or funding of a multi-used residential sewerage system; and
  - (2) May recommend that an order of repair be issued for a multi-used residential sewerage system.

(C.B. 49, 2008, § 1)

TITLE 19 - RECREATION AND PARKS<sup>11</sup>

Footnotes:

--- (1) ---

**State Law reference**— County powers relative to recreation and parks, Ann. Code of Md. art. 25A, § 5(V).

SUBTITLE 1. - PARK LAND WATERSHED FACILITIES FUND

Sec. 19.100. - Park land and watershed facilities fund.

The County Executive is authorized to purchase and develop land within the limits of this County for public park use and possible future expansion of County water facilities.

The purchase price of any such land and development costs shall be paid out of the Park Land and Watershed Facilities Fund, upon the order of the County Executive, directed to the Director of Finance of Howard County. The fund shall consist of one-fourth of the proceeds of the transfer tax established by section 20.404 of this Code and such funds as may be granted to Howard County for the same or similar purposes by the State of Maryland or the United States of America, or any agency or instrumentality of either.

(1963, Ch. 269, § 1; 1965, Ch. 515, § 1; 1981, Ch. 202, § 1)

Sec. 19.101. - Funds for persons displaced by acquisition.

With respect to any land acquired under this subtitle, a portion of the acquisition price of which is contributed by the United States of America, the County Executive may negotiate and add to the purchase price a sum of money sufficient for the relocation of persons displaced by such acquisition in accordance with the terms and provisions as set forth in Public Law 91-646 of the United States of America known as "The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970."

(C.B. 36, 1971)

SUBTITLE 2. - PARK LAND, OPEN SPACE AND NATURAL RESOURCE REGULATIONS<sup>21</sup>

Footnotes:

--- (2) ---

**Editor's note**— C.B. 61, 2004 repealed §§ 19.201, 19-203—19.211 of former, and added new §§ 19.201, 19.203—19.211. Repealed former sections pertained to similar subject matter and derived from C.B.'s 46, 1992; 94, 1995.

Sec. 19.200. - Purpose.

The purpose of this subtitle is to establish regulations providing for the public's safe and peaceful use of County parks and park land; for recreational and educational benefit and enjoyment; and for the protection and preservation of the property, facilities and natural resources of the County. Park land and recreation programs conducted on park land are open for use by all members of the public regardless of race, religion, creed, color, sex, national origin, or disability.

(C.B. 46, 1992)

Sec. 19.201. - Definitions.

In this subtitle the following terms have the meanings indicated:

- (a) *Department* means the Howard County Department of Recreation and Parks.
- (b) *Department official* means an employee acting under the authority of the Director.
- (c) *Director* means the Director of the Department of Recreation and Parks or the Director's authorized designee.
- (d) *Open space* has the meaning set forth in title 16, subtitle 1 of the Howard County Code and is subject to the requirements of that subtitle.
- (e) *Open space buffer* means a portion of open space 12 feet in width which adjoins private property, as measured from the boundary line between the open space and the adjoining private property.
- (f) *Park property* means real and personal property which Howard County owns in fee simple or in which it holds a leasehold or easement interest and which is managed by the Department for the use and benefit of the public for recreation, the protection of wildlife habitats, or the protection of natural, scenic, or historical resources. Park property includes, without limitation, a County park, County pathway, open space property purchased by or dedicated to the County, vegetation, soil, water, wildlife, a building or structure and its contents, a sign, improvement, fixture, equipment, monument, historic artifact, statue, vehicle, or a boundary survey marker or monument.
- (g) *Stream* means water, flowing in a definite direction in a channel with a bed and banks, and having a substantial degree of permanence, although flow may vary and in times of drought may cease for a period of time. A stream includes, without limitation, perennial or intermittent streams as well as drainage swales which are located on park property.
- (h) *Stream buffer* means all land within 75 feet of the bank of a stream which is located on park property.
- (i) *Wetlands* means any land located on park property which has been determined by the army corps of engineers or the Maryland Department of the Environment to be regulated or jurisdictional wetlands, or determined by the soil conservation district to be regulated wetlands using Federal and State standards.
- (j) *Wetlands buffer* means all land within 25 feet of wetlands which is located on park property.

(C.B. 61, 2004)

Sec. 19.202. - Reserved.

**Editor's note**— As promulgated by C.B. No. 46, 1992, there is no § 19.202 in this subtitle.

Sec. 19.203. - Authority.



The Director may adopt regulations to administer the provisions of this subtitle pursuant to the requirements of title 2, subtitle 1 of the Howard County Code, the "Administrative Procedures Act".

(C.B. 61, 2004)

Sec. 19.204. - Hours of operation.

- (a) Park property shall be open to the public every day from sunrise to sunset, with the following exceptions:
  - (1) If the Director has determined that park property should be closed for public safety, maintenance, construction or a special event, the Director may close park property to public entry by posting signs, or placing barricades in the vicinity of points of entry to the park property; or
  - (2) The Director has permitted activities pursuant to section 19.205 of this subtitle.
- (b) A person shall not be on park property between sunset and sunrise, except for:
  - (1) Law enforcement personnel in the performance of their duties;
  - (2) Department personnel in the performance of their duties;
  - (3) Individuals authorized or accompanied by law enforcement or department personnel in the performance of their duties; or
  - (4) Persons authorized by permit pursuant to section 19.205 of this subtitle.

(C.B. 61, 2004)

Sec. 19.205. - Permits.

- (a) *Permits Generally.* The Director is authorized to issue a permit for each activity set forth in this section. Unless a permit is obtained prior to the date of an activity, each activity set forth in this section is prohibited. A permit granted pursuant to this section is subject to the following requirements:
  - (1) In determining whether to grant a permit, the Director shall consider the following standards for review:
    - (i) Whether the proposed activity will adversely impact the public health and safety or the maintenance or preservation of park property; and
    - (ii) Whether the proposed activity can be accommodated by the size or location of an available facility or park property;
  - (2) The permit holder shall keep the permit on the premises at all times and shall present the permit to department employees or law enforcement officials upon request;
  - (3) The Director may require proof of insurance prior to approving an application for a permit;
  - (4) The Director is authorized to assess a fee for a permit to use a facility or park property;
  - (5) The Director is authorized to impose conditions on the grant of a permit which are necessary to ensure that the public health and safety is preserved and to prevent damage, loss, or destruction of park property;
  - (6) A permitted activity shall be conducted in strict accordance with the requirements of this subtitle and with any conditions imposed on the grant of the permit;
  - (7) A permitted activity is limited to the scope of the activity set forth on the permit application as well as any condition imposed on the grant of the permit;

- (8) The Department may revoke a permit at any time for the violation of any condition on the grant of the permit, the use of misleading or fraudulent information in the permit application, or the violation of any local, State, or Federal law or regulation; and
  - (9) The person or entity listed on the permit application shall reimburse the County for any and all costs caused by loss, damage, destruction, or removal of park property as well as any costs of cleanup beyond routine maintenance performed by the Department.
- (b) *Reserved Use of Park Property.* The Director may issue a permit to reserve an athletic field, recreation building, group picnic area, pavilion, camp site, camp fire, or other park property or facility for the exclusive use of the individual or group designated on the permit. In addition to the requirements of subsection (a) of this section, a permit to use park property is subject to the following conditions:
- (1) A picnic area which is not available for reservation is operated on a "first come, first served basis";
  - (2) The facility or park property applied for shall be available and appropriate for the purpose specified in the permit; and
  - (3) A permit reserving a facility or park property entitles the permit holder to its exclusive use on the date and time specified on the permit.
- (c) *Activities Requiring a Permit.* Unless a permit for the activity is obtained prior to the date of the activity, the following activities are prohibited:
- (1) *Aircraft.* Using an aircraft, helium or hot air balloon, hang glider, ultra-light aircraft, parachute, or any other person-operated aircraft on park property;
  - (2) *Alcoholic beverages.* Consuming or possessing alcoholic beverages on park property; subject to the requirements of subsection (a) of this section, section 19.204, And the following conditions:
    - (i) State laws regarding the use of alcohol shall apply on park property; and
    - (ii) The alcohol shall be consumed or possessed only within the specific facility or area designated on the permit;
  - (3) *Businesses.* Conducting or soliciting a business, trade, or occupation on park property including, without limitation:
    - (i) The taking of a photograph, motion picture, or video tape for commercial or instructional use;
    - (ii) The sale or offer for sale, hire, or lease of merchandise, a vehicle, aircraft, or watercraft;
    - (iii) The training of an animal; or
    - (iv) Except as provided by State law, commercial gambling;
  - (4) *Camping.* Camping on park property in the area specified in the permit;
  - (5) *Cutting or mowing.* Cutting or mowing vegetation on park property;
  - (6) *Fires.* Lighting and maintaining a fire, except in a charcoal grill in a designated area provided by the Department and subject to the requirements of subsection (a) of this section and the following conditions:
    - (i) The fire shall be in continuous care and direction of a competent person over the age of 16;
    - (ii) The fire shall be thoroughly and completely extinguished, i.e., the coals shall be cold, before the permit holder leaves the site; and
    - (iii) A recreational fire is subject to the approval of the Howard County Department of Fire and Rescue Services;

- (7) *Fireworks*. Subject to the requirements of the "Howard County Fire and Prevention Code" as set forth in title 17, subtitle 1 of the Howard County Code, possessing or discharging fireworks, pyrotechnics, ammunition, or other flammable or explosive devices on park property;
- (8) *Grading*. Conducting or causing the grading, removal, or disturbance of soil, rocks, or minerals on park property;
- (9) *Herbicides or fertilizers*. Applying a herbicide, fertilizer, fungicide, insecticide, or other substance or chemical to park property;
- (10) *Hunting*. As permitted by applicable State or County law; hunting, trapping, or destroying wildlife on park property for the purpose of scientific study, environmental education, or wildlife management;
- (11) *Interference with the use of park property*. Interference with the use of park property, including, without limitation, blocking a road, path, or walkway, and a parade or assembly held on park property shall be subject to the provisions of title 17, subtitle 9 of the Howard County Code;
- (12) *Metal detectors*. Use of a metal detector on park property;
- (13) *Models*. Use of a model airplane, car, boat, or rocket on park property;
- (14) *Self-propelled motorized vehicles*. Operating a self-propelled motorized vehicle including, without limitation, an all-terrain vehicle, on a pathway, trail, or other nonpaved area on park property;
- (15) *Signs*. Erecting or posting a sign or notice on park property, including, without limitation, an audio sign or notice such as a talking machine, recorder, or other audio/visual device;
- (16) *Soliciting*. Subject to the requirements of title 14, subtitle 7 of the Howard County Code; soliciting for a contribution, donation, or money on park property;
- (17) *Storage*. Storing material of any description on park property;
- (18) *Structures*. Subject to the requirements of title 3, subtitle 1 of the Howard County Code; erecting or building a structure on park property;
- (19) *Watercraft*. Use of a boat or other watercraft on a lake, stream, pond, or river on park property subject to Federal, State, and local regulations governing the use, operation, and safety of the watercraft; and
- (20) *Weapons*. Carrying, possessing, or discharging a firearm, bow, dart, knife, or any other dangerous weapon on park property; subject to the requirements of subsection (a) of this section, section 19.204, and the following:
  - (i) The permit is applicable only in an area of park property designated for such purpose; and
  - (ii) Unauthorized weapons shall be confiscated.

(C.B. 61, 2004; C.B. 12, 2018, § 4)

Sec. 19.206. - Traffic; vehicles; parking.

(a) *General Provisions:*

- (1) Traffic laws and parking regulations applicable on public roads in the County are applicable on park property.
- (2) The use of roads within park property is subject to regulations of the Department.
- (3) The Director may close roads within park property as necessary.

- (b) *Pedestrian Right-of-Way.* In all instances, a pedestrian shall have the right-of-way within park property.
- (c) *Speed Limits.* Unless a different speed limit is posted, the speed limit for a motor vehicle within park property is 15 miles per hour.
- (d) *Roadways Open to Motor Vehicles.* Except for a County maintenance vehicle, emergency vehicle, or police vehicle, a person shall operate a motor vehicle within park property only on a road or street with public access. A person shall not operate an all-terrain vehicle or a go-kart on a road or street within park property.
- (e) *Vehicle Repair.* Except for an emergency repair, a person shall not repair or perform maintenance on a vehicle within park property.
- (f) *Parking Regulations.* A person shall not stop, stand, or park a motor vehicle on park property if the motor vehicle is located:
  - (1) On or obstructing the entrance to an access road;
  - (2) On or obstructing the entrance to a bike path, walking path, or bridle path;
  - (3) On a pathway or road during those hours when park property is not open to the public;
  - (4) Unless specifically directed by authorized department personnel or police, on any grass area; or
  - (5) Unless specifically directed by authorized department personnel or police, where the motor vehicle will injure any form of vegetation.
- (g) *Impoundment of Vehicles.* An illegally parked or abandoned motor vehicle may be towed from park property and impounded at the owner's expense in accordance with the provisions of title 21, subtitle 2 of the Howard County Code.

(C.B. 61, 2004)

Sec. 19.207. - Regulation of recreational activities.

The following recreational activities are restricted to designated areas of park property and may be subject to additional requirements.

- (a) *Bicycling.* A person shall operate a bicycle on park property in accordance with the following requirements:
  - (1) A person may operate a bicycle on a road within park property;
  - (2) A person may operate a bicycle on a pathway or trail designated for bicycle riding;
  - (3) The maximum speed limit on a trail or pathway is ten miles per hour;
  - (4) A trail is subject to regulations set forth in title 21, subtitle 12 of the transportation article of the Annotated Code of Maryland;
  - (5) Children 16 years of age or younger shall wear an approved safety helmet when operating a bicycle on park property, as provided in title 21, subtitle 4 of the Howard County Code;
  - (6) A person operating a bicycle shall use a "bike lane" wherever available;
  - (7) Except when passing, a person operating a bicycle or a pedestrian shall keep to the right;
  - (8) A person operating a bicycle shall alert other trail users before passing;
  - (9) A person operating a bicycle shall always yield to a pedestrian; and
  - (10) A person operating a bicycle shall yield to vehicular traffic at intersecting roadways.

- (b) *Fishing.* A person may fish only in a designated area and in compliance with State and other applicable laws.
- (c) *Horseback Riding.* A person may ride a horse only in a designated area or on a designated trail.
- (d) *Picnicking.* A person may picnic only in a designated area.
- (e) *Roller Skating; In-Line Skating; Skateboarding.* A person may roller skate, in-line skate, or skateboard on a pathway or sidewalk. A person shall not roller skate, in-line skate, or skateboard on a road, parking area, or multipurpose recreational surface, including, without limitation, a basketball court, tennis court, or racquetball court.
- (f) *Swimming; Water Sports.* A person may swim or engage in other water sports only in an area designated for water activities and only during the hours specified.
- (g) *Winter Sports.* While on park property, a person shall not:
  - (1) Use a snowmobile; or
  - (2) Skate or walk on ice.

(C.B. 61, 2004)

Sec. 19.208. - Regulation of conduct.

- (a) *Depositing Refuse Generated Off-site.* A person shall not deposit refuse generated off-site onto park property.
- (b) *Domesticated Animals.* The provisions of title 17, subtitle 3 of the Howard County Code shall apply to a domesticated animal on park property. In addition, the following requirements shall apply:
  - (1) A person shall not graze, house, or leave unattended an animal on park property; and
  - (2) A domesticated animal is prohibited at all times in an area of park property that is posted to prohibit animals.
- (c) *Encroachments.* Without first obtaining a permit pursuant to section 19.205 of this subtitle, a private encroachment is prohibited on park property. An encroachment shall include, without limitation, a fence, wall, dog run, dog house, storage structure, driveway, compost pile, swimming pool, tree house, playhouse, wood pile, garden, play equipment, tv or radio reception device, or any other device, structure, refuse, or material.
- (d) *Entrance and Exit.* A person shall enter and exit park property at an officially designated entrance and exit.
- (e) *Indecent Conduct.* While on park property, a person shall not:
  - (1) Be nude or indecently expose themselves;
  - (2) Engage in a sexual act; or
  - (3) Urinate or defecate except in a designated facility.
- (f) *Interference with Duties of County Personnel.* A person shall not interfere with a County employee on park property acting in the course of their official duties.
- (g) *Interference with Other Individuals on Park Property:*
  - (1) *Interference with the public.* A person shall not obstruct, delay, or interfere with the free movements of any other individual, seek to coerce or physically disturb any other individual, or hamper or impede the conduct of any authorized business or activity on park property.
  - (2) *Use without permit.* A person that does not hold a permit to use park property which requires a permit shall vacate the property upon the arrival of the permit holder.

- (3) *Order to vacate.* A user of a park property, including a permit holder, shall immediately cease an activity and vacate the premises if so instructed by department officials for reasons of public safety or to prevent potential damage to park property or a park facility.
- (h) *Lost Objects.* A lost object found on park property shall be turned over to a department official and may be recovered by showing proper photo identification. A lost object shall be held by the Department for a period of 30 days after which time it will be turned over to the Police Department for disposition pursuant to the provisions of title 4, subtitle 3, of the Howard County Code.
- (i) *Noise.* A person shall not play an audio device or create excessive noise so as to disturb the peace.
- (j) *Vandalism.* While on park property, a person shall not:
  - (1) Interfere with, encumber, obstruct, damage, destroy, or render dangerous, any drive, path, trail, walk, dock, fence, wall, bridge, bench, play equipment, structure, improvement, or plant on park property;
  - (2) Disturb the public peace; or
  - (3) Hinder or obstruct the proper use of a restroom, concession stand, or other public structure on park property.

(C.B. 61, 2004)

Sec. 19.209. - Environmental protection.

- (a) *Mowing Open Space:*
  - (1) *Mowing an open space buffer.* Unless mowing is prohibited by the provisions of paragraph (2) below, an owner of private property whose property adjoins open space may mow the open space buffer.
  - (2) *Restrictions on mowing an open space buffer.* An adjacent property owner shall not mow the open space buffer if:
    - (i) There is a tree, shrub, or other woody vegetation on the open space buffer;
    - (ii) The open space buffer includes land which is within 75 feet of a stream, pond, stormwater management facility, river, or floodplain;
    - (iii) The open space buffer includes land which is within 25 feet of a wetland;
    - (iv) The open space buffer contains slopes of 25 percent or greater; or
    - (v) The Department has prohibited mowing in that specific location.
  - (3) *Application of chemicals.* Without first obtaining a permit pursuant to section 19-205 of this subtitle, the property owner shall not apply a herbicide, insecticide, fertilizer, fungicide, or other chemical or material to the vegetation on the open space buffer.
  - (4) *Liability of property owner.* A property owner who mows an open space buffer is deemed to have relieved the County of all liability for accidents, injuries, or property damage related to or arising from such mowing.
  - (5) *Limits on maintenance activity.* Except for mowing as set forth in this subsection and other activities permitted by the County pursuant to a written maintenance agreement, a private citizen shall not perform maintenance activity in an open space buffer.
- (b) *Detrimental to Natural Resources and Ecosystem.* A person shall not conduct an activity which is detrimental to the natural resources and ecological function of park property, interferes directly or indirectly with the use of park property, or is harmful to human, animal, plant, or aquatic life on park property.

- (c) *Grading or Disturbance.* Without first obtaining a permit pursuant to section 19.205 of this subtitle, a person shall not conduct or cause the grading, removal, or disturbance of soil, rocks, or minerals.
- (d) *Cutting or Mowing Vegetation.* Without first obtaining a permit pursuant to section 19.205 of this subtitle, a person shall not conduct or cause the cutting, mowing, removal, or disturbance of all or part of any live or dead tree, shrub, grass, or other form of vegetation.
- (e) *Contamination.* A person shall not throw, cast, lay, drop, deposit, leave, spill, pour, dump, discharge, dispose of, or otherwise place any matter, substance, thing, liquid, or solid onto or into any park property, in any storm drain, sewer, or other device which drains onto park property, or in waters within or which run into park property. This shall include the application of a herbicide, fertilizer, fungicide, insecticide, or other substance on park property without having first obtaining a permit from the Director pursuant to section 19.205 of this subtitle.
- (f) *Disturbing Vegetation within Stream or Wetland Buffer.* A person shall not mow, cut, remove, dump, deposit, or otherwise disturb vegetation within a stream or wetland buffer or a floodplain located on park property.
- (g) *Wildlife.* Without first obtaining a permit pursuant to section 19.205 of this subtitle, a person shall not:
  - (1) Hunt or trap wildlife except for scientific study, environmental education, or wildlife management purposes;
  - (2) Hunt with, carry, or possess a firearm on park property; or
  - (3) Injure, destroy, or otherwise interfere in any way with wildlife or wildlife habitat.
- (h) *Destruction; Disturbance.* A person shall not deface, destroy, damage, injure, disturb, defoul, dump upon, or in any way misuse or remove any part of park property.
- (i) *Planting on Park Property.* A person shall not plant or cause the planting, seeding, or propagation of vegetation on park property.

(C.B. 61, 2004)

Sec. 19.210. - Enforcement.

- (a) *Generally.* The Department may institute any action at law or equity, including injunction or mandamus, to enforce the provisions of this subtitle.
- (b) *Criminal Penalties.* A person who violates a provision of this subtitle that is not already prohibited by State or Federal law is guilty of a misdemeanor and upon conviction, is subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 30 days or both. A person who violates a provision of this subtitle that is prohibited by State or Federal law, upon conviction, shall be subject to the fine, imprisonment, or both, as provided by State or Federal law.
- (c) *Civil Penalties.* Alternatively, and in addition to and concurrent with all other remedies at law or equity, the Department may enforce this subtitle pursuant to title 24, "civil penalties" of the Howard County Code. Violations of this subtitle shall be the class of offense set forth as follows:

Section	Title	Class Offense
19.204	Hours Of Operation	E
19.205(b)	Permits, Reserved Use of Park Property	E

19.205(c)(1)	Permits, Aircraft	A
19.205(c)(2)	Permits, Alcoholic Beverages	B
19.205(c)(3)	Permits, Businesses	C
19.205(c)(4)	Permits, Camping	D
19.205(c)(5)	Permits, Cutting or Mowing	A
19.205(c)(6)	Permits, Fires	C
19.205(c)(7)	Permits, Fireworks	B
19.205(c)(8)	Permits, Grading	A
19.205(c)(9)	Permits, Herbicides or Fertilizers	A
19.205(c)(10)	Permits, Hunting	A
19.205(c)(11)	Permits, Interference with the Use of Park Property	C
19.205(c)(12)	Permits, Metal Detectors	D
19.205(c)(13)	Permits, Models	D
19.205(c)(14)	Permits, Self-Propelled Motorized Vehicles	C
19.205(c)(15)	Permits, Signs	D
19.205(c)(16)	Permits, Soliciting	E
19.205(c)(17)	Permits, Storage	C
19.205(c)(18)	Permits, Structures	C
19.205(c)(19)	Permits, Watercraft	D
19.205(c)(20)	Permits, Weapons	A



19.206	Traffic, Vehicles, Parking	E
19.207(a)	Recreational Activities Bicycling	E
19.207(b)	Recreational Activities, Fishing	D
19.207(c)	Recreational Activities, Horseback Riding	E
19.207(d)	Recreational Activities, Picnicking	E
19.207(e)	Recreational Activities, Roller Skating, In-Line Skating, Skateboarding	E
19.207(f)	Recreational Activities, Swimming; Water Sports	D
19.207(g)(1)	Recreational Activities, Snowmobiling	B
19.207(g)(2)	Recreational Activities, Walking or Skating on Ice	D
19.208(a)	Conduct on Park Property, Depositing Refuse	A
19.208(b)	Conduct on Park Property, Domesticated Animals	C
19.208(c)	Conduct on Park Property, Encroachments	A
19.208(d)	Conduct on Park Property, Entrance and Exit	E
19.208(e)(1)	Conduct on Park Property, Indecent Conduct, Nudity	B
19.208(e)(2)	Conduct on Park Property, Indecent Conduct, Sexual Activity	B
19.208(e)(3)	Conduct on Park Property, Indecent Conduct, Urination	E
19.208(f)	Conduct on Park Property, Interference with Duties of County Personnel	B
19.208(g)	Conduct on Park Property, Interference with Other Individuals	B
19.208(h)	Conduct on Park Property, Lost Objects	E
19.208(i)	Conduct on Park Property, Noise	B

19.208(j)	Conduct on Park Property, Vandalism	A
19.209(a)	Environmental Protection, Mowing Open Space	A
19.209(b)	Environmental Protection, Activities Detrimental	A
19.209(c)	Environmental Protection, Grading or Disturbance	A
19.209(d)	Environment Protection, Cutting or Mowing	A
19.209(e)	Environmental Protection, Contamination	A
19.209(f)	Environmental Protection, Disturbing Buffers	A
19.209(g)	Environmental Protection, Wildlife	A
19.209(h)	Environmental Protection, Destruction of Property	A
19.209(i)	Environment Protection, Planting	A

(d) Each day that a violation continues is a separate violation.

(C.B. 61, 2004)

Sec. 19.211. - Restitution.

Howard County may seek a court order authorizing the County to obtain restitution from any individual for costs incurred by the County in restoring, repairing, replacing, removing an encroachment, or otherwise mitigating the loss of or damage to park property.

(C.B. 61, 2004)

SUBTITLE 4. - CAPITAL BUDGET PROJECT

Sec. 19.400. - Notice of proposed annual recreation and parks capital program.

(a) Prior to the submission of the proposed capital program for recreation and parks to the Planning Board, the Recreation and Parks Board shall hold a public hearing on the proposed program for the next succeeding fiscal year. Such hearing shall be held not later than 30 days prior to the date of submission of the program to the Planning Board.

- (b) The Department of Recreation and Parks shall set forth each project, except school-park combined sites, in the program for the next succeeding fiscal year on the latest set of State Department of Assessment tax maps, and thereby determine in a reasonable and prudent manner the identity of the owners of the land which may be affected by the proposed project. The Department of Recreation and Parks shall prepare a notice to be sent to each property owner, such notice to be sent by certified mail, and shall be mailed 15 days prior to the date of the hearing.
- (c) The notice to the property owner shall identify the proposed project and the estimated acres involved and shall indicate that the preliminary outline of the proposed project indicates that a portion of the land of the addressee may be affected by the project, and that the project will be presented by the Recreation and Parks Board at the hearing, and the time and place of the hearing shall be set forth in the notice, and that the preliminary project map may be reviewed in the Office of the Department of Recreation and Parks.
- (d) A notice shall be published for two successive weeks prior to the hearing date in two newspapers published in the County, such notice to set forth the purpose, place, date and time of the hearing.

(C.B. 52, 1972)

#### SUBTITLE 5. - PUBLIC RECREATION ON PRIVATE LANDS

##### Sec. 19.500. - Purpose.

The purpose of this subtitle is to provide for the regulation and safety of certain private lands in Howard County which are available for the common use of the public for park and recreational purposes.

(C.B. 28, 1979)

##### Sec. 19.501. - Definitions.

- (a) *Alcoholic beverage* means a liquid beverage containing 0.5 percent or more of alcohol by volume.
- (b) *Director* means the Director of the Howard County Department of Recreation and Parks.
- (c) *Landowner* means the owner or lessee of an open space area and the agents of the owner or lessee.
- (d) *Open space area* means either:
  - (1) Real and tangible personal property that qualified for tax credits under section 9-315 of the Tax-Property Article of the Annotated Code of Maryland; or
  - (2) Other land owned and specifically designated for the common use of the public for recreational purposes and found acceptable for public use by the Director.
- (e) *Recreational purpose* means the following, or any combination of the following: fishing, swimming, boating, camping, picnicking, hiking, nature study, athletic sporting events, live musical and nonmusical performances, film showings, horseback riding, and viewing or enjoying historic, archeological, scenic or scientific sites.

(C.B. 28, 1979; C.B. 22, 1985)

##### Sec. 19.502. - Request, designation and revocation of open space areas.

- (a) The Director is authorized to and shall designate an open space area upon the request for such designation by the landowner, provided that the landowner files a plat of the parcel(s) for which the

request is made, and provided the property shown thereon qualifies for tax credits under article 81, section 9C(k) of the Annotated Code of Maryland.

- (b) The Director is authorized to and may designate an open space area upon the request for such designation by the landowner, provided that the landowner files a plat of the parcel(s) for which the request is made, and provided the land owned and specifically designated for the common use of the public for recreational purposes is found acceptable for public use by the Director.
- (c) Within 15 days of receipt of a request hereunder, the Director shall cause a security survey of the property to be conducted by the Police Department, and shall communicate such survey to the landowner. If the said property is accepted for designation as an open space area, such approval shall be communicated to the landowner within 15 days of receipt of the request from landowner. If the said property is not accepted for designation as an open space, such nonacceptance shall be communicated to the landowner within 15 days of receipt of the request from the landowner and the Director shall set forth the reasons for nonacceptance in a written decision and order to the landowner. The landowner may, within ten days after receipt of the Director's decision and order of nonacceptance, enter an appeal in accordance with the Howard County Administrative Procedures Act and/or may appeal to the Board of Appeals within 30 days the decision and order of the Director in accordance with the rules of procedure of the Board of Appeals.
- (d) The Director may, for good cause, revoke an open space area designation authorized by this section by delivering to the owner written notice of revocation at least 30 days before the revocation becomes effective. The owner may, within ten days after the receipt of a notice of revocation, enter an appeal in accordance with the Howard County Administrative Procedure Act. The landowner may, within 30 days, also appeal the decision and order of the Director in accordance with the rules of procedure of the Board of Appeals.
- (e) The landowner may revoke an open space area designation by delivering written notice to the Director at least ten days before the revocation becomes effective.

(C.B. 28, 1979)

Sec. 19.503. - Effect of designation or ownership responsibilities, rights and County responsibility.

The designation of an open space area for recreational purposes shall not relieve the landowner of any responsibility in connection with ownership of the land; nor shall it prohibit the landowner from exercising dominion and control over the land; nor shall it impose upon Howard County any additional responsibility or privilege based solely upon the designation except as related to the enforcement of provisions set forth in this subtitle.

(C.B. 28, 1979)

Sec. 19.504. - Rules, regulations and prohibited activities.

The following activities are prohibited in open space areas:

- (a) Hunting.
- (b) Fortune-telling.
- (c) Possessing any firearm, rifle, shotgun, revolver, pistol, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a barrel by the action of any explosive gas, compressed air, spring or elastic. Police Officers are authorized to seize such mechanisms and deliver them to the Police Department for disposition as provided in section 19.509 of this subtitle.
- (d) Discarding of any lighted match, cigar, cigarette or other burning object on or against any structure, boat, vehicle or enclosure, or under any tree or in underbrush or grass.

- (e) Putting any substance into the water of the open space area, directly or via the storm drainage system, which pollutes or may pollute the waters.
- (f) Depositing any garbage, refuse, waste, foodstuffs, paper or other litter or obnoxious material, except in receptacles or pits provided for the purpose.
- (g) Throwing or breaking of glass or crockery.
- (h) Removing or destroying any tree, flower, fern, shrub, rock or other plant or mineral.
- (i) Camping.
- (j) Using private boats powered by hydrocarbon fuels or electric engines, except for boats used by the Police Department, the Fire Department or the landowner.
- (k) Selling, offering for sale, or leasing merchandise.
- (l) Kindling, building, maintaining or using a fire in places other than those provided or designed for that purpose. Every fire must be continuously under the care and direction of a competent person over 16 years of age. Before it is abandoned, a fire must be thoroughly extinguished. The building or starting of a fire may be prohibited by a Police Officer if a fire danger warrants such action.
- (m) Erecting and posting of advertising signs and notices.
- (n) Using musical instruments, loudspeakers, radios, stereos, and similar devices when used for the purpose of attracting attention for advertising of any type, or when the resultant noise violates the noise regulations of the State Department of Health and Mental Hygiene.
- (o) Grazing or herding of cattle, horses, sheep, goats or any other animals.
- (p) Allowing dogs to run without being under the control of a responsible person.
- (q) Using motorized vehicles, as provided in section 19.508 of this subtitle.
- (r) Possessing an alcoholic beverage in an open or previously opened container.
- (s) Using bows and arrows.

(C.B. 28, 1979; C.B. 22, 1985)

Sec. 19.505. - Special permits.

- (a) Landowners may issue a special permit for the use of open space areas, which authorize individuals or groups to conduct or participate in activities otherwise prohibited by any of the provisions of sections 19.504 and 19.506 of this subtitle. Activities which may be authorized are: possession of an alcoholic beverage in an open or previously opened container; camping; kindling, building, maintaining or using a fire; using musical instruments, loudspeakers, radios and stereos; selling, offering for sale, or leasing merchandise; erecting and posting of advertising signs and notices; using bows and arrows.
- (b) Landowners shall deliver to the Police Department copies of all special permits at least 48 hours in advance of the function for which they are issued.
- (c) A special permit must be carried by an individual who is present on the open space area for which the special permit is issued.
- (d) A special permit must be displayed to Police Officers upon demand. Failure to display a special permit upon demand shall authorize Police Officers to order the activity to cease and to order participants to leave the property and shall also authorize the police to arrest any of the participants.
- (e) When authorizing the possession of an alcoholic beverage, the landowner shall require that:
  - (1) The applicant be 21 years of age; and

- (2) The applicant agree to ensure that no one under 21 years of age will consume alcoholic beverages.
- (f) Nothing in this section shall remove from the landowner or ultimate beneficiary the requirement to obtain additional State or local permits as may be required, nor shall this section permit uses otherwise prohibited by zoning or other laws.

(C.B. 28, 1976; C.B. 22, 1985)

**Editor's note**— Although not specifically addressed by § 3 of C.B. 22, the inclusion of a new subsection (e) implicitly redesignated existing subsection (e) as (f).

Sec. 19.506. - Hours of operation.

- (a) Open space areas shall be open to the public from 6:00 a.m. to 10:00 p.m. each day, and they shall be closed to the public except during said time unless otherwise posted.
- (b) No person shall enter upon open space areas when they are closed to the public.

(C.B. 28, 1979)

Sec. 19.507. - Admission to events.

- (a) No person may make use of or gain admission to, or attempt to make use of or gain admission to, open space areas for the use of which a charge is made by the landowners unless the person pays the fixed charges or price of admission.
- (b) No person may make use of or gain admission to, or attempt to make use of or gain admission to open space areas for which a permit is issued to a group or organization unless the person is a member of the group or organization and complies with all other criteria established by the permits.

(C.B. 28, 1979)

Sec. 19.508. - Prohibition of motorized vehicles in open space areas.

- (a) Motorized vehicles shall not be driven or parked upon open space areas except in those areas which have been appropriately designated or in those areas which are customarily used for such purposes and at such times as allowed.
- (b) Police Officers are authorized to impound vehicles which are in violation of this section. All expenses of impoundment, storage, and preservation shall be borne by the owner of the vehicle.
- (c) This section shall apply to all motorized vehicles powered by hydrocarbon fuels or electrical motors, including, but not limited to automobiles, trucks, self-contained camping vehicles, motorcycles, motorized bicycles, and all-terrain vehicles except those owned or operated by the Police Department, the Fire Department or the landowner.

(C.B. 28, 1979; C.B. 22, 1985)

Sec. 19.509. - Disposition of firearms, etc.

The Police Department shall dispose of all firearms, rifles, air guns, air rifles and similar mechanisms seized as follows:

- (a) The Police Department may return the mechanism to the owner or may notify the owner that he/she may apply within 30 days to the Police Department for a review to determine whether the owner knew or should have known that the mechanism was within his/her possession within an open space area.
- (b) Upon timely receipt of an application, the Police Department shall hold an informal review, not subject to the Howard County Administrative Procedure Act, on the matter of whether the owner knew or should have known that the mechanism was possessed within an open space area.
- (c) If, after review, the determination of the Police Department is favorable to the owner, the mechanism shall be released to the owner, unless it is needed as evidence in a criminal case or investigation, in which event it shall be promptly returned upon the final conclusion of the case or investigation.
- (d) If, after the review, the determination of the Police Department is the owner knew or should have known that the mechanism was possessed within an open space area, the mechanism shall be deemed to be forfeited to the County. The owner shall be so notified at his/her last known address and within 30 days thereafter he/she may petition the District Court of Maryland for release of the mechanism. The County Solicitor shall represent the County in said action.
- (e) In the event that the owner is not ascertained and located pursuant to the inquiry and investigation by the Police Department, or in the event that the forfeiture determination is not contested within 30 days, the mechanism shall be forfeited to the County without further proceedings.

(C.B. 28, 1979; C.B. 22, 1985)

Sec. 19.510. - Authority of landowner to close open space areas.

The landowner is permitted to close portions of open space areas by posting a notice thereof or otherwise providing notice, and thereafter, said portion shall be closed to the public and no person shall enter upon said portions of open space areas.

(C.B. 28, 1979; C.B. 22, 1985)

Sec. 19.511. - Authority of police.

- (a) The Police Department is empowered to police the use of open space areas in accordance with the rules and regulations of this subtitle.
- (b) All persons who are present upon open space areas shall comply with lawful orders of the police governing the use of the open space areas and their conduct upon such areas.

(C.B. 28, 1979)

Sec. 19.512. - Regulatory authority of landowner.

Landowners are empowered to regulate the use of open space areas in accordance with this subtitle.

(C.B. 28, 1979; C.B. 22, 1985)

Sec. 19.513. - Discrimination prohibited in open space area:

No person shall be denied the use of a designated open space area solely because of discrimination based on race, creed, religion, disability, color, sex, national origin, age, occupation, marital status, political opinion, sexual orientation or personal appearance.

(C.B. 28, 1979; C.B. 14, 2014, § 1)

Sec. 19.514. - Posting of signs.

Landowners shall post signs on each designated open space area, which identify the area as privately owned open space designated for public use. The signs may list activities prohibited or restricted by this subtitle.

(C.B. 28, 1979; C.B. 22, 1985)

Sec. 19.515. - Penalties.

(a) *Criminal Penalties.* Any person who violates the provisions of subsections (a), (c), (h), (r), and (s) of section 19.504, "rules, regulations and prohibited activities"; section 19.505, "special permits"; section 19.506, "hours of operation"; and section 19.510, "authority of landowner to close open space areas," of this subtitle shall, upon conviction, be found guilty of a misdemeanor and may be fined up to \$500.00 or imprisoned for up to 30 days in the Howard County Detention Center, or both fined and imprisoned.

(b) *Civil Penalties:*

(1) *Enforcement.* Alternatively or in addition to and concurrent with all other remedies, the Police Department may enforce the provisions of the following sections and subsections with civil penalties pursuant to the provisions of title 24, "Civil Penalties," of the Howard County Code. Each day that a violation continues shall be a separate offense.

Subsections (b), (d), (e), (f), (g), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), and (s) of section 19.504, "rules, regulations and prohibited activities."

Section 19.505, "special permits."

Section 19.506, "hours of operation."

Section 19.507, "admission to events."

Section 19.508, "vehicles."

Section 19.510, "authority of landowner to close open space areas."

Section 19.513, "discrimination prohibited in open space areas."

(2) *Classification of violations:*

(i) *Class B offense.* Violations of the following sections shall be Class B offenses:

Section 19.507, "admission to events."

Section 19.513, "discrimination prohibited in open space areas."

(ii) *Class C offense.* Violation of the following section shall be a Class C offense:

Subsection (l) of Section 19.504, "rules, regulations and prohibited activities."

(iii) *Class D offense.* Violation of the following sections shall be Class D offenses:

Subsection (b), (f), (k), (m), (q) or (s) of section 19.504, "rules, regulations and prohibited activities."

Section 19.505, "special permits."



Section 19.506, "hours of operation."

Section 19.508, "vehicles."

Section 19.510, "authority of landowner to close open space areas."

(iv) *Class E offense.* Violation of the following sections shall be Class E offenses:

Subsections (d), (e), (g), (i), (j), (n), (o), (p) and (r) of section 19.504, "rules, regulations and prohibited activities."

(C.B. 28, 1979; C.B. 17, 1982; C.B. 22, 1985; C.B. 32, 1985; C.B. 39, 1988)

Sec. 19.516. - Severability.

If any portion, section, subsection, sentence, clause, or phrase of this subtitle is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this subtitle, it being the intent of Howard County that this subtitle shall stand, notwithstanding the invalidity of any portion, section, subtitle, sentence, clause, hereof.

(C.B. 22, 1985)

SUBTITLE 6. - DEPARTMENT OF RECREATION AND PARKS<sup>(4)</sup>

Footnotes:

--- (4) ---

**Editor's note**— Subtitle 6, §§ 19.600, 19.601, was added by § 91 of C.B. 62, 1988. Section 101 declared the bill effective July 1, 1989.

Sec. 19.600. - General provisions.

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

(C.B. 62, 1988)

Sec. 19.601. - Department of Recreation and Parks.

- (a) *Head.* The Director of Recreation and Parks shall head the Department of Recreation and Parks.
- (b) *Qualifications of Director of Recreation and Parks.* The Director of Recreation and Parks shall be thoroughly trained and experienced in theory and practice relating to public recreation and the development, operation and maintenance of recreation facilities. The Director shall have had at least ten years of increasingly responsible experience in recreation and parks administration, including a minimum of five years in a managerial position.
- (c) *Duties and Responsibilities:*
  - (1) The Department of Recreation and Parks shall be responsible for:
    - (i) The organization and conduct of recreation and parks programs;

- (ii) The development, operation and maintenance of parks and other recreational facilities; and
  - (iii) The setting of fees for programs, which may include the establishment of a procedure for payment of a reduced fee based upon a participant's financial ability to pay.
- (2) The Department of Recreation and Parks shall encourage the development of cooperative programs and joint use of facilities with the Department of Education.
  - (3) *Other duties and responsibilities.* The Department of Recreation and Parks shall perform such other functions as may be prescribed by directive of the County Executive or by law.

(C.B. 62, 1988; C.B. 17, 1999)

**Note**— Section 2 of C.B. 17, 1999, declared the bill effective July 3, 1999.

SUBTITLE 7. - RECREATION AND PARKS BOARD<sup>[5]</sup>

Footnotes:

--- (5) ---

**Editor's note**— Subtitle 7, § 19.700, was added by § 92 of C.B. 62, 1988. Section 101 declared the bill effective July 1, 1989.

Sec. 19.700. - Recreation and Parks Board.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members:* The Recreation and Parks Board shall have eight members.
- (c) *Members Shall Include:*
  - (1) The Chair of the Planning Board, or the Chair's Designee;
  - (2) The Chair of the Board of Education, or the Chair's Designee;
  - (3) Five residents of Howard County; and
  - (4) One high school student who is a resident of Howard County.

The Planning Board member's term on the Recreation and Parks Board shall be concurrent with that member's term of the Planning Board. The Board of Education member's term shall be concurrent with that member's term on the Board of Education. In 2009, a student member shall be appointed no later than June 1, 2009. In every year thereafter, a student member shall be appointed no later than March 15. The student member's term shall run from July 1 through June 30. A student member may be reappointed for a second term. The successor student member appointee may observe the current student member for the remainder of the term.

- (d) *Executive Secretary.* The Director of Recreation and Parks or the Director's designee shall serve as Executive Secretary of the Board and shall attend all meetings of the Board.
- (e) *Duties and Responsibilities.* The Recreation and Parks Board shall carry out all duties and responsibilities assigned to it by law.

- (1) *Matters regarding public recreation.* The Board of Recreation and Parks shall make recommendations to the County Executive and to the County Council relating to plans, policies and programs for:
  - (i) Public recreation.
  - (ii) The organization of recreation councils.
  - (iii) The acquisition and development of land for public recreation and open space consistent with the general plan.
- (2) *Other matters.* At the directive of the County Executive or by resolution of the County Council, the Recreation and Parks Board shall review and make recommendations on any matter related to parks or recreation.

(C.B. 62, 1988; C.B. 64-2008, 1-5-2009, eff. 3-10-2009)

## TITLE 20 - TAXES, CHARGES, AND FEES<sup>14</sup>

### Footnotes:

--- (1) ---

**Editor's note**— C.B. 38, 1998 replaced former tit. 20 of the Code in its entirety, and enacted a new tit. 20 to read as herein set out. Former tit. 20 pertained to taxation and public credit. For a detailed history of the provisions of former tit. 20, see the Code Comparative Tables.

### SUBTITLE 1. - REAL PROPERTY TAX; ADMINISTRATION, CREDITS, AND ENFORCEMENT

#### PART I. - ADMINISTRATION

##### Sec. 20.100. - Discount for prompt payment.

The Director of Finance shall apply a discount of 0.5 percent to annual real property taxes paid on or before July 31 following the due date or, if annual tax bills are not released by the due date, the Director of Finance may extend the discount up to 30 days following the date of release of the bills.

(C.B. 38, 1998; C.B. 41, 2011, § 1)

**State Law reference**— Authority to provide discount for prompt payment, Ann. Code of Md., Tax-Property article, § 10-301.

##### Sec. 20.101. - Reserved.

**Editor's note**— C.B. 22, 2000, effective August 8, 2000, repealed former § 20.101, which pertained to real property taxes in arrears, and derived from C.B. 38, 1998.

##### Sec. 20.102. - Penalty and interest for taxes in arrears.

The Director of Finance shall impose a penalty of 0.83 percent per month or part of a month and interest of 0.67 percent per month or part of a month on real property taxes billed on or after July 1, 1991, which are in arrears.

(C.B. 38, 1998)

**State Law reference**— Penalty charge on delinquent property taxes, Ann. Code of Md., Tax-Property article, § 14-702; interest on delinquent property taxes, Ann. Code of Md., Tax-Property article, § 14-603.

Sec. 20.103. - Advance payment of real property tax.

- (a) *Payment Authorized.* A property owner may make advance payment of County real property tax in accordance with the provisions of section 10-205 of the Tax-Property Article of the Annotated Code of Maryland.
- (b) *Calculation of Payment.* The advance payment is calculated by applying the current County property tax rate to the assessment of the property owner's real property for the prior year.
- (c) *Billing.* If the advance payment is less than the County real property tax as finally determined, the County shall send a bill to the property owner for the difference.
- (d) *Overpayment.* If the real property tax paid under this section is more than the real property tax finally determined, the Director of Finance shall send a refund to the property owner.

(C.B. 16, 2014, § 1)

PART II. - STATEWIDE TAX CREDITS<sup>[2]</sup>

Footnotes:

--- (2) ---

**State Law reference**— Mandatory statewide tax credits, Ann. Code of Md., Tax-Property article, § 9-101 et seq.

Sec. 20.110. - Statewide mandatory tax credits.

- (a) *Tax Credits Contained in State Law.* Statewide mandatory tax credits under title 9, subtitle 1 of the tax-property article of the Annotated Code of Maryland are in effect in Howard County without the necessity of action by the governing body of Howard County.
- (b) *Homestead Property Tax Credit Percentage.* The homestead credit percentage under section 9-105 of the tax-property article is 105 percent.

(C.B. 38, 1998)

Sec. 20.111. - Statewide optional tax credits—In general.

Statewide optional tax credits under the Tax-Property Article of the Annotated Code of Maryland are in effect in Howard County upon enactment of local implementing legislation, which is contained in this part III.

(C.B. 38, 1998)

**State Law reference**— Optional property tax credits, Ann. Code of Md., Tax-Property article, § 9-201 et seq.

Sec. 20.112. - Historically valuable, architecturally valuable, or architecturally compatible structures.

- (a) *Establishment of Historic Tax Credit Program for Qualified Expenses.* In accordance with section 9-204 of the Tax-Property Article, Annotated Code of Maryland, there is a Howard County Property Tax Credit in the amount of 25 percent of the qualified expenses used for the restoration and preservation of an eligible historic property.
- (b) *Definitions.* In this section the following terms have the meanings indicated:
- (1) *Certificate of eligibility* means the order issued by the Commission to the owner of an eligible property, which authorizes the Department of Finance to apply a historic tax credit to the eligible property.
  - (2) *Commission* means the Historic Preservation Commission created under sections 6.324 and 16.604 of the County Code.
  - (3) *Eligible property* means:
    - (i) A structure that is listed on the Howard County Historic Sites Inventory and is designated by the Commission as historically significant;
    - (ii) A structure eligible for inclusion in the Howard County Historic Sites Inventory, which is added to the Inventory prior to the final approval of a certificate of eligibility;
    - (iii) An existing principal structure or historic outbuilding located within a local historic district in Howard County, which is determined by the Commission to be of historic or architectural significance, or to be architecturally compatible with the historic structures in the district;
    - (iv) A landscape feature located within a local historic district or listed on the Historic Sites Inventory, which is determined by the Commission to be of historic or architectural significance; or
    - (v) A cemetery, at least 50 years old, not operated as a business, which is listed on the Howard County Cemetery Inventory under section 16.1303 of the County Code.
  - (4) *Eligible work* means:
    - (i) Work done on an eligible property:
      - a. In compliance with the rules adopted by the Commission under subsection 16.606(e) of the County Code;
      - b. After the owner receives initial approval of an application for a certificate of eligibility; and
      - c. In conformity with the application for which initial approval was given.
    - (ii) *Eligible work* includes:
      - a. The repair or replacement of exterior features of the structure;
      - b. Work that is necessary to maintain the physical integrity of the structure with regard to safety, durability, or weatherproofing;
      - c. Maintenance of the exterior of the structure, including routine maintenance as defined in section 16.601 of the County Code;
      - d. Repair or replacement of historic landscape features such as masonry walls, fences, or other site features, if determined to be of historic or architectural significance by the Commission; and

- e. Repair or maintenance of existing gravestones, walls, fencing, or other site features of an eligible property that is a historic cemetery.
- (iii) *Eligible work* does not include:
- a. New construction;
  - b. Interior finish work that is not necessary to maintain the structural integrity of the building; or
  - c. Landscape maintenance or new landscape plantings, except as defined above for historic landscape features.
- (5) *Qualified expenses*:
- (i) The amount of money paid by the owner of an eligible property to a licensed contractor, architect, engineer or historic preservation consultant for eligible work, or for materials used to do eligible work.
  - (ii) In order to be eligible for a tax credit under this section, qualified expenses must be \$500.00 or greater.
- (6) *Routine maintenance*. Work that qualifies as routine maintenance under section 16.601 of the County Code.
- (c) *Procedures*:
- (1) The owner of an eligible property may apply to the Commission for a historic tax credit for qualified expenses. The application shall be in the form and accompanied by additional information that the Commission, by rule, requires.
  - (2) The Commission or the Executive Secretary shall give initial approval of a certificate of eligibility:
    - (i) If it determines the property to be an eligible property;
    - (ii) If it determines that the proposed work is eligible work; and
    - (iii) If the eligible property is within a historic district, any required certificate of approval under section 16.603 of the County Code has been issued for the work.
  - (3) Upon completion of the work, the owner shall submit to the Commission documentation that the work was done in accordance with the initial approval of the certificate of eligibility and shall document all qualified expenses.
  - (4) The Commission shall review the application, the initial approval, and the documentation.
  - (5) At a public hearing, the Commission shall give final approval of the certificate of eligibility and shall determine:
    - (i) What work is eligible work; and
    - (ii) The dollar amount of qualified expenses for the work.
  - (6) The dollar amount of qualified expenses and the amount of the tax credit shall be entered on the certificate of eligibility.
  - (7) An owner who is denied all or part of a tax credit by the Commission may appeal the denial to the Circuit Court of Howard County.
  - (8) After final approval by the Commission, the Commission shall forward the certificate of eligibility to the Department of Finance.
  - (9) (i) The Department of Finance shall grant the tax credit for the tax year immediately following the year in which the certificate of eligibility is received by the Department.

- (ii) If the amount of the tax credit under this section exceeds the amount of the Howard County Real Property Tax, any unused portion of the tax credit may be applied to any property tax on the structure for up to five subsequent tax years.
- (d) *Certificate Runs with Property.* A certificate of eligibility runs with the property, and change in ownership does not result in the lapse of a tax credit granted under this section.
- (e) *Applicability Outside Historic District:*
  - (1) For property not located in an official local historic district, the certificate of eligibility establishes tax credit eligibility.
  - (2) Work not done in accordance with initial approval of a certificate of eligibility does not qualify for a historic tax credit, but otherwise is not subject to subsection 16.606(a) of the County Code regarding commission approval or section 16.610 of the County Code regarding enforcement.

(C.B. 38, 1998; C.B. 71, 2003, § 1; C.B. 7, 2013, § 1; C.B. 36, 2013, § 1; C.B. 11, 2014, § 3; C.B. 67, 2016, § 1)

**State Law reference**— Tax credit for historically valuable, architecturally valuable, or architecturally compatible structures, Ann. Code of Md., Tax-Property article, § 9-204.

Sec. 20.113. - Restorations and rehabilitations of historic or heritage properties.

- (a) *Establishment of Historic Tax Credit Program for Increase in Assessed Value.* In accordance with § 9-204.1 of the Tax-Property Article, Annotated Code of Maryland, there is a Howard County Property Tax Credit for Qualified Expenses not to exceed the difference between:
  - (1) The Howard County Real Property Tax that, but for the tax credit, would be payable on the assessed value of an eligible historic property after the expenditure of qualified expenses; and
  - (2) The Howard County Real Property Tax that would be payable on the assessed value of the property if there was no expenditure of qualified expenses.
- (b) *Definitions.* In this section the following terms have the meanings indicated:
  - (1) *Certificate of eligibility* means the order issued by the Commission to the owner of an eligible property, which authorizes the Department of Finance to apply a historic tax credit to the eligible property.
  - (2) *Commission* means the Historic Preservation Commission created under section 6.324 of this Code.
  - (3) *Eligible property* means a property that has undergone significant improvements, restoration, or rehabilitation resulting in an increase in assessed value, and is:
    - (i) A structure that is listed on the Howard County Historic Sites Inventory and is designated by the Commission as historically significant;
    - (ii) A structure eligible for inclusion in the Howard County Historic Sites Inventory, which is added to the Inventory prior to the final approval of a tax credit under this section; or
    - (iii) An existing principal structure or historic outbuilding located within a local historic district in Howard County, which is determined by the Commission to be of historic or architectural significance.
  - (4) *Increased assessment* means the State Department of Assessments and Taxation assessment that results from the improvement, restoration, or rehabilitation of eligible property.

- (5) *Qualified expenses* means the amount of money paid by the owner of an eligible property to a licensed contractor for improvements, restoration, or the rehabilitation of the property or for materials used to improve, restore, or rehabilitate the property.

(c) *Procedures:*

- (1) The owner of an eligible property may apply for a certificate of eligibility under this section if:
- (i) Qualified expenses are \$5,000.00 or greater;
  - (ii) a. Prior to the expenditure of qualified expenses, the owner obtains a pre-approval determination from the Commission that the proposed improvements, restoration, and rehabilitation are in accord with the U.S. Secretary of Interior Standards and Guidelines on Rehabilitation of Historic Structures.  
b. In the case of an emergency application due to flood, fire, or natural disaster, the Commission may issue a pre-approval determination after the expenditure of qualified expenses if the Commission determines that the work requiring the Certification was done in accordance with Title 6, Subtitle 6 of this Code and is in accord with the U.S. Secretary of Interior Standards and Guidelines on The Rehabilitation of Historic Structures.
  - (iii) A Certificate of Approval from the Commission is obtained for all work subject to Commission approval under section 16.603 of this Code, or any other provision of this Code or the Zoning Regulations that requires a Commission determination;
  - (iv) The owner files an application with the Commission:
    - a. Within 12 months of the increased assessment;
    - b. on a form provided by the Commission and accompanied by the pre-approval determination, itemized receipts documenting the qualified expenses, and additional information that the Commission, by rule, requires;
  - (v) The owner otherwise complies with the provisions of this section.
- (2) The Commission shall issue a certificate of eligibility stating the amount of qualified expenses:
- (i) If it determines the property to be an eligible property;
  - (ii) If the qualified expenses are documented to the satisfaction of the Commission; and
  - (ii) If any Certificate of Approval or Commission Determination required by this Code or the Zoning Regulations has been issued for the work.
- (3) The owner of an eligible property may apply to the Department of Finance for a tax credit under this section if:
- (i) A certificate of eligibility meeting the requirements of this section, for work done on the property, has been given final approval by the Commission; and
  - (ii) The assessed value of the property has increased after a valuation or revaluation under § 8-104 of the Tax-Property Article of the Annotated Code of Maryland.
- (4) The Department of Finance shall grant the Howard County Real Property Tax Credit under this section, beginning with the first tax year in which the real property tax would increase as a result of the increased assessment.
- (5) (i) A tax credit under this section is granted annually for a term of ten years, provided that work requiring the approval of the Commission is done with the Commission's approval.
- (ii) If the property is altered without the prior approval of the Commission:
- a. The Department of Planning and Zoning shall notify the Department of Finance; and



b. The tax credit under this section shall lapse beginning with the tax year immediately following the year in which notification is received by the Department of Finance.

(d) *Lapse of Credit Due to Damage to Property:*

- (1) A tax credit granted under this section shall lapse if any of the improvements, restoration, or rehabilitation which were covered by qualified expenses is damaged due to fire, weather or other natural causes.
- (2) The owner of the property may, as approved by the Commission, repair the damage and apply for a tax credit under this section.

(C.B. 38, 1998; C.B. 71, 2003; C.B. 11, 2014, § 3; C.B. 6, 2017, § 1)

**State Law reference**— Tax credit for restorations and rehabilitations of historic or heritage properties, Ann. Code of Md., Tax-Property article, § 9-204.1.

Sec. 20.114. - Newly constructed or substantially rehabilitated dwellings that are unsold or unrented.

(a) *Definitions:*

- (1) *Rehabilitated* means that capital improvements have been replaced or added to a single dwelling unit so as to increase the assessment for that unit by a minimum of 100 percent.
  - (2) *Completion* of the construction or rehabilitation means the laying of the foundation, the completion of the framing and the roof, the roughing in of the plumbing and electricity and the installation of interior wall finishing.
- (b) *Establishment of Tax Credit Program.* There is a program of tax credits against local property tax for single dwelling units, ready for occupancy, which are unsold, unoccupied or unrented after their construction or rehabilitation is complete.
- (c) *Eligibility.* Owners of single dwelling units which are unsold, unoccupied or unrented after completion of construction or rehabilitation may apply for tax credits against local property taxes for that unit (but not for land on which it stands). Tax credits will not be allowed on single dwelling units used as exhibit or sample homes. Each property owner is eligible for tax credits on a maximum of three single dwelling units per fiscal year.
- (d) *Application.* Upon completion of any newly constructed or substantially rehabilitated single dwelling unit, the owner thereof may apply to the Office of Finance for a tax credit for the dwelling unit but not for the land on which it is located. No tax credit shall be granted unless the owner applies for the tax credit within 30 days of completion of the construction or rehabilitation.
- (e) *Termination of Tax Credit.* Immediately upon the sale, transfer, occupancy or rental of the single dwelling unit, the credit period shall end. No tax credit shall be granted unless the owner notifies the Office of Finance within 30 days of the sale, transfer, rental or occupancy of the unit.
- (f) *Amount of tax credit:*
- (1) The tax credit granted shall be available for one continuous period, not to exceed one year.
  - (2) The Director of Finance shall calculate the credit to be issued after all taxes due are paid. The credit shall be calculated on all County taxes levied beginning with the next tax levy period after receipt of the application and ending with the date of sale, transfer, rental or occupancy.
  - (3) The tax credit granted shall be equal to 75 percent of the local property taxes levied on the assessed value of the improvements.
- (g) *Administration.* The Director of Finance is authorized to establish procedures to administer the tax credit described above. The Director of Finance shall approve or deny any application for the tax credit and shall notify the Applicant of his ruling. Notice shall be deemed sufficient if mailed to the

Applicant at the address set forth in the application. Any denial of a tax credit shall be appealable to the Board of Appeals.

- (h) *Exclusion of State Property Taxes.* Nothing contained in this section shall apply to State taxes.
- (i) *Notification.* The Director of Inspections, Licenses and Permits is authorized to establish procedures to notify building permit applicants of the tax credit program at the time of application.

(C.B. 38, 1998)

**State Law reference**— Tax credit for newly constructed or substantially rehabilitated dwellings that are unsold or unrented, Ann. Code of Md., Tax-Property article, § 9-207.

Sec. 20.115. - Credit for day care providers; credit for family day care homes or group day care centers.

- (a) *Definitions.* In this section, the following terms have the meanings indicated:
  - (1) *Adult* means individuals, 60 years and older, and determined by geriatric evaluation service or a physician to be unable to care for themselves; or medically handicapped adults, 18 years or older, who are unable to care for themselves as certified by a physician.
  - (2) *Child* means any individual under 16 years of age.
  - (3) *Day care provider* means any person, firm, corporation or establishment licensed, registered or accredited under the laws of the State or County who provides family or group child or adult care services on a regular basis.
  - (4) *Family day care* means the care given to a child in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the day care provider is paid, or, the care given to an adult for less than 24 hours a day, in a residence other than the adult's residence, for which the day care provider is paid, provided that the provider is not related by marriage or kinship.
  - (5) *Group day care center* means any agency, institution or establishment, that for part or all of the day, on a regular schedule, and at least twice a week, offers group day care to adults or to children who do not have the same parentage as the day care provider.
  - (6) *Improvement* means an addition to or modification of real property which adds to the assessed valuation of the property as determined by the State Department of Assessments and Taxation.
  - (7) *Exclusive use or used exclusively* means a design and use which is predominantly for day care use. Any other use shall only be incidental to the intended use.
  - (8) *Employer day care provider* means owner of a business having at least 25 employees and having an area set aside and dedicated exclusively for a day care center that is:
    - (i) Registered as a family day care home under title 5, subtitle 5, part V of the Family Law Article of the Annotated Code of Maryland; or
    - (ii) Licensed as a group day care center under title 5, subtitle 5, part VII of the Family Law Article of the Annotated Code of Maryland.
- (b) *Amount of Credit.* In accordance with the provisions of §§ 9-213 and 9-214 of the Tax-Property Article of the Annotated Code of Maryland, an owner of real property may receive a Property Tax Credit against the general County tax for an improvement of that real property, if the improvement is used exclusively for the purpose of providing family or group adult day care or child day care services offered by a licensed or accredited day care provider.
- (c) *Limitation on Tax Credit.* The Property Tax Credit shall not exceed the lesser of:
  - (1) Three thousand dollars annually; or

(2) The amount of the County property tax attributable to the improvement.

(d) *Terms of Credit:*

(1) The improvement to the premises of an adult day care provider or child day care provider must be made after July 1, 1987.

(2) The improvement to the premises of an employer day care provider is limited to that portion of the property that was substantially completed after July 1, 1988.

(e) *Application for Tax Credit:*

(1) The Director of Finance shall administer the provisions of this section and shall adopt rules and regulations for the implementation of this section.

(2) The applicant shall apply for the tax credit with the Department of Finance within 30 days after issuance of the tax bill reflecting the improvement.

(3) The applicant shall certify in writing that the day care provider is licensed, registered or accredited by the State or County.

(4) The applicant shall certify in writing, each year after the initial application, that the improvement is used exclusively for child or adult day care.

(5) For an improvement to be eligible for the credit, the Applicant shall agree in writing that the day care provider shall accept children and or adults regardless of race, color, creed, sex or national origin.

(C.B. 38, 1998)

**State Law reference**— Tax credit for day care providers, family day care homes or group day care centers, Ann. Code of Md., Tax-Property article, §§ 9-213, 9-214.

Sec. 20.116. - Property leased, occupied, or used by religious groups or organizations.

(a) *Establishment of Tax Credit Program.* In accordance with the provisions of § 9-222 of the Tax-Property Article of the Annotated Code of Maryland there is a tax credit against the property tax imposed on real property in Howard County for that portion of the property that is leased, occupied and used by a religious group or organization and which meets each of the conditions required by State law set forth in subsection (b) of this section.

(b) *Conditions:*

(1) The religious group or organization would qualify for a property tax exemption under § 7-204 of the Tax-Property Article of the Annotated Code of Maryland.

(2) The portion of the property upon which the tax credit is based is used exclusively for:

(i) Public religious worship;

(ii) Educational purposes; or

(iii) Office space necessary to support or maintain public religious worship or educational purposes.

(3) The property upon which the tax credit is based is not leased, occupied or used for the purpose of making a profit.

(4) The religious group or organization is contractually liable to the owner for property taxes.

(5) The owner of the property eligible for a tax credit pursuant to this section, is contractually obligated to reduce, by the amount of the tax credit, the amount of taxes for which the religious group or organization is otherwise contractually liable.

- (c) *Amount:*
- (1) The amount of the tax credit shall be the full amount of property tax imposed pursuant to § 6-202 of the Tax-Property Article of the Annotated Code of Maryland by Howard County on that portion of real property leased by a religious group or organization which meets the conditions of subsection (b) of this section.
  - (2) The amount of the tax credit shall not exceed the amount of the tax for which the religious group or organization is contractually liable.
- (d) *Administration.* The Director of Finance is authorized to develop an application form and establish procedures to administer the tax credit established in this section.
- (e) *Application and Approval Process:*
- (1) An application for the tax credit shall be submitted to the Director of Finance and shall be signed by both the owner of the real property and the religious group or organization which is or will become the lessee. A copy of the executed lease between the property owner and the lessee shall be submitted with the application.
  - (2) Tax credits shall be available on an annual tax year basis. Applications for the tax credit shall be submitted to the Director of Finance no later than April 1 prior to the tax year for which the credit is being requested.
  - (3) The Director of Finance will submit the application to the supervisor of the Department of Assessments and Taxation in Howard County or designee to determine:
    - (i) Whether the lessee qualifies as an exempt organization under § 7-204 of the Tax-Property Article of the Annotated Code of Maryland; and
    - (ii) The amount of the assessed value attributable to the portion of the property used by the religious group or organization for purposes permitted under subsection (b) of this section.
  - (4) After receiving the determinations from the supervisor of the Department of Assessments and Taxation or designee, the Director of Finance shall notify the owner and lessee whether the lessee qualifies as an exempt organization, the amount of the assessed value upon which the tax credit will be based, and the amount of the tax credit.
- (f) *Appeal.* An owner of real property who has applied for the tax credit established in this section may appeal the following to the Howard County Property Tax Assessment Appeal Board:
- (1) A denial of the tax credit based on a determination by the supervisor of the Department of assessment and taxation in Howard County or designee that the religious group or organization would not be qualified for an exemption pursuant to § 7-204 of the Tax-Property Article of the Annotated Code of Maryland.
  - (2) The amount of the assessed value upon which the tax credit will be based.
- (g) *Termination and Repayment of Tax Credit:*
- (1) Entitlement to the tax credit shall terminate when the religious group or organization no longer occupies the property or when the use of the property no longer meets each of the conditions stated in subsection (b) of this section.
  - (2) Upon termination of the tax credit the Director of Finance shall issue a bill for the additional tax due which equals the amount of the tax credit divided by the percentage of the tax year during which the property was not eligible for the credit.
  - (3) The amount of any unearned tax credit is due and shall be paid in full within 30 days after the bill is issued.
  - (4) If the bill remains unpaid after 30 days after the bill is issued, interest and penalties shall be charged, as provided in section 20.102 of the Howard County Code and may be treated for all

purposes as other taxes imposed on real property pursuant to § 6-202 of the Tax-Property Article of the Annotated Code of Maryland.

(C.B. 38, 1998)

**State Law reference**— Tax credit for property leased, occupied, or used by religious groups or organizations, Ann. Code of Md., Tax-Property article, § 9-222.

Sec. 20.117. - Brownfields property tax credit.

- (a) *Definitions.* The following terms have the meanings indicated:
- (1) *Brownfields Incentive Fund* means the Brownfields Revitalization Incentive Fund established under article 83A, § 3-904 of the Annotated Code of Maryland.
  - (2) *Enterprise zone* has the meaning indicated in article 83A, § 5-401 of the Annotated Code of Maryland.
  - (3) *Increased property tax liability* means the remaining Howard County and Maryland State real property tax liability, after first applying all other property tax credits applicable to the site, attributable to the increase in the assessment of a qualified brownfields site, including improvements added to the site within the tax credit period provided for in this section, over the assessment of the qualified brownfields site before this voluntary cleanup or corrective action plan.
  - (4) *Qualified brownfields site* has the meaning indicated in article 83A, § 3-901(D) of the Annotated Code of Maryland.
- (b) *Participation in Program; Tax Credit Established:*
- (1) Pursuant to article 83A, § 9-229 of the Annotated Code of Maryland, Howard County elects to participate in the Brownfields Revitalization Program and to provide tax credits as authorized under that section.
  - (2) There is a Howard County Property Tax Credit against the tax on real property of a qualified brownfields site in an amount equal to 70 percent of the increased property tax liability.
- (c) *Application of Credit.* The credit shall apply in each of the taxable years immediately following the first revaluation of the qualified brownfields site after completion of a voluntary cleanup or corrective action plan for:
- (1) Five taxable years; or
  - (2) If the site is in an enterprise zone, eight taxable years.
- (d) *Contribution to Fund.* For each year the County grants a credit under this section, the County shall contribute to the Brownfields Revitalization Incentive Fund an amount equal to thirty percent of a qualified brownfields site's increased property tax liability.
- (e) *Procedures:*
- (1) The owner of a qualified brownfields site may apply to the Director of Finance, on or before April 1 prior to the taxable year in which the credit is requested to begin, for a credit under this section.
  - (2) The application shall be accompanied by proof that the Applicant has qualified for financial incentives under the "Brownfields Revitalization Incentive Program" as enacted by chapters 1 and 2 of the Acts of the Maryland General Assembly of 1997, and any additional information the Director of Finance requires.
  - (3) If an application under this subsection is approved, the Department of Finance shall forward the application to the supervisor of the Department of Assessments and Taxation in Howard

County and request a determination of the portion of the increase in assessed value that is due to the completion of the voluntary cleanup or corrective action plan or, in the case of an improvement made during the period the credit is in effect, a determination of the portion of the increase in assessed value that is due to the improvement.

- (4) Upon receipt of the determination by the Department of Assessments and Taxation, the Department of Finance shall calculate the amount of the credit and grant the credit in accordance with this section.
- (f) *Termination of Credit.* A tax credit under this section shall terminate if:
  - (1) A person receiving a credit under this section withdraws from the voluntary cleanup program under § 7-512(A) or (B) of the Environment Article of the Annotated Code of Maryland; or
  - (2) The Department of the Environment withdraws approval of a response action plan, or a certificate of completion under § 7-512(E) and (F) of the Environment Article.

(C.B. 54, 1999)

**State Law reference**— Financial incentives for qualified Brownfields sites, Ann. Code of Md., Tax-Property article, § 9-229.

Sec. 20.118. - Credit for installation of sprinkler systems in historic buildings.<sup>[2]</sup>

- (a) *Eligible Improvement* defined. In this section, *eligible improvement* means an improvement to real property that is:
  - (1) A principal structure listed on the Howard County Historic Sites Survey;
  - (2) A principal structure eligible for inclusion in the Howard County Historic Sites Survey, which is added to the survey prior to application for a credit under this section; or
  - (3) A commercial building located within a local historic district in Howard County.
- (b) *Credit Established.* In accordance with § 9-232 of the Tax-Property Article, Annotated Code of Maryland and the provisions of this section, there is a tax credit against the Howard County property tax imposed on an eligible improvement if an automatic fire protection sprinkler system is installed in the improvement.
- (c) *Amount and Duration of Credit:*
  - (1) The credit under this section is equal to ten percent of the installation cost of each sprinkler system as certified under subsection (d) of this section.
  - (2) The tax credit under this section shall apply each year for five consecutive years.
  - (3) If the Howard County property tax due is less than the credit under this subsection the excess credit does not carry over to future years.
- (d) *Certification of Costs:*
  - (1) After a fire protection sprinkler system is installed in an eligible improvement, the owner may apply to the Director of Inspections, Licenses and Permits for a certification of the installation costs.
  - (2) An application under paragraph (1) of this subsection shall be accompanied by:
    - (i) Documentation of the costs incurred in the installation;
    - (ii) A copy of the final inspection report; and
    - (iii) Any other information the Director requires.

(e) *Application for Tax Credit:*

- (1) After the owner of an eligible improvement obtains the certification under subsection (d) of this section, the owner may apply to the Department of Finance for a tax credit under this section. The application shall be in the form prescribed by the Director of Finance and shall be accompanied by the certification [under paragraph] (2) of this subsection and any additional information that the Director of Finance requires. The owner shall submit a completed application on or before April 1 of the year in which the credit is requested to begin.
- (2) If an application under paragraph (1) of this subsection is approved, the Director of Finance shall grant the tax credit beginning in the tax year immediately following the approval.

(f) *Credit Runs with Property.* A tax credit under this section runs with the property, and change in ownership does not result in the lapse of a tax credit granted under this section.

(C.B. 10, 2000)

Footnotes:

--- (3) ---

**Editor's note**— C. B. 10, 2000 set out provisions for use as § 20.117. Inasmuch as § 20.117 is an existing section pertaining to Brownfields Property Tax Credit, for purposes of clarity, and at the editor's discretion, the provisions of C.B. 10, 2000 have been included herein as § 20.118.

Sec. 20.119. - Green building energy conservation devices.

(a) *Definition.* A qualifying energy conservation device means an energy conserving device that receives a leadership in energy and environmental design (LEED) credit, including, but not limited to, a solar energy or geothermal energy device, that is utilized by a structure certified by the U.S. Green Buildings Council as LEED certified, at any level specified in subsection (c) of this section.

(b) *Establishment of Tax Credit; Eligibility:*

- (1) In accordance with section 9-203 of the tax-property article, Annotated Code of Maryland, and the provisions of this section, there is a tax credit against the County real property tax imposed on a structure that is LEED-certified, at a level specified in subsection (c) of this section, for a qualifying energy conservation device used to heat or cool the structure or to provide hot water for use in the structure.
- (2) A property owner is eligible to receive a credit under this section only if they do not qualify to receive a credit for a high performance building under section 20.129B of this Code.

(c) *Amount of Credit:*

- (1) The amount of tax credit may not exceed the assessed property tax on the structure.
- (2) Eligible costs are those that are:
  - (a) Incurred within the last 36 months of the initial application for the credit; and
  - (b) Incurred for the device, including any necessary part, component or accessory equipment of the device, and any necessary labor to construct or install the device.
- (3) The full amount of the tax credit allowed may be given each tax year for the duration of the credit. The tax credit allowed is a percentage of the eligible costs, based upon the classification of the structure, as follows:
  - (a) LEED certified - 14 percent
  - (b) LEED certified silver - 16 percent

- (c) LEED certified gold - 18 percent
- (d) LEED certified platinum level - 20 percent.
- (d) *Duration of Tax Credit.* The duration of this credit is three consecutive tax years.
- (e) *Application for Tax Credit.* An application for a tax credit under this section shall be submitted to the Director of Finance on or before April 1 of the tax year in which the credit is requested to begin. Applications shall be on forms prepared and furnished by the Director. The forms shall include, at a minimum, certification that all costs applied for a tax credit are eligible costs under this section, and verification of LEED certification of the building and LEED credit awarded for the qualifying energy conservation device. If a tax credit application is approved by the Director, the credit may be applied in compliance with this section for the duration of the credit without reapplying.

(C.B. 54, 2002, § 1; C.B. 49, 2007, § 1)

**State Law reference**— Tax credits for high performance buildings, Ann. Code of Md., Tax-Property article, § 9-242.

Sec. 20.119A. - Credit for disabled law enforcement officer or rescue worker or surviving spouse of fallen law enforcement officers or rescue workers.

- (a) *Definitions.* In this section the following words have the meanings indicated:
  - (1) (i) *Disabled law enforcement officer or rescue worker* means an individual who:
    - 1. Has been found to be permanently and totally disabled by an administrative body or court of competent jurisdiction authorized to make such a determination; and
    - 2. Became disabled:
      - a. As a result of or in the course of employment as a law enforcement officer or correctional officer for Howard County or a jurisdiction with reciprocity; or
      - b. While in active service of a career or volunteer fire, rescue, or emergency medical service of Howard County or a jurisdiction with reciprocity.
  - (ii) *Disabled law enforcement officer or rescue worker* does not include an individual whose disability is the result of:
    - 1. The individual's own willful misconduct or abuse of alcohol or drugs; or
    - 2. An occupational disease that did not result from an accidental injury within the meaning of those terms under the Maryland Workers Compensation Act.
  - (2) (i) *Dwelling* means real property that:
    - 1. Is the legal residence of a surviving spouse or disabled law enforcement officer or rescue worker; and
    - 2. Is occupied by not more than two families.
  - (ii) *Dwelling* includes the lot or curtilage and structures necessary to use the real property as a residence.
  - (3) *Fallen law enforcement officer or rescue worker* means an individual who dies:
    - (i) As a result of or in the course of employment as a law enforcement officer or correctional officer; or
    - (ii) While in the active service of a fire, rescue, or emergency medical service, unless the death was a result of the individual's own willful misconduct or abuse of alcohol or drugs.



- (4) *Jurisdiction with reciprocity* means a jurisdiction in the State of Maryland that offers a similar credit to a Howard County disabled law enforcement officer or rescue worker.
  - (5) *Surviving spouse* means a surviving spouse, who has not remarried, of a fallen law enforcement officer or rescue worker.
- (b) *Credit.* In accordance with section 9-210 of the Tax-Property Article of the Annotated Code of Maryland, an owner of real property may receive a property tax credit under this section against the County property tax imposed on a dwelling if the owner is a disabled law enforcement officer or rescue worker or the surviving spouse of a fallen law enforcement officer or rescue worker and:
- (1) The dwelling was owned by:
    - (i) The disabled law enforcement officer or rescue worker at the time the law enforcement officer or rescue worker was adjudged to be permanently and totally disabled; or
    - (ii) the fallen law enforcement officer or rescue worker at the time of the fallen law enforcement officer or rescue worker's death;
  - (2)
    - (i) The disabled law enforcement officer or rescue worker, fallen law enforcement officer or rescue worker or the surviving spouse was domiciled in the State as of the date of the fallen law enforcement officer or rescue worker's death or the disabled law enforcement officer or rescue worker's disability and;
    - (ii) The dwelling was acquired by the disabled law enforcement officer or rescue worker or surviving spouse within two years of the date the disabled law enforcement officer or rescue worker was adjudged to be permanently and totally disabled or the fallen law enforcement officer or rescue worker's death; or
  - (3) The dwelling was acquired after the surviving spouse or disabled law enforcement officer or rescue worker qualified for a credit for a former dwelling under item (1) or (2) of this subsection, to the extent of the previous credit.
- (c) *Amount of Credit.* The amount of the tax credit is equal to 100 percent of the County property tax imposed on the dwelling.
- (d) *Term of Credit.*
- (1) The tax credit continues until the surviving spouse remarries or until the disabled law enforcement officer or rescue worker is no longer permanently and totally disabled as determined by an administrative body or court of competent jurisdiction authorized to make such a determination. Additional applications are not required.
  - (2) An individual who received a credit based on employment or service in a jurisdiction with reciprocity is not disqualified from receiving the credit because the jurisdiction discontinues offering a similar credit to a Howard County disabled law enforcement officer or rescue worker.
- (e) *Application.* A surviving spouse or disabled law enforcement officer or rescue worker:
- (1) Is eligible for the tax credit beginning in the first taxable year after the date of the:
    - (i) Fallen law enforcement officer or rescue worker's death; or
    - (ii) Disabled law enforcement officer or rescue worker's disability; and
  - (2) Shall apply for the tax credit on or before September 30 in the taxable year for which the credit is requested to begin.
- (f) *Administration.*
- (1) The Director of Finance shall develop an application form and establish procedures to administer the tax credit established in this section.

- (2) Notwithstanding subsection (d) of this section, the Director of Finance may require an individual who receives a tax credit under this section to provide evidence of continued eligibility for the credit.
- (g) *Construction.* An individual who worked for a jurisdiction with reciprocity is eligible to receive a credit under this section only to the extent the individual would qualify for the similar tax credit in the jurisdiction with reciprocity if the individual were a resident there.

(C.B. 7, 2003, § 1; C.B. 52, 2003, § 1; C.B. 76, 2007, § 1; C.B. 52, 2009, § 1)

**Editor's note**— C.B. 52, 2009, § 1, adopted Nov. 3, 2009, amended § 20.119A title as herein set out. Former § 20.119A title pertained to credit for surviving spouse of fallen law enforcement officers or rescue workers. See the Code Comparative Table for complete derivation.

**State Law reference**— Tax credits for dwelling owned by surviving spouse of fallen law enforcement officer or rescue worker, Ann. Code of Md., Tax-Property article, § 9-210.

Sec. 20.119B. - Ellicott City Strong Tax Credit.

- (a) *Credit Established.* In accordance with section 9-211 of the Tax-Property Article of the Annotated Code of Maryland and this section, there is a Howard County Property Tax Credit against the County real property tax on residential real property, but not personal property, that qualifies under this section as residential property damaged by flood conditions.
- (b) *Eligibility.* The owner of a residential property may qualify for a tax credit under this section if the property suffered flood damage or sewage damage caused by flood conditions on July 30 or 31, 2016.
- (c) *Amount and Duration of Credit.*
  - (1) Subject to the conditions in this section, the tax credit may be granted in an amount of up to 100 percent of the cost to repair, rehabilitate, or restore the property.
  - (2) In tax years 2017 and 2018, the Department of Finance shall grant to a qualified applicant the credit authorized by this section.
  - (3) Subject to paragraph (2) of this subsection, if the credit exceeds the County property tax in the year of application, the Department of Finance shall apply the excess to future tax years for up to a total of four years.
- (d) *Application.*
  - (1) To receive the credit, a property owner shall submit an application to the Department of Finance:
    - (i) In the format that the Department of Finance requires;
    - (ii) That includes the documentation that the Department of Finance requires; and
    - (iii) During 2017, on or before the dates that the Department of Finance sets.
  - (2) Only one application for a credit under this section may be accepted for each property during a single tax year.
- (e) *Annual Limit.*
  - (1) During a fiscal year, the total of all tax credits paid to applicants under this section shall not exceed \$250,000.00.
  - (2) In a year when the qualified applications, if paid to the full amount possible for that year based on the annual County property tax bill of each qualified applicant, would exceed the limit set in

paragraph (1) of this subsection, the Department of Finance shall pay each qualified applicant proportionately based on the applicant's remaining eligible expenses.

- (3) If a credit exceeds the County property tax in the year of application, the Department of Finance shall apply the excess to future tax years for up to a total of four years.
- (f) *Publicity.* The Department of Finance shall publicize the credit authorized by this section in a way designed to inform those most likely to benefit from the credit.
- (g) *Report.* The Department of Finance shall provide a preliminary analysis to the County Council on or before June 30, 2017, on usage of the Ellicott City Strong Tax Credit that includes, but is not limited to, information about the number of applicants, the dollar amount of credits allowed, and the projected timeline to pay remaining credits. The Department of Finance shall provide an updated analysis to the County Council on or before January 15, 2018, on usage of the Ellicott City Strong Tax Credit that includes, but is not limited to, information about the number of applicants, the dollar amount of credits allowed, and the projected timeline to pay remaining credits. The reports required by this subsection shall be submitted in accordance with section 22.1000 of the County Code.
- (h) *Short Title.* The tax credit established under this section may be cited as "Ellicott City Strong Tax Credit".

(C.B. 66, 2016, § 1; C.B. 43, 2018, § 1)

#### PART III. - STATE-AUTHORIZED HOWARD COUNTY TAX CREDITS<sup>41</sup>

Footnotes:

--- (4) ---

**State Law reference**— Authorized tax credits in Howard County, Ann. Code of Md., Tax-Property article, § 9-315.

Sec. 20.120. - In general.

Optional tax credits applicable only to Howard County under the Tax-Property Article of the Annotated Code of Maryland are in effect in Howard County upon enactment of local implementing legislation, which is contained in this part III.

(C.B. 38, 1998)

Sec. 20.121. - Community associations.

- (a) *Definitions.* As used in this section, the term *community association* shall mean any nonprofit community association or corporation organized or operated for the promotion of the common good and social welfare of any group of persons residing in Howard County.
- (b) *Amount of credit.* In accordance with § 9-315(a)(1) of the Tax-Property Article of the Annotated Code of Maryland, there is hereby granted, upon the application of any community association, a tax credit against the amount of Howard County taxes with respect to real or tangible personal property owned by community associations and used for community, civic, educational, library or park, purposes, that is not a swimming pool, tennis court, or similar recreational facility.

Such community association may charge a fee for the use of such property, but such fee may not exceed an amount sufficient to pay for the cost of the construction and maintenance of such property. For any taxable year in which the tax credits are granted or continued, the tax credits granted by this section

shall equal 100 percent of the assessed value of such real or tangible personal property multiplied by the applicable Howard County tax rate for each such taxable year, provided that this credit shall not apply to special purpose taxes, such as the ad valorem, front foot benefit charge and fire tax. Tax credits may not be granted for any swimming pools, tennis courts or similar recreational facilities.

- (c) *Term of Tax Credit.* The tax credits granted pursuant to this section shall continue from year to year so long as:
  - (i) The property for which the tax credit is granted continues to be used for community, civic, educational, library or park purposes in Howard County; and
  - (ii) The community association granted such tax credits files the annual reports required by paragraph (e) of this section.
- (d) *Application for Tax Credit.* Applications for the tax credits provided in this section shall be filed with the Director of Finance. Such application shall be submitted on forms prepared and furnished by the Director of Finance and shall contain a declaration preceding the signature of the duly authorized representative of the Applicant to the effect that such application is made under article 24, § 1-105 of the Annotated Code of Maryland. The Director of Finance shall approve or disapprove any application filed pursuant to this section within 30 days of receipt of such application and shall notify the Applicant of his decision at the address set forth in the application. Decisions of the Director of Finance relating to this section shall be appealable to the Board of Appeals within 30 days pursuant to the provisions of article V of the Howard County Charter and title 2 of this Code. Applications shall be received by the Director of Finance not later than October 1 of the taxable year for which the credit is claimed. This credit may apply only to taxes which initially accrue on or after July 1, 1977.
- (e) *Annual Reports.* Each community association granted a tax credit pursuant to this section shall file annually with the Director of Finance a report confirming that it is a community association and that the property for which the tax credit was originally granted continues to comply with the requirements of paragraph (b) of this section. Such reports shall be submitted on forms prepared and furnished by the Director of Finance and shall contain a declaration preceding the signature of the authorized representative of the Applicant that such report is made under Article 24, § 1-105 of the Annotated Code of Maryland. Such report shall be received by the Director of Finance not later than October 1 of each taxable year for which the tax credit to any community association shall be continued.

(C.B. 38, 1998)

**State Law reference**— Tax credit for community associations authorized, Ann. Code of Md., Tax-Property article, § 9-215(a)(1).

Sec. 20.122. - Agricultural land.

- (a) *Definitions.* In this section, *agricultural land* means real property subject to an easement or other interest that is permanently conveyed or assigned to either:
  - (1) The Maryland Agricultural Land Preservation Foundation under § 2-504 of the Agricultural Article of the Annotated Code of Maryland; or
  - (2) To Howard County, Maryland, under the provisions of subtitle 5, "Agricultural Land Preservation," of title 15, "Natural Resources," of the Howard County Code.
- (b) *Amount of Credit.* In accordance with the provisions of § 9-206 and § 9-315(a)(2) of the Tax-Property Article of the Annotated Code of Maryland, an owner of agricultural land may receive a property tax credit equaling 75 percent of any County property tax imposed on that land, not including any improvements.
- (c) *Application for Tax Credit:*
  - (1) The Director of Finance shall administer the provisions of this section.

- (2) An eligible owner of agricultural land shall apply for tax credit with the Director of Finance within 30 days of the issuance of each annual property tax bill.

(C.B. 38, 1998)

**State Law reference**— Tax credit real property that is subject to the county's agricultural land preservation program authorized, Ann. Code of Md., Tax-Property article, § 9-215(a)(2).

Sec. 20.123. - Commercial or industrial business.

(a) *Establishment of Tax Credit for Commercial or Industrial Business:*

- (1) In accordance with § 9-315(a)(3) of the Tax-Property Article, Annotated Code of Maryland, there is a Howard County Property Tax Credit against the tax on real property owned or occupied by a commercial or industrial business that qualifies under this section.
- (2) The Department of Finance shall administer the credit.

(b) *Definitions.* In this section the following terms have the meanings indicated:

(1) *Commercial or industrial business:*

- (i) Means an enterprise engaged in an activity identified in the Howard County Economic Development Strategic Plan as a target for the County's business attraction and retention efforts; and
- (ii) Shall include businesses located in an office, research and development businesses, technology-based businesses, manufacturing facilities, distribution facilities, retail stores, restaurants, hotels, motels, or recreational facilities.

(2) *Substantial investment* means:

- (i) The acquisition of a building, land, or equipment that totals at least \$2,000,000.00; or
- (ii) The creation of ten positions with salaries greater than the current average annual wage in Howard County.

(c) *Conditions.* A commercial or industrial business qualifies for a tax credit under this section if the business:

- (1) Applies for the credit under the procedures in this section;
- (2) (i) Owns real property in Howard County that is new construction, or an improvement to an existing facility; or  
(ii) Subject to the provisions of subsection (f)(2) of this section, rents or leases real property in Howard County that is new construction or an improvement to an existing facility;
- (3) Is currently or will be doing business in Howard County;
- (4) Will employ at least 12 additional full-time local employees by the second year in which the credit is allowed, not including an employee filling a job created when a job function is shifted from an existing location in the State to Howard County;
- (5) Makes a substantial investment in Howard County;
- (6) Is approved by the economic development authority and the County Executive under subsection (e)(3) of this section; and
- (7) Enters into an agreement with the County under subsection (f) of this section.

(d) *Amount and Duration of Credit:*

- (1) Subject to paragraph (3) of this subsection, and except as provided in subsection (g) of this section, the tax credit under this section shall be granted annually for a term not to exceed ten years beginning with the first tax year in which the real property tax would increase as a result of an increase in assessment due to new construction or an improvement to an existing facility.
  - (2) As part of the procedure under subsection (e)(3) of this section, the County Executive shall establish the tax credit in an amount expressed as a percent of the additional County tax imposed on real property that is a result of an increase in assessment due to the new construction or improvement, according to the following schedule:
    - (i) Up to 100 percent for years one and two that the credit is granted;
    - (ii) Up to 80 percent for years three and four that the credit is granted;
    - (iii) Up to 60 percent for years five and six that the credit is granted;
    - (iv) Up to 40 percent for years seven and eight that the credit is granted; and
    - (v) Up to 20 percent for years nine and ten that the credit is granted.
  - (3) Notwithstanding any other provision of this section, the tax credit under this section may not exceed the amount of County property tax imposed on the property that is a result of an increase in assessment due to the new construction or improvement.
- (e) *Procedures:*
- (1) The economic development authority and the Department of Finance shall develop an application form and establish procedures to administer the tax credit under this section.
  - (2) A business may apply for the credit to the economic development authority. For tax years beginning July 1, 1997 and thereafter, applications for the credit shall be submitted no later than April 1 prior to the first tax year for which the credit is being requested.
  - (3) The economic development authority and the County Executive shall evaluate the application under criteria established by the Authority, and may deny or approve the application, subject to any terms and conditions as required under the criteria.
  - (4) If an application is approved it shall be forwarded to the Director of Finance. The Director of Finance shall forward the approved application to the supervisor of the Department of Assessments and Taxation in Howard County, who shall determine what portion of the increase in assessed value is due to the new construction or improvement.
  - (5) After the determination by the Department of Assessments and Taxation, the Department of Finance shall grant the Howard County Real Property Tax Credit under this section beginning with the first tax year in which the real property tax would increase as a result of an increase in assessment due to the new construction or improvement.
- (f) *Agreement to Implement Credit:*
- (1) The recipient of a tax credit under this section who is the owner of the real property subject to the credit shall enter into a contract with the County, which specifies reporting requirements and conditions under which the credit may be suspended or revoked.
  - (2) The recipient of a tax credit under this section who is the lessee of the real property subject to the credit, and the lessor of the property shall enter into a contract with the County. A contract under this paragraph shall specify:
    - (i) The reporting requirements and conditions under which the credit may be suspended or revoked;
    - (ii) That the amount of the tax credit granted under this section shall pass through to the commercial or industrial business that conducts the activity that qualifies for the credit; and
    - (iii) That the term of the tax credit may not exceed the term of the lease and may not, in any event, exceed ten years.

- (g) *Alteration of Credit by County.* If it is determined to be in the best interest of the County, the governing body of the County may approve a credit for an individual business that is of a different amount or duration than is specified under subsection (d) of this section.
- (h) *Annual Report:*
  - (1) Subject to section 22.1000 of the County Code, the Economic Development Authority shall report annually to the County Executive and the County Council concerning the implementation of the tax credit under this section.
  - (2) The report under this subsection shall:
    - (i) Be submitted no later than September first of each year; and
    - (ii) Include, for each recipient of a credit under this section during the previous fiscal year:
      - a. The name of the recipient;
      - b. The number of jobs created and currently occupied as a result of the activity that qualified the recipient for the credit and the salary for each such job; and
      - c. The amount of the credit granted.

(C.B. 38, 1998; C.B. 54, 2009, § 1; C.B. 43, 2018, § 1)

**State Law reference**— Tax credit for community associations authorized, Ann. Code of Md., Tax-Property article, § 9-215(a)(3).

Sec. 20.124. - Therapeutic riding facility property tax credit.

- (a) In accordance with the Tax-Property Article § 9-315(A)(4) of the Annotated Code of Maryland, the owner of the real property that is used as a therapeutic riding facility may receive a property tax credit equal to 100 percent of the County real property tax imposed, provided that the owner:
  - (1) Is a nonprofit organization that is exempt from taxation under § 501(C)(3) of the Internal Revenue Code;
  - (2) Furnishes services to disabled individuals; and
  - (3) Has at least 85 percent of its clients who are disabled individuals.
- (b) The tax credit granted under this section continues as long as the property continues to be used as a therapeutic riding facility and the owner meets the requirements of subsection (a) of this section.
- (c) The Department of Finance shall develop an application form and establish procedures to administer the credit established by this section.
- (d) In order to receive a credit, a property owner shall:
  - (1) Submit an application to the Department of Finance on or before April 1 prior to the taxable year for which the credit is requested; and
  - (2) Provide any information required to demonstrate that the owner is entitled to the credit.
- (e) If the owner meets the criteria for the credit, the Department of Finance shall grant the credit in accordance with this section.

(C.B. 55, 1999; C.B. 15, 2002, § 1)

**Editor's note**— Pursuant to § 2 of C.B. 15, 2002, § 20.124(a) "shall be construed to apply to all tax years beginning after June 30, 2002".

**State Law reference**— Tax credit for therapeutic riding facilities authorized, Ann. Code of Md., Tax-Property article, § 9-215(a)(4).

Sec. 20.125. - Real property tax deferral for elderly or disabled homeowners.

(a) *Definitions:*

- (1) The following terms have the meanings indicated:
- (2) *Combined income* means the combined gross income of all individuals who actually reside in a dwelling except an individual who:
  - (i) Is a dependent of the homeowner under § 152 of the Internal Revenue Code; or
  - (ii) Pays a reasonable amount for rent or room and board.
- (3) *Dwelling* means a house that is:
  - (i) Used as the principal residence of a homeowner and the lot or curtilage on which the house is erected;
  - (ii) Occupied by not more than two families; and
  - (iii) Actually occupied or expected to be actually occupied by the homeowner for more than six months of a 12-month period that includes July 1 of the taxable year for which the deferral under this section is sought.
- (4) *Homeowner* means an individual who, on July 1 of the taxable year for which the deferral is sought:
  - (i) Actually resides in a dwelling in which the individual has a legal interest; or
  - (ii) Under a court order or separation agreement, permits a spouse, a former spouse, or a child of the individual's family to reside without payment of rent in a dwelling in which the individual has a legal interest.

(b) *Deferral Authorized.* A homeowner who meets the requirements of this section may defer payment of County property taxes in accordance with this section.

(c) *Qualifications:*

- (1) To be eligible for a deferral under this section, a homeowner must meet the requirements of this subsection.
- (2) The homeowner must have resided in the dwelling for at least five consecutive years.
- (3) The homeowner must live in a dwelling where the combined income does not exceed \$75,000.00 a year.
- (4) The homeowner must be at least 65 years old or permanently and totally disabled.
- (5) An individual is considered to be permanently and totally disabled if found to be by the County Health Officer or if so qualified under the Social Security Act, the Railroad Retirement Act, a Federal act for members of the Armed Forces of the United States, or a Federal retirement system.

(d) *Amount of Deferral:*

- (1) A homeowner may defer the amount that the County property taxes due exceed the amount of County property taxes paid by the homeowner in the preceding taxable year.
- (2) Deferring taxes under this section does not affect any taxes that are not deferred.

(e) *Interest.* Interest accrues on deferred taxes at a rate of 0.0 percent.



- (f) *Limit on Accumulation.* The accumulation of deferred taxes and accrued interest may not exceed 50 percent of the assessed value of the property.
- (g) *Penalty for Nonpayment.* A penalty may not be charged on the portion of the taxes deferred under this section.
- (h) *Lien and Liability.* Until extinguished by operation of law or paid, real property taxes deferred and interest accrued are:
  - (1) A lien on the property with the same priority as real property taxes; and
  - (2) A personal liability of the homeowner who obtained the deferral.
- (i) *When Deferred Taxes Due.* The total amount of real property taxes deferred and interest accrued are due and payable when:
  - (1) The homeowner ceases to own the property;
  - (2) The homeowner ceases to occupy the property as the principal place of residence;
  - (3) The property becomes subject to a tax sale; or
  - (4) The homeowner fails to submit a timely application for deferral or fails to qualify for a credit under section 20.129 of this subtitle.
- (j) *Application:*
  - (1) In accordance with the requirements of the Director of Finance, a homeowner shall file an application for deferral on the form that the Director of Finance Provides.
  - (2) The Director of Finance shall design the application form to collect the information needed to evaluate an applicant's eligibility and may require the Applicant to verify the application under oath.
  - (3) After receiving an application, the Director shall notify the Applicant whether the application has been approved.
  - (4) If the application is approved, the Applicant and the Director of Finance shall execute a written agreement of deferral that provides for repayment and includes a notice of lien.
  - (5) After executing the agreement, the Director of Finance shall notify the mortgagees or beneficiaries under a deed of trust that are listed in the application.
  - (6) The agreement shall be recorded in the land records of the County at the homeowner's expense.
- (k) *Authority of Taxpayer to End Deferral.* A homeowner may end a deferral at any time by giving written notice to the Director of Finance and paying the deferred taxes and accrued interest.
- (l) *Publicity:*
  - (1) The Director of Finance shall develop and carry out a plan to publicize the deferral authorized by this section.
  - (2) The plan shall be designed to reach those taxpayers most likely to be eligible for the deferral.
- (m) *Report.* Subject to section 22.1000 of the County Code, each year, the Director of Finance shall submit a report to the County Council that includes:
  - (1) The number of deferrals, the aggregate taxes deferred, and the aggregate interest accrued; and
  - (2) A summary of the efforts taken to publicize the deferral.
- (n) *Fraud Prohibited.* A person who knowingly provides false or fraudulent information on a document required under this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding five months or a fine not exceeding \$500.00.

(C.B. 19, 2005; C.B. 68, 2006; C.B. 43, 2018, § 1)

**State Law reference**— Real property tax deferral for elderly or disabled homeowners authorized, Ann. Code of Md., Tax-Property article, § 10-204.

Sec. 20.126. - Homeowners property tax credit.

(a) *Definitions.* The following words have the meanings indicated in § 9-104 of the tax-property article of the Maryland Code:

- (1) *Combined income* ;
- (2) *Dwelling* ; and
- (3) *Homeowner* .

(b) *Credit Established:*

- (1) There is a local supplement to the homeowners property tax credit program established by § 9-104 of the tax-property article of the Maryland Code and authorized under section 9-215 of the tax-property article of the Maryland Code.
- (2) The property tax to which this section applies is the product of the sum of all property tax rates on real property for the taxable year on a dwelling multiplied by the lesser of the assessed value of the dwelling or \$150,000.00 and then reduced by any property tax credit granted under section 9-105 of the tax-property article of the Maryland Code.

(c) *Amount:*

- (1) The County supplemental property tax credit is the total real property tax on a dwelling less:
  - (i) The percentage of the combined income of the homeowner calculated under paragraph (2) of this subsection; and
  - (ii) The property tax credit granted under section 9-104 of the tax-property article of the Maryland Code.
- (2) The allowable percentage of gross income is:
  - (i) Zero percent of the first \$8,000.00;
  - (ii) One percent of the next \$4,000.00;
  - (iii) Four and one-half percent of the next \$4,000.00;
  - (iv) Six and one-half percent of the next \$8,000.00;
  - (v) Eight percent of the next \$8,000.00;
  - (vi) Eight and one-half percent of the next \$8,000.00; and
  - (vii) Nine percent of any combined income over \$40,000.00.
- (3) The property tax credit under this section shall be proportionately reduced for a homeowner who is not required to pay the tax for the full tax year.

(d) *Administration.* This section shall be administered by the Director of Finance and the State Department of Assessments and Taxation as provided in sections 9-104 and 9-215 of the tax property article of the Maryland Code.

(e) *Regulations.* The County Executive may adopt regulations to carry out this section.

(f) *Publicity:*

- (1) The Director of Finance shall develop and carry out a plan to publicize the credit authorized by this section.

- (2) The plan shall be designed to reach those taxpayers most likely to be eligible for the credit.
- (g) *Report.* Subject to section 22.1000 of the County Code, each year, the Director of Finance shall submit a report to the County Council that:
  - (1) Describes program participation in the current tax year and includes the income of taxpayers and the number and cost of the credits allowed; and
  - (2) Includes a summary of the efforts taken to publicize the credit.
- (h) *Fraud.* A person who knowingly provides false or fraudulent information on a document required under this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding five months or a fine not exceeding \$500.00.

(C.B. 18, 2005; C.B. 43, 2018, § 1)

**State Law reference**— Tax credit for disabled veterans, Ann. Code of Md., Tax-Property article, §§ 9-104, 9-215.

Sec. 20.127. - Amateur sport athletic fields.

- (a) Subject to the requirements of this section, there is a tax credit against the property tax imposed on real property in Howard County for an athletic field.
- (b) In accordance with § 9-235 of the Tax-Property Article of the Annotated Code of Maryland, the owner of real property may receive a property tax credit equal to 100 percent of the County property tax imposed on the real property if:
  - (1) The property is used as an athletic field exclusively for amateur sports; and
  - (2) The owner is a nonprofit organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.
- (c) The tax credit authorized by this section continues as long as the owner and property remain qualified under subsection (b) of this section.
- (d) To receive the credit, a property owner shall submit an annual application to the Department of Finance:
  - (1) On the form that the Department of Finance requires;
  - (2) That demonstrates that the owner is entitled to the credit; and
  - (3) On or before April 1 prior to the taxable year for which the credit is sought.

(C.B. 59, 2005)

**Editor's note**— C.B. 59 of 2005 amended the Code by adding provisions designated as section 20.125. In order to avoid conflicts in section numbering the editor has redesignated this section as 20.127.

**State Law reference**— Tax credit for amateur sport athletic fields authorized, Ann. Code of Md., Tax-Property article, § 9-235.

Sec. 20.128. - Property tax credit for conservation land.

- (a) In this section, the following words have the meanings indicated:

- (1) *Conservation land* has the meaning stated in § 9-220 of the tax-property article of the Annotated Code of Maryland.
  - (2) *Land trust* has the meaning stated in § 9-220 of the tax-property article of the Annotated Code of Maryland.
- (b) In accordance with § 9-220 of the tax-property article of the Annotated Code of Maryland, the owner of real property may receive a property tax credit equal to 100 percent of the County property tax imposed on the real property if:
- (1) The property is conservation land; or
  - (2) The property owner is a land trust and the property is used:
    - (i) To assist in the preservation of a natural area;
    - (ii) For the environmental education of the public;
    - (iii) Generally to promote conservation;
    - (iv) For the maintenance of:
      1. A natural area for public use; or
      2. A sanctuary for wildlife; or
    - (v) To conserve agricultural land and to promote continued agricultural use of the land.
- (c) For a land trust to qualify for the credit, the land trust must:
- (1) Be certified by the Maryland Environmental trust to be a land trust in good standing and to have a cooperative agreement in effect; and
  - (2) Obtain a periodic written certification as scheduled by the Maryland Environmental trust.
- (d) The tax credit authorized by this section continues as long as the owner and property remain qualified under subsections (b) and (c) of this section.
- (e) To receive the credit, a property owner shall submit an application to the Department of Finance:
- (1) On the form that the Department of Finance requires;
  - (2) That demonstrates that the owner is entitled to the credit; and
  - (3) On or before the date that the Department of Finance sets.

(C.B. 51, 2006, § 1)

**State Law reference**— Tax credit for conservation land authorized, Ann. Code of Md., Tax-Property article, § 9-220.

Sec. 20.128A. - Qualifying energy conservation devices.

- (a) *Definitions:*
- (1) In this section, the following terms have the meanings indicated:
  - (2) *Solar energy device* means an energy conserving device that:
    - (i) Uses solar energy to heat or cool a structure, to provide hot water for use in the structure or to generate electricity to be used in the structure; and
    - (ii) Meets national safety and performance standards set by a nationally recognized testing laboratory for that kind of device.
  - (3) *Geothermal energy device* means an energy conserving device that:

- (i) Uses geothermal energy to heat or cool a structure, to provide hot water for use in the structure or to generate electricity to be used in the structure; and
  - (ii) Meets national safety and performance standards set by a nationally recognized testing laboratory for that kind of device.
- (b) *Credit Authorized.* In accordance with section 9-203 of the tax-property article of the Annotated Code of Maryland and the provisions of this section, the owner of real property may receive a property tax credit against the County property tax imposed on a residential structure that utilizes a solar energy device or geothermal energy device.
- (c) *Amount of Credit.* The tax credit allowed under this section is the lesser of:
  - (1) Fifty percent of the eligible costs; or
  - (2) Five thousand dollars for a heating system or \$1,500.00 for a hot water supply system.
- (d) *Eligible Costs.* Eligible costs are those that are incurred:
  - (1) Within the 12 months before the initial application for the credit; and
  - (2) For the solar energy device or geothermal energy device, including any part, component, or accessory equipment necessary to operate the device, and reasonable costs associated with installing the device.
- (e) *Annual Limit on Amount of Credits Granted:*
  - (1) During a fiscal year, the total of all tax credits granted under this section shall not exceed \$500,000.00.
  - (2) Credits shall be granted in the order in which the Department of Finance receives the complete applications under subsection (f) of this section.
  - (3) A complete application that, if granted, would cause the limit set forth in paragraph (1) of this subsection to be exceeded, shall be granted in the next fiscal year or years and in the order received.
- (f) *Application of the Credit:*
  - (1) The amount of the credit applied in a tax year may not exceed the amount of the County property tax imposed on the property in that tax year.
  - (2) Any amount of the credit not taken in the tax year in which the application is granted may be carried over for an additional two years.
  - (3) When a tax credit is carried over under this subsection, the full amount of the tax credit shall be deducted from the total annual limit set forth in subsection (e) of this section in the year in which the application is granted.
- (g) *Application for the Credit:*
  - (1) An applicant for a tax credit under this section shall submit an application to the Director of Finance on or before the date that the Director sets.
  - (2) An application shall:
    - (i) Be on the form that the Director requires;
    - (ii) Demonstrate that the taxpayer is entitled to the credit; and
    - (iii) Include a certification from the Department of Inspections, Licenses and Permits stating that the device for which the credit is sought:
      - 1. Is a solar energy device or a geothermal energy device; and
      - 2. Has been properly installed.

- (h) *Effective Date.* The credit authorized by this section applies to tax years beginning after June 30, 2007.

(Ord. No. 67, 2006, § 1; C.B. 9, 2007, § 1; C.B. 21, 2011, § 1)

**Editor's note**— Section 2 of C.B. 21-2011 set out uncodified provisions that state that the credit authorized by section 20.128A shall not be granted for applications received after May 25, 2011 unless the property owner: (1) On or before May 25, 2011, enters into a contract for eligible costs, as that term is defined in section 20.128A; (2) Applies for the credit on or before April 1, 2012; and (3) Is determined by the Department of Finance to be eligible to receive the credit. At the request of the County the provisions of C.B 67, 2006 have been renumbered from section 20.128 to 20.128A to avoid conflicts in section numbering.

**State Law reference**— Tax credit qualifying energy devices authorized, Ann. Code of Md., Tax-Property article, § 9-203.

Sec. 20.129. - Property tax credit for senior citizens.

(a) *Definitions:*

- (1) In this section, the following terms have the meanings indicated:
- (2) *Combined income* means the combined gross income of all individuals who actually reside in a dwelling except an individual who:
  - (i) Is a dependent of the homeowner under § 152 of the Internal Revenue Code; or
  - (ii) Pays a reasonable amount for rent or room and board.
- (3) *Net worth* means, after deducting outstanding liabilities, the sum of the current market value of all assets:
  - (i) Including real property, cash, savings accounts, stocks, bonds, and other investments; but
  - (ii) Not including the dwelling for which a property tax credit is sought under this section, the cash value of any life insurance policies on the life of the homeowner, and tangible personal property.

(b) *Credit Established:*

- (1) In accordance with section 9-245 of the Tax-Property Article of the Annotated Code of Maryland, the owner of real property may receive a property tax credit against the County property tax imposed on the property if the property is owned, wholly or partly, by an individual:
  - (i) Who is at least 65 years old;
  - (ii) Who uses the property as the individual's principal residence for at least the period that would be required to qualify for the credit under section 9-104 of the Tax-Property Article of the Maryland Annotated Code;
  - (iii) Who lives in a household with a combined income that does not exceed 500 percent of the most recent poverty guidelines for a household of two individuals updated periodically in the Federal Register by the United States Department of Health and Human Services under 42 U.S.C. 9902(2); and
  - (iv) Who lives in a household with a combined net worth that does not exceed \$500,000.00.

- (2) The amount of the credit shall equal 25 percent of the County property tax due in the current year after applying the homestead credit authorized under section 9-105 of the Tax-Property Article of the Annotated Code of Maryland.
- (3) The amount of the credit shall be calculated after all other credits granted for that property under this subtitle or the Tax-Property Article of the Annotated Code of Maryland have been applied so that the credit granted under this section makes up any difference between (i) the sum of all the other property tax credits and (ii) the amount that this credit would be if there were no other credits.
- (4) Property taxes attributable to an increase in the value of the property because of substantial improvements to the property shall be excluded from the calculation described in paragraph (2) of this subsection.
- (c) *Duration of Credit.* The tax credit authorized by this section continues as long as an owner and the property remain qualified under subsection (b) of this section.
- (d) *Application.* To receive the credit, a property owner shall apply for all other credits that may be available for that property and submit an application to the Department of Finance:
  - (1) On the form that the Department of Finance Requires;
  - (2) That demonstrates that the owner is entitled to the credit; and
  - (3) On or before the date that the Department of Finance sets.
- (e) *Administration.* The Department of Finance may adopt guidelines and procedures to administer this section.
- (f) *Publicity:*
  - (1) The Director of Finance shall develop and carry out a plan to publicize the credit authorized by this section. The plan shall be designed to reach those taxpayers most likely to be eligible for the credit.
  - (2) The Office of Aging and Independence, or another appropriate unit of County Government that the County Executive selects, shall develop and carry out a plan to educate senior citizens about the credit authorized by this section.
- (g) *Effective Date.* The credit authorized by this section applies to tax years beginning after June 30, 2007.
- (h) *Report.* Subject to section 22.1000 of the County Code, on or before September 30 of each year, the Department of Finance shall submit a report to the County Council and the County Executive that includes the number of applications and amounts of credits granted under this section.

(C.B. 68, 2006, § 1; C.B. 10, 2007, § 1; C.B. 12, 2016, § 1; C.B. 74, 2016, § 1; C.B. 43, 2018, § 1)

**State Law reference**— Property tax credits for individuals at least 70 years old authorized, Ann. Code of Md. Tax-Property article, § 9-245.

Sec. 20.129A. - Real property jointly owned by an individual and the Housing Commission.

- (a) *Definitions.* In this section, "Housing Commission" shall mean the Howard County Housing Commission as established in section 13.1304 Of this Code.
- (b) *Credit Established.* In accordance with subsection 9-315(a)(5) of the tax-property article of the Annotated Code of Maryland, if an individual occupies residential real property and owns the property jointly with the Housing Commission, the individual may receive a credit against the County property tax imposed on the property.

- (c) *Amount of Credit.* The amount of the tax credit is calculated by multiplying the total property tax due on the property by the percentage of the Housing Commission's ownership interest in the property.
- (d) *Duration of Credit.* The tax credit continues as long as the property remains qualified under subsection (b) of this section.
- (e) *Application.* To receive the tax credit, a property owner shall submit an application to the Department of Finance:
  - (1) On the form that the Department of Finance requires;
  - (2) That is accompanied by proof that the property is occupied by an individual who owns the property jointly with the Housing Commission; and
  - (3) On or before the date that the Department of Finance sets.
- (f) *Administration.* The Department of Finance may adopt guidelines and procedures to administer this section.
- (g) *Effective Date.* The tax credit authorized by this section applies to tax years beginning after June 30, 2007.

(C.B. 32, 2007, § 1)

**Editor's note**— C.B. 32 of 2007 added provisions designated as § 20-130. In order to avoid conflicts in section numbering the editor has redesignated the provisions added by C.B. 32 of 2007 as § 20.129A.

**State Law reference**— Property tax credits for real property jointly owned by an individual and the Housing Commission, Ann. Code of Md. Tax-Property article, § 9-315(a)(5).

Sec. 20.129B. - Property tax credit for high performance buildings.

- (a) *Definitions.* In this section, the following terms have the meanings indicated:
  - (1) High performance building means a building that:
    - (i) Achieves at least a silver rating according to the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) rating system;
    - (ii) Is a residential building that achieves at least a silver certification level of the National Green Building Standard ICC-700;
    - (iii) Achieves at least a comparable rating according to design standards that the Director of the Department of Inspections, Licenses and Permits may adopt by regulation as equivalent to a silver rating in the LEED rating system; or
    - (iv) Meets comparable green building guidelines or standards approved by the State.
  - (2) LEED rating system shall have the meaning set forth in section 3.1002 of this Code.
  - (3) R-2 or R-3 building has the meaning ascribed to that term under the Howard County Building Code.
- (b) *Credit Established.* In accordance with section 9-242 of the tax-property article of the Annotated Code of Maryland, the owner of a high performance building or an R-2 or R-3 building that qualifies under subsection (d) of this section may receive a property tax credit against County property taxes imposed on the high performance building.
- (c) *Amount and Duration of Credit for Certification in LEED Core and Shell or New Construction Rating Systems.* For a high performance building that is certified in the LEED 2009 rating system for core



and shell or a comparable rating system that the Director of Inspections, Licenses and Permits may adopt by regulation:

- (1) The amount of the tax credit is a percentage of the total County property tax assessed on the high performance building as follows:
    - (i) LEED certified silver—25 percent;
    - (ii) LEED certified gold—50 percent;
    - (iii) LEED certified platinum—75 percent; and
  - (2) The tax credit authorized by this subsection continues for five years.
- (d) *Amount and duration of credit for high performance R-2 and R-3 buildings.*
- (1) This subsection applies to an R-2 or R-3 building that:
    - (i) Achieves at least a silver rating under the LEED for Homes Rating System or a comparable rating system that the Director of Inspections, Licenses and Permits may adopt by regulation; and
    - (ii) Is a high performance building.
  - (2) The tax credit under this subsection for a building that has a LEED platinum or equivalent rating is a percentage of the total County Property Tax Credit assessed on the building as follows:
    - (i) First year: 100 percent;
    - (ii) Second year: 75 percent;
    - (iii) Third year: 50 percent; and
    - (iv) Fourth year: 25 percent.
  - (3) The tax credit under this subsection for a building that has a LEED gold or equivalent rating is a percentage of the total County property tax credit assessed on the building as follows:
    - (i) First year: 90 percent;
    - (ii) Second year: 68 percent;
    - (iii) Third year: 45 percent; and
    - (iv) Fourth year: 23 percent.
  - (4) The tax credit under this subsection for a building that has a LEED silver or equivalent rating is a percentage of the total County property tax credit assessed on the building as follows:
    - (i) First year: 75 percent;
    - (ii) Second year: 56 percent;
    - (iii) Third year: 38 percent; and
    - (iv) Fourth year: 19 percent.
  - (5)
    - (i) In one fiscal year, the tax credit under this subsection may not exceed \$5,000.00 per building; provided, however, that each owner occupied unit is allowed a credit not to exceed \$5,000.00.
    - (ii) Excess credits shall not be carried over to future years.
- (e) *Amount and Duration of Credit for Certification in Existing Building Rating System.* For a high performance building that is certified in the LEED 2009 rating system for existing buildings or a comparable rating system that the Director of Inspections, Licenses and Permits may adopt by regulation:

- (1) The amount of the tax credit is a percentage of the total County property tax assessed on the high performance building as follows:
  - (i) LEED certified silver—Ten percent;
  - (ii) LEED certified gold—25 percent;
  - (iii) LEED certified platinum—50 percent; and
- (2) The tax credit authorized by this subsection continues for three years.
- (f) *Prohibition.* A property owner who is granted a credit under one subsection of this section may not be granted a credit under any other subsection of this section for the same property during the same fiscal year.
- (g) *Credit Runs with the Property.* A tax credit granted under this section runs with the property and a change in ownership does not result in the lapse of the tax credit.
- (h) *Application.* To receive the tax credit, a property owner shall submit an application to the Department of Finance:
  - (1) On the form that the Department of Finance requires;
  - (2) That is accompanied by proof that the property meets the definition of a "high performance building"; and
  - (3) On or before the date that the Department of Finance sets.
- (i) *Report.* Subject to section 22.1000 of the County Code, on or before October 31 of each year, the Director of Finance shall submit a report to the County Council and the County Executive on tax credits granted under this section in the prior fiscal year that includes:
  - (1) A list of all credits granted and the monetary amount of each credit granted under this section;
  - (2) The levels of certification obtained by recipients of the credit; and
  - (3) An estimated total fiscal impact for the current fiscal year and for nine ensuing fiscal years.
- (j) *Administration.* The Department of Finance may adopt guidelines, regulations, or procedures to administer this section.
- (k) *Effective Date.* The tax credit authorized by subsection (d) of this section applies to tax years beginning after June 30, 2012, and shall terminate and be of no effect after June 30, 2023, provided that:
  - (1) A property owner shall receive the full four years of the credit if:
    - (i) The property meets the eligibility requirements of this section; and
    - (ii) The property owner applies for the credit on or before April 1, 2022; and
  - (2) The last credit issued shall be issued no later than in the fiscal year ending June 30, 2026.

(C.B. 49, 2007, § 2; C.B. 47, 2009, § 2; C.B. 55, 2011, § 1; C.B. 5, 2016, § 1; C.B. 34, 2017, § 1; C.B. 43, 2018, § 1)

**Editor's note**— Council bill 49 of 2007 amended the Code by adding provisions designated as § 20.130. In order to avoid conflicts in section numbering the editor has redesignated the provisions of this Council bill as § 20-129B.

**State Law reference**— Tax credits for high performance buildings, Ann. Code of Md., Tax-Property article, § 9-242.

Sec. 20.129C. - Property tax credit for accessibility features.

- (a) *"Feature" defined.* In this section, "feature" means a permanent modification to a residence that results in:
- (1) A no-step front door entrance with a threshold that does not exceed  $\frac{1}{2}$  inch in depth with tapered advance and return surfaces or, if a no-step front entrance is not feasible, a no-step entrance to another part of the residence that provides access to the main living space of the residence;
  - (2) An installed ramp creating a no-step entrance;
  - (3) An interior doorway that provides a 32-inch wide or wider clear opening;
  - (4) An exterior doorway that provides a 36-inch wide or wider clear opening but only if accompanied by exterior lighting that is either controlled from inside the residence, automatically controlled, or continuously on;
  - (5) Walls around a toilet, tub, or shower reinforced to allow for the proper installation of grab bars with grab bars installed in accordance with the ADA Standards for Accessible Design;
  - (6) Maneuvering space of at least 30 inches by 48 inches in a bathroom or kitchen so that a person using a mobility aid may enter the room, open and close the door, and operate each fixture or appliance;
  - (7) An exterior or interior elevator or lift or stair glide unit;
  - (8) An accessibility-enhanced bathroom including a walk-in or roll-in shower or tub, built-in shower seats, and lowered seats; or
  - (9) Alarms, appliances, and controls structurally integrated into the unit designed to assist an individual with a sensory disability;
  - (10) An accessible path between parking and the home that meets standards set forth in the Americans with Disabilities Act;
  - (11) A "no-step" access to any entrance on an accessible route;
  - (12) Railings for hallways or interior or exterior steps or the improvement of stair design;
  - (13) Hallways that are at least 36-inches wide;
  - (14) A master bedroom and master bathroom on the first floor;
  - (15) Smooth transitions between rooms and, for purposes of this section, "smooth transition" shall mean a vertical threshold of two inches or less;
  - (16) Slip-resistant flooring;
  - (17) Lever handles on kitchen and bathroom sinks or showers and interior and exterior doors;
  - (18) The relocation of:
    - (i) Switches, doorbells, thermostats, and breaker boxes so that they are no more than 48 inches above the floor; or
    - (ii) Electrical receptacles so that they are at least 15 inches above the floor;
  - (19) Closet renovations for accessibility including, without limitation, closet rods that adjust from three feet to five feet, six inches;
  - (20) Anti-scald devices; or
  - (21) Any feature that the County requires particularly for age-restricted adult housing.
- (b) *Credit Established.* In accordance with section 9-250 of the Tax-Property Article of the Annotated Code of Maryland, the owner of real property may receive a property tax credit against the County

property tax for a feature that is installed on an existing residence that is the owner's principal residence when the feature is installed.

(c) *Amount of Credit.*

- (1) The tax credit allowed under this section is the lesser of:
  - (i) The amount of the eligible costs; or
  - (ii) Two thousand five hundred dollars.
- (2) If this credit exceeds the County property tax, the Department of Finance shall apply the excess to future tax years until the property owner receives the full amount of the credit.

(d) *Eligible Costs.*

- (1) Eligible costs are those that:
  - (i) Are incurred within 12 months before the application for the credit;
  - (ii) Are for a feature authorized under this section, including reasonable costs to install the feature;
  - (iii) Were paid by the applicant and were not, and will not be, reimbursed by any entity; and
  - (iv) Exceed a total of \$500.00.
- (2) Eligible costs include an age-friendly assessment done by a certified aging in place specialist, not exceeding \$100.00.

(e) *Annual Limit.*

- (1) During a fiscal year, the total of all tax credits granted under this section shall not exceed \$100,000.00.
- (2) Credits shall be granted in the order in which the Department of Finance receives the complete application under subsection (f) of this section.
- (3) A complete application that, if granted, would cause the limit set forth in paragraph (1) of this subsection to be exceeded, shall be granted in the next fiscal year or years and in the order received.

(f) *Application.*

- (1) To receive the credit, a property owner shall submit an application to the Department of Finance:
  - (i) In the format that the Department of Finance requires;
  - (ii) That, for a feature listed in subsection (a)(1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (12), (13), (14), (18), (20), (21) of this section, includes a copy of the appropriate permit issued under title 3 of the Howard County Code;
  - (iii) That includes the documentation that the Department of Finance requires; and
  - (iv) On or before the date that the Department of Finance sets.
- (2) Only one application for a credit under this section may be accepted for each property during a single tax year.

(g) *Administration.* The Department of Finance may adopt guidelines and procedures to administer this section. Subject to section 22.1000 of the County Code, the Department of Finance shall submit a written report to the County Council by October 1 of every year for the preceding fiscal year that shall include the following:

- (1) Number of applicants;
- (2) Number of applications approved;

- (3) Income range of applicants;
  - (4) Modification made by the applicant;
  - (5) Reason for the modification;
  - (6) Other sources from which the applicant received funds or applied for assistance for the modification;
  - (7) Efforts to advertise the credit;
  - (8) Any program recommendations, including recommendations to increase the use of the credit;
  - (9) The number of denials and the reason for each denial; and
  - (10) The total amount of credits approved for the preceding fiscal year.
- (h) *Publicity.* The Department of Finance and the Office of Aging and Independence shall publicize the credit authorized by this section in a way designed to inform those most likely to benefit from the credit.
- (i) *Short Title.* The tax credit established under this section may be cited as "Livable Homes Tax Credit".

(C.B. 28, 2012, § 1; C.B. 12, 2016, § 1; C.B. 7, 2017, § 1; C.B. 43, 2018, § 1)

Sec. 20.129D. - Renovated, upgraded, or rehabilitated property adjacent to Route 1.

- (a) *Establishment of Tax Credit for Renovated, Upgraded, or Rehabilitated Property:*
- (1) In accordance with § 9-315(d) of the Tax-Property Article of the Annotated Code of Maryland, there is a Howard County Property Tax Credit against the County real property tax on commercial or industrial property that qualifies under this section.
  - (2) The Department of Finance shall administer the credit.
- (b) *Definitions.* In this section the following terms have the meanings indicated:
- (1) *Certificate of eligibility* means an order issued by the County to the owner of an eligible property, which authorizes the Department of Finance to apply a credit to the eligible property.
  - (2) *Eligible property* means commercial or industrial real property that is less than ten acres, includes no residential component, and:
    - (i) Directly fronts Route 1; or
    - (ii) Is readily visible from the nearest road edge on Route 1 and adjoins a parcel that fronts Route 1.
  - (3) *Eligible work* :
    - (i) Means work done:
      - a. On an eligible property;
      - b. In compliance with the Route 1 Design Manual; and
      - c. Is readily visible from the nearest road edge of Route 1.
    - (ii) Includes:
      - a. The renovation, upgrade or rehabilitation of a property, which shall include the repair, replacement, expansion, or enhancement of the property; and
      - b. Work that is necessary to maintain the physical integrity of the property with regard to safety, durability, or weatherproofing.

- (iii) Does not include:
  - a. Interior finish work that is not necessary to maintain the structural integrity of the building; or
  - b. Routine landscape or property maintenance.
- (4) *Verified expenses* means the amount of money paid:
  - (i) By the owner of an eligible property to a licensed contractor, architect, or consultant for:
    - a. Eligible work; or
    - b. Materials used to do eligible work;
  - (ii) Verified expenses shall be incurred within 12 months prior to the application for a tax credit under this section.
- (c) *Eligibility.* The owner of commercial or industrial property may qualify for a tax credit under this section for eligible work done on eligible property.
- (d) *Approval by Agencies.* A request for a tax credit under this section must be approved by the County Executive, upon the advice of the Economic Development Authority, the Department of Planning and Zoning, and the Department of Finance.
- (e) *Amount of Credit.* The tax credit shall be granted in an amount of 125 percent of the verified expenses but for no more than \$100,000.00.
- (f) *Procedures:*
  - (1) The Economic Development Authority, Department of Planning and Zoning, and Department of Finance shall develop an application form.
  - (2) The County, through the Economic Development Authority, Department of Planning and Zoning, and Department of Finance shall give initial approval of a certificate of eligibility:
    - (i) If it determines the property to be an eligible property; and
    - (ii) If it determines that the proposed work is eligible work;
  - (3) The owner of an eligible property shall apply to the Department of Finance for a credit based on verified expenses.
  - (4) Upon completion of the work:
    - (i) The owner shall submit documentation to the Department of Finance:
      - a. No later than April 1 prior to the first tax year for which the credit is being requested;
      - b. That shows the work was done in accordance with the initial approval of the certificate of eligibility; and
      - c. That shall include all verified expenses;
    - (ii) The County, through the Economic Development Authority, Department of Planning and Zoning, and Department of Finance, shall:
      - a. Review the application, the initial approval, and the documentation; and
      - b. Give final approval of the certificate of eligibility based on a consideration of consistency with:
        - i. The Route 1 Manual; and
        - ii. Any subarea plans;
      - c. Determine:
        - i. What work is eligible work; and

- ii. The dollar amount of qualified expenses for the work; and
  - (iii) The owner shall enter into an agreement in accordance with subsection (j) of this section.
- (5) The dollar amount of qualified expenses and the amount of the tax credit shall be entered on the certificate of eligibility.
- (g) *Year Granted.* The Department of Finance shall grant the tax credit for the tax year immediately following the year in which the certificate of eligibility receives final approval.
- (h) *Exceeding the Amount of Tax.* A property owner may receive a tax credit in more than one fiscal year:
  - (1) If the amount of the tax credit under this section exceeds the amount of the Howard County real property tax, any unused portion of the tax credit shall be carried forward for up to four tax years; or
  - (2) If required by the amount of the credit or limitations set forth in the annual Budget and Appropriation Ordinance, a property owner may receive parts of the credit in more than one fiscal year.
- (i) *Certificate Runs with Property.* A certificate of eligibility runs with the property and a change in ownership does not result in the lapse of a tax credit granted under this section.
- (j) *Agreement to Implement Credit.* The recipient of a tax credit under this section shall enter into a contract with the County that may include, without limitation, conditions regarding maintenance of the property.
- (k) *Annual Report:*
  - (1) Subject to section 22.1000 of the County Code, the Economic Development Authority, Department of Planning and Zoning, and Department of Finance shall report annually to the County Executive and the County Council concerning the implementation of the tax credit under this section.
  - (2) The report under this subsection shall:
    - (i) Be submitted no later than September first of each year;
    - (ii) Include, for each recipient of a credit under this section during the previous fiscal year:
      - a. The name of the recipient; and
      - b. The amount of the credit granted;
    - (iii) Include an evaluation of the program and any recommended changes; and
    - (iv) Be presented in a public meeting with the Council.
- (l) *Annual Limit.*
  - (1) During a fiscal year, the total of all tax credits budgeted for under this section shall not exceed \$500,000.00.
  - (2) A complete application that, if granted, would cause the limit set forth in paragraph (1) of this subsection to be exceeded, shall be granted in the next fiscal year or years and in the order received.

(C.B. 9, 2014, § 1; C.B. 43, 2018, § 1)

**Editor's note**— Bill No. 9-2014, § 6, adopted April 9, 2014, enacted a sunset clause that states the following: "Tax credits authorized by this Act shall remain effective for a period of 48 months [from the effective date of June 9, 2014] and, at the end of that period, with no further

action required by the County Council, this Act shall be abrogated and of no further force and effect."

Sec. 20.129E. - Property tax credit for seniors and retired military personnel.

- (a) *Definitions.* In this section, the following terms have the meanings indicated:
- (1) *Armed Forces of the United States* shall mean the Army, Navy, Air Force, Marines, and Coast Guard.
  - (2) *Dwelling* has the meaning set forth in section 9-105 of the Tax-Property Article of the Annotated Code of Maryland.
  - (3) *Eligible County tax* means the amount of County tax on the lesser of \$500,000.00 or the assessed value of the dwelling reduced by the amount of any assessment on which a property tax credit is granted under section 9-105 of the Tax-Property Article of the Annotated Code of Maryland.
- (b) *Credit Established and Eligibility.* In accordance with section 9-258 of the Tax-Property Article of the Annotated Code of Maryland, the owner of a dwelling may receive a property tax credit against the County property tax imposed on the property containing the dwelling if the property is owned by an individual:
- (1) Who is at least 65 years old and has lived in the same dwelling for at least the preceding 40 years;
  - (2) Who is at least 65 years old and is a retired member of the Armed Forces of the United States; or
  - (3) A surviving spouse, who has not remarried, of an individual described in paragraph (2) of this subsection.
- (c) *Amount of Credit.* An individual who meets the qualifications of subsection (b) of this section is eligible for a property tax credit equal to 20 percent of the eligible County tax.
- (d) *Duration of Credit.* The credit may be granted for a period of up to five years and as long as the property owner remains qualified under subsection (b) of this section.
- (e) *Prohibition.* A property owner who is granted a credit under this section may not be granted a credit under section 20-129 of this Code during the same fiscal year.
- (f) *Application.* To receive the tax credit, a property owner shall submit an application to the Department of Finance:
- (1) On the form that the Department of Finance requires;
  - (2) That demonstrates that the owner is entitled to the credit; and
  - (3) On or before the date that the Department of Finance sets.
- (g) *Administration.* The Department of Finance may adopt guidelines, regulations, or procedures to administer this section.
- (h) *Publicity.*
- (1) The Director of Finance shall develop and carry out a plan to publicize the credit authorized by this section. The plan shall be designed to reach those taxpayers most likely to be eligible for the credit.
  - (2) The Office on Aging and Independence, or another appropriate unit of County Government that the County Executive selects, shall develop and carry out a plan to educate senior citizens about the credit authorized by this section.



- (i) *Effective Date.* The tax credit authorized by subsection (b) of this section applies to tax years beginning after June 30, 2017.

(C.B. 75, 2016, § 1; C.B. 41, 2018, § 1)

Sec. 20.129F. - Property tax credit for real property owned by certain Public Safety Officers.

- (a) *Definitions.* In this section, the following terms have the meanings indicated:
  - (1) *Dwelling* has the meaning set forth in Section 9-105 of the Tax-Property Article of the Annotated Code of Maryland.
  - (2) *Public Safety Officer* has the meaning set forth in Section 9-260 of the Tax-Property Article of the Annotated Code of Maryland.
- (b) *Creation.* In accordance with Section 9-260 of the Tax-Property Article of the Annotated Code of Maryland, there is a Howard County Property Tax Credit against the tax on real property that qualifies under this section.
- (c) *Eligibility—Generally.* A Public Safety Officer is eligible for a tax credit under this section if the Public Safety Officer:
  - (1) Is employed full-time by:
    - (i) The Howard County Department of Fire and Rescue Services as a firefighter or emergency medical technician;
    - (ii) The Howard County Department of Police as a police officer;
    - (iii) The Howard County Department of Corrections as a correctional officer; or
    - (iv) The Howard County Sheriff's Office as a deputy sheriff;
  - (2) Does not receive a tax credit pursuant to section 20.129 or 20.129E of this Code for the same real property; and
  - (3) Has completed the employment probationary period.
- (d) *Eligibility—Volunteer Firefighter.* A Public Safety Officer who is a Howard County volunteer firefighter is eligible for a tax credit under this section if the Public Safety Officer:
  - (1) Is a member of a volunteer fire corporation listed in section 17.103(a) of this Code;
  - (2) Meets the operational standard for volunteer personnel as established by General Order of the Department of Fire and Rescue Services;
  - (3) Does not receive a tax credit pursuant to section 20.129 or 20.129E of this Code for the same real property;
  - (4) Has maintained an active service standard under section 17.103 of this Code for the preceding calendar year; and
  - (5) Has maintained an active service standard under section 17.103 of this Code as a volunteer firefighter for at least five years continuously.
- (e) *Amount of Credit:*
  - (1) Subject to the conditions in this section, the tax credit may be granted in an amount of up to \$2,500.00 per dwelling, but not to exceed the amount of the tax on the property.
  - (2) The public safety officer shall receive:
    - (i) For the taxable year beginning July 1, 2018 and ending June 30, 2019, 50 percent of the tax credit authorized by this section; and
    - (ii) For each taxable year thereafter, 100 percent of the tax credit authorized by this section.

- (f) *Termination of Credit* . The tax credit created by this section shall terminate and the Public Safety Officer will not be eligible if any of the following occurs:
  - (1) The Public Safety Officer is no longer employed full time by the Public Safety Agency, or no longer eligible under subsection (d) for volunteer firefighters and:
    - (i) If the Public Safety Officer was separated from employment "for cause" as set forth in section 1.115 of this Code, the former Public Safety Officer shall be liable for:
      - a. All of the property taxes that the officer would have been liable for in the taxable year of the separation of employment, as if the tax credit had not been granted under this section; and
      - b. All interest and penalties on those taxes computed in the manner set forth in section 20.203 of this title; or
    - (ii) If the Public Safety Officer separated from employment for reasons other than "for cause" as set forth in section 1.115 of this Code, the tax credit shall be applied only to the portion of the taxable year for which the officer was eligible for the tax credit and the former Public Safety Officer shall be liable for all remaining property taxes.
  - (2) The Public Safety Officer no longer resides in or owns the dwelling for which the credit was granted.
- (g) *Application and Annual Verification*. On or before the date that the Department sets, an individual seeking a credit under this section must submit to the Department of Finance:
  - (1) An application in the form that the Department requires; and
  - (2) During each subsequent year, the verification that the Department requires to show that the individual and the property remain qualified for the credit.
- (h) *Publicity*. The Department of Finance shall publicize the credit authorized by this section in a way designed to inform those most likely to benefit from the credit.
- (i) *Report* . Within 30 days after the end of tax year 2024, the County Executive shall submit to the County Council a report on the effectiveness of the tax credit as a live-where-you-work incentive. The report shall include annual data for each public safety agency or company on:
  - (1) The utilization of the tax credit; and
  - (2) The percentage of Public Safety Officers who live in the County.

(C.B. 7, 2018, § 1; C.B. 15, 2018)

Sec. 20.129G. - Property tax credit for real property owned by certain 9-1-1 Public Safety Telecommunicators.

- (a) *Definitions*. In this section, the following terms have the meanings indicated:
  - (1) *Dwelling* has the meaning set forth in section 9-105 of the Tax-Property Article of the Annotated Code of Maryland.
  - (2) *9-1-1 Public Safety Telecommunicator* has the meaning set forth in section 9-261 of the Tax-Property Article of the Annotated Code of Maryland.
- (b) *Creation*. In accordance with section 9-261 of the Tax-Property Article of the Annotated Code of Maryland, there is a Howard County property tax credit against the tax on real property that qualifies under this section.
- (c) *Eligibility—Generally*. A 9-1-1 Public Safety Telecommunicator is eligible for a tax credit under this section if the 9-1-1 Public Safety Telecommunicator:

- (1) Is employed full time by the Howard County Department of Police as an Emergency Communications Operator, Dispatcher, Dispatcher First Class, Senior Dispatcher, or Emergency Communications Supervisor; and
  - (2) Does not receive a tax credit pursuant to section 20.129 or 20.129E of this Code for the same real property; and
  - (3) Has completed the employment probationary period.
- (d) *Amount of Credit.*
- (1) Subject to the conditions in this section, the tax credit may not exceed \$2,500.00 or the amount of property tax imposed on the dwelling.
  - (2) The property owner shall receive:
    - (i) For the taxable year beginning July 1, 2018 and ending June 30, 2019, 50 percent of the tax credit authorized by this section; and
    - (ii) For each taxable year thereafter, 100 percent of the tax credit authorized by this section.
- (e) *Termination of credit.* The tax credit created by this section shall terminate and the 9-1-1 Public Safety Telecommunicator will not be eligible if any of the following occurs:
- (1) The 9-1-1 Public Safety Telecommunicator is no longer employed by the Howard County Police Department for a reason other than a service related disability, and:
    - (i) If the 9-1-1 Public Safety Telecommunicator was separated from employment "for cause" as set forth in section 1.115 of this Code, the former 9-1-1 Public Safety Telecommunicator shall be liable for:
      - a. All of the property taxes that the 9-1-1 Public Safety Telecommunicator would have been liable for in the taxable year of the separation of employment, as if the tax credit had not been granted under this section; and
      - b. All interest and penalties on those taxes computed in the manner set forth in section 20.203 of this title; or
    - (ii) If the 9-1-1 Public Safety Telecommunicator separated from employment for reasons other than "for cause" as set forth in section 1.115 of this Code, the tax credit shall be applied only to the portion of the taxable year for which the 9-1-1 Public Safety Telecommunicator was eligible for the tax credit and the former 9-1-1 Public Safety Telecommunicator shall be liable for all remaining property taxes.
  - (2) The 9-1-1 Public Safety Telecommunicator no longer resides in or owns the dwelling for which the credit was granted.
- (f) *Application and annual verification.* On or before the date that the Department sets, an individual seeking a credit under this section must submit to the Department of Finance:
- (1) An application in the form that the Department requires; and
  - (2) During each subsequent year, the verification that the Department requires to show that the individual and the property remain qualified for the credit.
- (g) *Publicity.* The Department of Finance shall publicize the credit authorized by this section in a way designed to inform those most likely to benefit from the credit.
- (h) *Report.* In conjunction with the report required by section 20.129F of this subtitle, within 30 days after the end of tax year 2024, subject to section 22.1000 of the County Code, the County Executive shall submit to the County Council a report on the effectiveness of the tax credit as a live-where-you-work incentive. The report shall include annual data for each 9-1-1 Public Safety Telecommunicator on:
- (1) The utilization of the tax credit; and

(2) The percentage of 9-1-1 Public Safety Telecommunicators who live in the County.

(C.B. 42, 2018, § 1)

#### PART IV. - REAL PROPERTY TAX EXEMPTIONS

Sec. 20.130. - Statewide mandatory tax exemptions.

Statewide mandatory property tax exemptions under title 7, subtitle 2 of the tax-property article of the Annotated Code of Maryland are in effect in Howard County without the necessity of action by the governing body of Howard County.

(C.B. 38, 1998)

**State Law reference**— Property tax exemptions, Ann. Code of Md., Tax-Property article, § 7-101 et seq.

#### PART V. - ENFORCEMENT

Sec. 20.140. - Tax sales.

In order to collect property taxes in arrears, the Director of Finance shall conduct a tax sale in accordance with the provisions of the tax-property article of the Annotated Code of Maryland. The tax sale shall be held no earlier than the third Wednesday of April, and no later than the last Wednesday of August of each year.

(C.B. 38, 1998; C.B. 22, 2000)

**State Law reference**— Tax sales, Ann. Code of Md., Tax-Property article, § 14-808.

Sec. 20.141. - Redemption of property sold at tax sale; interest rate.

In accordance with subsection 14-820(b) of the tax-property article of the Annotated Code of Maryland, the interest rate paid on the redemption of property sold at tax sale is 18 percent per year.

(C.B. 38, 1998)

**State Law reference**— Rate of redemption, Ann. Code of Md., Tax-Property article, § 14-820(b)(13).

#### PART VI. - PUBLIC SCHOOL FACILITIES SURCHARGE

Sec. 20.142. - [Surcharge enacted.]

(a) (1) In this section the following words have the meanings indicated:

(2) *Applicant* means the individual, partnership, corporation, or other legal entity whose signature appears on the building permit application.

(3) (i) *Building* means a structure with exterior walls which combine to form an occupiable structure.

- (ii) *Building* does not include a temporary structure, as defined in the Howard County Building Code.
- (4) (i) *New construction* means construction of a building which requires a Howard County building permit.
- (ii) *New construction* does not include, if the building replaces an existing building, replacement of a building due to casualty or loss within three years of that casualty or loss, or replacement of a mobile home on a site, except to the extent the gross square footage of the replacement building or replacement mobile home exceeds the gross square footage of the building or mobile home being replaced.
- (5) *Occupiable* means space that is:
  - (i) Designed for human occupancy in which individuals may live, work, or congregate for amusement; and
  - (ii) Equipped with means of egress, light, and ventilation.
- (6) (i) *Residential* means a building that contains one or more dwelling units and includes a boarding house.
- (ii) *Residential* includes all areas that are contained within a residential building, including an attached garage or area for home occupations.
- (iii) *Residential* does not include:
  1. Transient accommodations, including a hotel, country inn, or bed and breakfast inn;
  2. Nonresidential uses in a mixed-use structure; or
  3. Detached accessory buildings, including a detached garage or shed that does not contain living quarters.
- (b) The County Council by ordinance shall impose a school facilities surcharge on residential new construction for which a building permit is issued on or after July 1, 2004.
- (c) (1) (i) Subject to paragraph (2) of this subsection, for fiscal year 2020 and each succeeding fiscal year, a school facilities surcharge imposed on residential new construction shall be in an amount:
  1. Equal to or greater than the amount imposed by the County Council on June 30, 2019, per square foot of occupiable area in the residential new construction; and
  2. Equal to the amount imposed by the County Council on June 30, 2019, per square foot of occupiable area in the residential new construction that is classified as senior housing under 42 U.S.C. § 3607(b).
- (ii) The County Council may not impose a school facilities surcharge on residential new construction that is classified as senior housing and an affordable housing unit, as defined in § 28.116 of the County Code.
- (2) The County Council may enact a local law that provides for an annual adjustment in the amount of the school facilities surcharge under paragraph (1)(i) of this subsection in the following manner:
  - (i) Subject to paragraph (3) of this subsection, an increase or decrease in the amount of the school facilities surcharge under paragraph (1)(i)1 of this subsection;
  - (ii) A decrease in the amount of the school facilities surcharge under paragraph (1)(i)2 of this subsection; or
  - (iii) Establishment of a grandfathering process for residential new construction based on the status in the development process.

- (3) The County Council may not impose a school facilities surcharge on residential new construction under paragraph (1)(i)1 of this subsection in an amount that is less than the amount imposed by the County Council on June 30, 2019.
- (4) Before enacting a local law to adjust the amount of the school facilities surcharge under this subsection, the County Council shall consider the following issues when determining the amount:
  - (i) The capital costs for the construction of new public schools and additions to existing public schools;
  - (ii) The anticipated amount of the state contribution for school construction funding;
  - (iii) The average percentage of student enrollments that will be generated by the residential new construction;
  - (iv) The impact of school redistricting by the Howard County Board of Education;
  - (v) The potential for charging different amounts for differently sized residential new construction units;
  - (vi) The effect on affordable housing units; and
  - (vii) Sources of tax and fee revenue for the County, including the transfer tax.
- (d)
  - (1) The school facilities surcharge shall be paid by the applicant at the time a building permit is issued for the residential new construction.
  - (2) The school facilities surcharge may not be construed to be a settlement cost.
- (e)
  - (1) The County shall rebate to the applicant the school facilities surcharge imposed on residential new construction under this section if, on the initial sale of the property, the property is sold for a fair market value that is less than \$200,000.00.
  - (2) If, on completion, the residential new construction is not sold but the property is occupied by the applicant or the immediate family of the applicant, the County shall rebate to the applicant the school facilities surcharge imposed under this section if the initial assessment value assigned to the property by the State Department of Assessments and Taxation for purposes of the County real property tax equates to a market value that is less than \$200,000.00.
  - (3) For fiscal year 2006 and each succeeding fiscal year, the value of the property that is entitled to a rebate under this subsection shall be adjusted for inflation in accordance with the Consumer Price Index for All Urban Consumers published by the United States Department of Labor, for the fiscal year preceding the year for which the value is being calculated.
  - (4) Within 30 days after the start of each fiscal year, the Howard County Office of Finance shall calculate and publish in a newspaper of general circulation in the County the value of the property that is entitled to the rebate specified under this subsection.
- (f) Payment of the school facilities surcharge does not eliminate any authority to apply any test concerning the adequacy of school facilities under the County's adequate public school facility ordinance.
- (g) Revenue collected under the school facilities surcharge shall be deposited in a separate account and may only be used to pay for:
  - (1) Additional or expanded public school facilities such as renovations to existing school buildings or other systemic changes; or
  - (2) Debt service on bonds issued for additional or expanded public school facilities or new school construction.
- (h) Revenue collected under the school facilities surcharge is intended to supplement funding for public school facilities and may not supplant other County or State funding for school construction.

- (i) (1) The County Executive of Howard County shall prepare an annual report on the school facilities surcharge on or before August 31 of each year for the County Council of Howard County, the Howard County Senate Delegation, and the Howard County House Delegation, to include:
  - (i) Detailed information regarding the school facilities surcharge, and the amount and kind of residential development and the change in school population in the County over the previous five years;
  - (ii) A detailed description of how fees were expended;
  - (iii) The amount of fees collected; and
  - (iv) Recommendations regarding how the County should proceed in its calculation of the school facilities surcharge for the next five years.
- (k) In a year that the County Council enacts a local law to provide for an annual increase in the school facilities surcharge in accordance with subsection (c)(2) of this section, the County executive shall include in the report required under paragraph (1) of this subsection a description of the County Council's consideration of the issues under subsection (c)(4) of this section.

(2004, ch. 420; C.B. 43, 2018, § 1; 2019, ch. 744)

**Editor's note**— Section 20.142 derives from 2004 Laws of Maryland, ch. 420. The catchline of this section has been provided by the editor.

Sec. 20.143. - Surcharge imposed.

- (a) House bill 1445 of the Acts of the General Assembly of 2004, to be codified as section 20.142 of the Howard County Code, requires that the County Council impose a school facilities surcharge on residential new construction for which a building permit is issued on or after July 1, 2004, with the revenue from the surcharge to be used to pay for additional or expanded public school facilities such as renovations to existing school buildings or other systemic changes, debt service on bonds issued for additional or expanded public school facilities, or new school construction.
- (b) In accordance with House bill 1445, there is a public school facilities surcharge imposed on residential new construction for which a building permit is issued on or after July 1, 2004.
- (c) The amount and terms of the surcharge, and the use of the revenue collected under the surcharge, shall be as required by section 20.142 of the Howard County Code, as enacted by House bill 1445.

(C.B. 15, 2004)

SUBTITLE 2. - PERSONAL PROPERTY TAX

Sec. 20.200. - Personal property tax in general; mandatory exemptions.

- (a) *Personal Property Tax.* In accordance with section 6-101 of the tax-property article of the Annotated Code of Maryland, and except as otherwise provided in that article or in the Howard County Code, all tangible personal property located in Howard County is subject to assessment and property tax and is taxable to the owner of the property.
- (b) *Tax Exemptions Contained in State Law.* Statewide mandatory tax exemptions under title 7, subtitle 2 of the tax-property article of the Annotated Code of Maryland are in effect in Howard County without the necessity of action by the governing body of Howard County.

(C.B. 38, 1998)

Sec. 20.201. - Discount for prompt payment.

The Director of Finance shall apply a discount of 0.5 percent to annual personal property taxes paid on or before July 31 following the due date.

(C.B. 38, 1998)

**State Law reference**— Authority to provide discount for prompt payment, Ann. Code of Md., Tax-Property article, § 10-301.

Sec. 20.202. - Taxes in arrears.

*Annual Personal Property Taxes.* Annual personal property taxes are overdue and in arrears if unpaid as of October 1 following the due date, or if unpaid more than 30 days after mailing of the tax bill, whichever is later.

(C.B. 38, 1998)

**State Law reference**— Similar provisions, Ann. Code of Md., Tax-Property article, § 10-102(b).

Sec. 20.203. - Penalty and interest for taxes in arrears.

The Director of Finance shall impose a penalty of 0.83 percent per month or part of a month and interest of 0.67 percent per month or part of a month on personal property taxes billed on or after July 1, 1991, which are in arrears.

(C.B. 38, 1998)

**State Law reference**— Penalty charge on delinquent property taxes, Ann. Code of Md., Tax-Property article, § 14-702; interest on delinquent property taxes, Ann. Code of Md., Tax-Property article, § 14-603.

Sec. 20.204. - Special payment of estimated tax.

- (a) *Payment Authorized.* If on or before September 1 of a taxable year the Department of Assessments and Taxation has not notified the County of any particular personal property assessment, the Director of Finance may send a bill for the payment of estimated property tax under subsection (b) of this section.
- (b) *Calculation of Payment:*
  - (1) The estimated property tax may not exceed the amount calculated by applying the applicable current property tax rate to the most recent assessment of the personal property.
  - (2) Payment is due 30 days after the tax bill is received or reasonably should have been received or available and if unpaid is subject to interest and penalties as provided in section 20.202 of this subtitle.
- (c) *Underpayment.* If the property tax on personal property paid under this section is less than the tax finally determined, the Director of Finance shall send a bill to the taxpayer for the difference.



- (d) *Overpayment.* If the property tax on personal property paid under this section is more than the tax finally determined, the Director of Finance shall send a refund to the taxpayer for the difference plus interest at the rate of interest authorized to be charged in section 20.202 of this subtitle.

(C.B. 38, 1998)

**State Law reference**— Special payment of estimated tax, Ann. Code of Md., Tax-Property article, § 10-210.

Sec. 20.205. - Personal property tax; exemption for research and development property.

- (a) *Authority.* This act is authorized under section 7-237 of the tax-property article, Annotated Code of Maryland, which authorizes a County to grant a partial exemption, which exceeds the exemption granted under that section, from the County property tax imposed on certain research and development property.
- (b) *Definitions.* The following terms have the meanings indicated:
- (1) (i) *Research and development* means:
- a. Basic and applied research in the sciences and engineering; and
  - b. The design, development, and governmentally-required premarket testing of prototypes, products and processes.
- (ii) *Research and development* does not include:
- a. Market research;
  - b. Research in the social sciences or psychology or other nontechnical activities;
  - c. Routine product testing;
  - d. Sales services;
  - e. Technical and nontechnical services; or
  - f. Research and development of a public utility.
- (2) *Director* means the Director of the Howard County Department of Finance or the Director's designee.
- (c) *Partial Exemption from Property Tax:*
- (1) The exemption granted under this section shall take the place of the partial exemption granted under section 7-237 of the tax-property article of the Annotated Code of Maryland.
  - (2) All machinery, equipment, materials, and supplies that are consumed in or used primarily in research and development are subject to a partial exemption from the County's personal property tax.
- (d) *Amount of Exemption.* The partial exemption granted under this section is equal to the assessment of the property in excess of 25 percent of the original cost of the property.
- (e) *Applicability.* The exemption applies to eligible personal property acquired or transferred into the County after December 31, 1994.
- (f) *Administration.* Applications for the tax credit shall be filed with the State Department of Assessments and Taxation, under regulations adopted by that department.

(C.B. 38, 1998)

Sec. 20.206. - Abatement of taxes due by Howard County.

The Director of Finance may abate Howard County personal property taxes for which Howard County is liable because of a contractual obligation or otherwise.

(C.B. 38, 1998)

Sec. 20.207. - Personal property tax; exemption for personal property of business located in a historic district.

- (a) *Authority.* This act is authorized under section 7-521 of the Tax-Property Article, Annotated Code of Maryland, which authorizes a County to grant an exemption from the County personal property tax imposed on certain businesses located in local historic districts or a National Register District.
- (b) *Definitions.* The following terms have the meanings indicated:
  - (1) *Local historic district* means a district that the governing body of Howard County has designated under local law.
- (c) *Exemption from property tax:* All machinery, equipment, materials, and supplies that is owned or leased by a business entity is subject to an exemption from the County's personal property tax if the business entity is located in a local historic district or National Register District.
- (d) *Administration.* Applications for the exemption shall be filed with the State Department of Assessments and Taxation, under regulations adopted by that department.

(C.B. 70, 2017, § 1)

SUBTITLE 3. - TRANSFER TAX<sup>(5)</sup>

Footnotes:

--- (5) ---

**Editor's note**— Subtitle 3, §§ 20.300—20.305, is derived, as indicated in the legislative history lines which follow each section, from Public Local Laws passed by the Maryland General Assembly. The headings were added editorially for ease of reading and were not part of the legislation as passed. C.B. 38, 1998, passed by the Howard County Council, renumbered the contents of this subtitle as subtitle 3 rather than subtitle 4.

**State Law reference**— County transfer tax, Ann. Code of Md. Tax-Property article, § 13-401 et seq.

Sec. 20.300. - Imposition of tax.

- (a) Except as provided in subsection (b) of this section, a tax is hereby imposed upon every instrument of writing conveying title to real or leasehold property offered for a record and recorded in Howard County with the Clerk of the Circuit Court, for all or only that portion of such property described in such instrument which is actually located in Howard County, provided that conveyances to the State or to any agency or instrumentality thereof, or any political subdivision of the State, or any nonprofit hospital or religious or charitable organization, association or corporation, shall not be subject to the tax imposed by this section. The term "instrument of writing," as used in this section shall be deemed to include any deed, lease, assignment of leasehold property or any other device the purpose of which is to convey title to real property, but shall not include any mortgage, deed of trust, conditional

sales contract or any other device the purpose of which is to afford a security in real property rather than to convey title thereto.

- (b)(1) (i) In this subsection the following words have the meanings indicated.
- (ii) "Fire and rescue services member" means a Howard County fire and rescue services member.
  - (iii) "Law enforcement officer" means a Howard County police officer or Howard County deputy sheriff.
  - (iv) "Teacher" means a certificated professional teacher who is employed by the Howard County Board of Education.
- (2) Subject to the provisions of paragraphs (3) and (4) of this subsection, for a sale of residential real property in Howard County to a teacher, law enforcement officer, or fire and rescue services member:
- (i) The transfer tax imposed under subsection (a) of this section does not apply to the teacher's, law enforcement officer's, or fire and rescue services member's first purchase of residential real property in Howard County; and
  - (ii) The rate of the transfer tax imposed under subsection (a) of this section may not exceed 0.7 percent when applied to the teacher's, law enforcement officer's, or fire and rescue services member's second or subsequent purchase of residential real property in Howard County.
- (3) To qualify for an exemption or rate reduction under this subsection, at least one grantee, other than a co-maker or guarantor, must:
- (i) Occupy the residence as a principal place of residence; and
  - (ii) Be employed as a teacher, law enforcement officer, or fire and rescue services member for a minimum of three years following the purchase of the residential real property.
- (4) If a teacher, law enforcement officer, or fire and rescue services member who received a transfer tax exemption or rate reduction under this subsection subsequently fails to satisfy the requirements of paragraph (3) of this subsection, the teacher, law enforcement officer, or fire and rescue services member shall pay the balance of the transfer tax that would have been otherwise payable.

(1966, Ch. 609; 2017, Ch. 148; 2018, Ch. 138)

Sec. 20.301. - Rate of tax.

The tax imposed by this section shall be levied at the rate of one percent of the actual consideration paid or to be paid for the conveyance of title and shall be collected by the clerk of the circuit court prior to his accepting any such instrument for recordation.

(1965, Ch. 515; 1968, Ch. 256)

Sec. 20.302. - Application to certain leases.

This tax shall also be imposed upon every lease for a term of years above seven, not perpetually renewable, offered for record and recorded, and the tax rate of one percent shall be applied based upon the capitalization at ten percent of the average annual rental on the entire term of the lease, including any renewal term, plus the actual consideration, other than rent, paid or to be paid. Where the average annual rental cannot be determined, the tax shall be based upon a figure arrived at by multiplying the assessed value of the property covered by the lease by 166 percent.

(1968, Ch. 256)

Sec. 20.303. - Evidence of payment of tax.

Payment of the tax imposed by this subtitle shall be evidenced by the affixing to or stamping on the instrument of writing offered for recordation a legend stating that such tax has been paid and the amount of payment and containing the signature of the clerk or an authorized facsimile thereof. Any instrument so executed shall be prima facie evidence that the tax imposed by this subtitle has been paid.

(1965, Ch. 515; 1968, Ch. 256)

Sec. 20.304. - Duties of Clerk of Court.

The Clerk of the Circuit Court shall pay over to the Director of Finance from time to time, under such procedures as the Director of Finance may specify, the proceeds of this tax. The Director of Finance shall hold such proceeds in the following manner: 25 percent in a special fund known as "The School Site Acquisition and Construction Fund," and disbursements from this fund shall be made only for the purposes set forth in section 9.102 of the Howard County Code; 25 percent in a special fund known as "The Park Land Watershed Facilities Fund," and disbursements from this fund shall be made only for the purposes set forth in section 19.100 of the Howard County Code; and the remainder in the general fund of the County, with the stipulation that the County Council shall budget this remainder as follows: 50 percent plus the interest thereon for the Howard County Agricultural Land Preservation Fund; 25 percent for community improvement and housing programs primarily serving low income individuals and families and the homeless and for urban renewal; and 25 percent for the acquisition or leasing of land for new fire house sites and training facilities and the construction and maintenance of fire house and training facilities, the acquisition and maintenance of fire equipment, and supplementation of financial needs of fire companies.

(1965, Ch. 515; 1968, Ch. 256; 1978, Ch. 496; 1984, Ch. 367; 1988, Ch. 630)

Sec. 20.305. - Penalty.

Any person who:

- (a) Willfully offers for recordation or records any instrument of writing subject to the tax imposed by this subtitle knowing that such tax has not been paid; or
- (b) Willfully misrepresents the amount of the actual consideration paid or to be paid in connection with any instrument of writing which is subject to the tax imposed by this subtitle; or
- (c) Forges or counterfeits any official legend or the signature of the clerk, or any authorized facsimile thereof, to any instrument of writing which is subject to the provisions of this subtitle;

shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500.00 or imprisoned for not more than six months, or both in the discretion of the court, for each such offense.

(1965, Ch. 515; 1968, Ch. 256)

SUBTITLE 4. - ROOM RENTAL TAX

Sec. 20.400. - State enabling law.

- (a) Howard County may impose, by law, and collect a sales or use tax on room rentals in the county for sleeping accommodations for transients.

- (b) (1) The rate of the tax authorized under this section may not exceed seven percent.
- (2) Subject to the annual County budget and appropriation process, the County shall distribute any revenue attributable to a tax rate greater than five percent imposed by the County under this subsection as follows:
  - (i) Two-thirds to the Howard County Tourism Council; and
  - (ii) One-third to the Howard County Economic Development Authority.
- (c) Howard County may adopt, by law, any procedural or enforcement provision that the County Council considers to be necessary or appropriate for administration or collection of the tax authorized under this section, including, without limitation:
  - (1) Requiring hotels in the County to:
    - (i) Collect the tax from patrons;
    - (ii) Hold the tax in trust for the County;
    - (iii) Pay the tax collected and file periodic returns with the County; and
    - (iv) File a bond or other security for payment of the tax in an amount that the County Council considers to be necessary;
  - (2) Providing a tax exemption for classes of hotels;
  - (3) Imposing interest and penalties for late payment of the tax;
  - (4) Making unpaid tax a lien against the real and personal property of the person owing the tax; and
  - (5) Providing for collection of the tax by distraint.
- (d) The room rental tax authorized under this section does not apply to the sale of a right to occupy a room or lodgings as a transient guest at a dormitory or other lodging facility that:
  - (1) Is operated solely in support of the headquarters, a training facility, a conference facility, an awards facility, or the campus of a corporation or other organization;
  - (2) Provides lodging solely for employees, contractors, vendors, and other invitees of the corporation that owns the dormitory or lodging facility; and
  - (3) Does not offer lodging services to the general public.
- (e) (1) (i) In this subsection the following words have the meanings indicated.
  - (ii) 1. *Room rental fee* means a fee charged by a room rental intermediary to a transient for facilitating the rental of a room.
  - 2. *Room rental fee* does not include a commission paid by a hotelkeeper to a person after facilitating the rental of a room.
  - (iii) 1. *Room rental intermediary* means a person, other than a hotelkeeper, who facilitates the rental of a room and charges a transient for the rental of a room.
  - 2. For purposes of this subparagraph, a person shall be considered to facilitate the rental of a room if the person brokers, coordinates, or in any other way arranges for the rental of a room by a transient.
- (2) The room rental tax authorized under this section applies to the total charge for the room rental of a room, including any room rental fee but not including any tax.

(C.B. 38, 1998; 2011, ch. 139, § 1; 2013, ch. 510 § 1; 2016, ch. 1 § 1)

**Editor's note**— Code section 20.400 was enacted by Chapter 286 of the 1992 General Assembly Session and later amended by Chapter 227 of the 1994 General Assembly Session. Subsequently, subsection (b) of this section was amended by Chapter 139 of the 2011 General Assembly.

Sec. 20.401. - Establishment of room rental tax; rate of tax set by County Council.

There is a tax in Howard County on hotel room rental charges to visitors. The rate of the room rental tax shall be seven percent of the room rental charge.

(C.B. 38, 1998; C.B. 20, 2011, § 1)

Sec. 20.402. - Definitions.

Words and phrases used in this subtitle shall have their usual meaning, unless specifically defined in this section.

- (a) *Director of Finance* or *Director* means the Director of Finance of Howard County.
- (b) *Exemption certificate* means an annual certificate issued by the Director of Finance to an organization regularly providing emergency housing to citizens of Howard County.
- (c) *Hotel* means an establishment which offers sleeping accommodations to the public for compensation and has five or more rooms for rent. *Hotel* does not include a hospital, medical clinic, convalescent home, or home for the aged.
- (d) *Hotelkeeper* means the owner of the hotel or the owner's designee.
- (e) *Person* means an individual, corporation, company, association, firm, partnership, or any group of individuals acting as a unit.
- (f) *Room rental charge* means the hotel's charge for sleeping accommodations.
- (g) *Visitor* means a person, other than the holder of an exemption certificate, who rents sleeping accommodations at a hotel for 30 or fewer consecutive days.

(C.B. 38, 1998)

**Editor's note**— Code section 20.402 was originally enacted by Council Bill 53-1992 and later amended by Council Bills 67-1992 and 73-1995.

Sec. 20.403. - Requirement to pay room rental tax.

A visitor shall pay the room rental tax at the same time the room rental charge is paid.

(C.B. 38, 1998)

**Editor's note**— Code section 20.403 was originally enacted by Council Bill 53-1992 and later amended by Council Bill 73-1995.

Sec. 20.404. - Tax collection by hotel; hotel required to post security.

- (a) *When Collected.* A hotelkeeper shall collect the room rental tax from a visitor when the visitor pays the room rental charge.

- (b) *Itemization of Bill.* A hotel's bill shall identify the room rental charge and the room rental tax as separate items from any other charge on the bill.
- (c) *Tax Held in Trust.* A hotelkeeper shall hold the room rental taxes he or she has collected in trust for the County until the hotelkeeper remits the collected taxes to the County.
- (d) *Security Required.* The Director of Finance may require a hotelkeeper to file a bond or other security acceptable to the Director of Finance to guarantee remittance of the taxes, plus penalties and interest.

(C.B. 38, 1998)

**Editor's note**— Code section 20.404 was originally enacted by Council Bill 53-1992.

Sec. 20.405. - Remittance of room rental taxes to County.

- (a) *Routine Remittance.* On or before the last day of each month, the hotelkeeper shall pay the Director of Finance the room rental taxes collected during the prior month.
- (b) *Remittance upon Closing or Transfer of Hotel.* Within five calendar days after the closing or transfer of ownership of a hotel, the hotelkeeper shall pay the Director of Finance the room rental taxes collected up to the date of closing or transfer.
- (c) If a hotelkeeper fails to charge and collect the taxes required by this subtitle, the hotelkeeper shall pay the Director of Finance the amount that should have been charged and collected.

(C.B. 38, 1998; C.B. 9, 2005)

**Editor's note**— Code section 20.405 was originally enacted by Council Bill 53-1992.

Sec. 20.406. - Recordkeeping.

- (a) *Required Information.* The Director of Finance shall provide each hotel with a list of information the Director requires in order to determine whether the room rental tax has been correctly collected and timely remitted to the Director.
- (b) *Information Provided with Remittance of Taxes.* Each month, when the hotelkeeper pays the room rental taxes to the Director of Finance, the hotelkeeper shall also send the information required by the Director, pursuant to the Director's list and in a format acceptable to the Director.
- (c) *Duty to Maintain Records.* For a period of two years the hotelkeeper shall keep the records which the hotelkeeper used to compile the information required by the Director's list.
- (d) *Authority to Inspect Records.* The Director of Finance shall have the right, during regular business hours, to inspect the records which the hotelkeeper used to compile the information required by the Director's list.

(C.B. 38, 1998)

**Editor's note**— Code section 20.406 was originally enacted by Council Bill 53-1992.

Sec. 20.407. - Enforcement.

- (a) *Failure to Collect the Tax.* In addition to the provisions set forth in subsection (d) of this section, failure to collect the room rental tax shall be enforced with civil penalties pursuant to title 24, "Civil

Penalties," of the Howard County Code. A violation shall be a Class A offense. Each day that the violation continues shall be a separate offense.

- (b) *Failure to Provide Required Information and/or Maintain Records.* Failure to provide required information or to maintain records sufficient to support the room rental charges and the amount of taxes collected and make them available for inspection shall be enforced with civil penalties pursuant to title 24, "Civil Penalties," of the Howard County Code. A violation shall be a Class B offense. Each day that the violation continues shall be a separate offense.
- (c) *Late Remittance of Collected Taxes.* The hotelkeeper shall pay the following penalty and interest on taxes unpaid to the Director of Finance after the dates set out in section 20.405 of this subtitle:
  - (1) Interest at the rate of one percent per month for each month or portion of a month that the remittance is late; and
  - (2) A penalty of ten percent of the amount of tax due on taxes still unpaid one month after the due date.
- (d) *Failure to Remit Taxes.* If the required room rental taxes have not been paid to the Director of Finance within three months after the dates set out in section 20.405 of this subtitle, the Director shall collect the taxes, plus penalty and interest under subsection (c) of this section by:
  - (1) Proceeding against the bond or other posted security to pay the required amount; and
  - (2) Placing a lien against the real and personal property of the owner of the hotel, if the bond or other posted security is insufficient to pay the whole amount owed; or
  - (3) By distraint.

(C.B. 38, 1998)

**Editor's note**— Code section 20.407 was originally enacted by Council Bill 53-1992.

#### SUBTITLE 5. - BUILDING EXCISE TAX

##### Sec. 20.500. - Authority.

- (a)
  - (1) Subject to paragraph (3) of this subsection, the County may impose, by ordinance, a building excise tax for financing additional or expanded public road facilities that are included in the County's capital budget. Public road facilities include bridges, intersection improvements, and new road construction and road improvements.
  - (2) The County ordinance shall specify the type of construction subject to the building excise tax.
  - (3) The County may impose a building excise tax only after the County adopts an adequate facilities plan.
- (b)
  - (1) The County Director of Finance shall deposit building excise taxes in an account known as the "development road improvement fund."
  - (2) Money in the development road improvement fund may be used only to pay for capital projects or indebtedness incurred for capital projects for additional or expanded public road facilities.
- (c)
  - (1) Subject to paragraph (2) of this subsection, the County Council may increase the building excise tax.
  - (2) The percentage of the increase in the building excise tax since the month and year when the building excise tax is first enacted may not exceed the percentage of the increase in the ENR construction cost index for the Baltimore Region, based on 1913 U.S. average equals 100, as reported in ENR, Engineering News Record, since the base month and year when the building excise tax is first enacted.



(C.B. 38, 1998)

Sec. 20.501. - Establishment of tax.

In accordance with Chapter 285, Acts of the Maryland General Assembly of 1992, there is a building excise tax on all new construction and addition construction in Howard County, which tax will finance capital projects for additional or expanded public road facilities in Howard County. Where this tax will be used to finance capital projects, which include funding for State highway projects, it shall serve only as a supplement to enhance the State-funded level of highway construction in the County and not as a replacement of current State obligations.

(C.B. 38, 1998)

Sec. 20.502. - Definitions.

Words and phrases used in this subtitle shall have their usual meaning, unless otherwise defined in this section.

- (a) *Addition construction* means construction of an addition to a building where the work requires a Howard County building permit and where the addition either:
  - (1) Increases the number of gross square feet of occupiable nonresidential structure on the property; or
  - (2) Increases the number of gross square feet of occupiable residential structure on the property by more than 100 square feet.
- (b) *Applicant* means the individual, partnership, corporation or other legal entity whose signature appears on the building permit application.
- (c) *Building* means a structure with exterior walls which combine to form an occupiable structure. *Building* does not include a temporary structure, as defined in the building code.
- (d) *Capital projects for additional or expanded road facilities* means all capital projects for roads, bridges and intersection improvements in the Howard County capital budget.
- (e) *Construction costs* means the costs of construction, based on 1913 U.S. Average Equals 100, reported in "ENR, Engineering News Record" Construction Cost Index for the Baltimore Region.
- (f) *Distribution and manufacturing* refers to the use of a building for warehousing, distribution, packaging, processing, manufacturing, storage of construction equipment or supplies, and similar uses.
- (g) *Institutional and other*:
  - (1) Religious activities.
  - (2) Nonprofit clubs, lodges or community halls.
  - (3) Day care centers, nursery schools and private academic schools.
  - (4) Hospitals, nursing homes and group care facilities.
  - (5) Recreational facilities or retreat centers operated by nonprofit organizations.
  - (6) Funeral homes and mausoleums.
  - (7) Public utility substations and similar uses.
  - (8) Other noncommercial uses similar to those listed in this definition or which do not meet the definitions for residential, office and retail, or distribution and manufacturing uses.

- (h) *New construction* means construction of a building which requires a Howard County building permit. Where the building replaces an existing building, *new construction* does not include replacement of a building due to casualty or loss within three years of that casualty or loss, or replacement of a mobile home on a site, except to the extent that the gross square footage of the replacement building or replacement mobile home exceeds the gross square footage of the building or mobile home being replaced.
- (i) *Occupiable* means designed for human occupancy in which individuals may live, work, or congregate for amusement, educational or similar purposes and which is equipped with means of egress, light and ventilation facilities.
- (j) *Office and retail* refers to the use of a building, other than as an accessory use to a residence, for:
  - (1) Business or professional offices.
  - (2) The sale or rental of merchandise, materials or services, including stores, personal service establishments, service agencies, commercial recreation facilities, hotels and conference centers, restaurants, theaters, banks and other financial institutions, trade schools and similar commercially operated schools, motor vehicle or appliance repair facilities and similar uses.
  - (3) Research laboratories.
- (k) *Residential* refers to a building which contains one or more dwelling units, including boarding houses but not including transient accommodations such as hotels, country inns or bed and breakfast inns. *Residential* includes all areas that are contained within a residential building such as attached garages or home occupations, but does not include nonresidential uses in mixed use structures. *Residential* does not include detached accessory buildings such as detached garages or sheds which do not contain any living quarters.

(C.B. 38, 1998)

Sec. 20.503. - Schedule of rates for tax.

- (a) *Adopted by County Council.* The County Council shall adopt by resolution a schedule of rates for the building excise tax in dollars per gross square foot of new construction. The schedule shall specify rates per gross square foot of:
  - (1) Residential addition construction;
  - (2) Residential new construction;
  - (3) Office and retail addition construction and new construction;
  - (4) Distribution and manufacturing addition construction and new construction; and
  - (5) Institutional and other addition construction and new construction.
- (b) *Adjustment to Rates.* The schedule of rates for the building excise tax may be adjusted annually by the County Council. However, the percentage of increase in the tax since the month and year when it was first adopted may not exceed the percentage of the increase in construction costs since the base month and year when the tax was first adopted.

(C.B. 38, 1998; C.B. 20, 2010, § 1)

Sec. 20.504. - Amount of tax.

- (a) *Calculation of Amount.* The amount of building excise tax to be paid by an applicant shall be determined by the Director of Inspections, Licenses and Permits from the building excise tax schedule.

- (b) *Phase-in of Building Excise Tax.* The building excise tax shall be phased in. In calendar 1992 applicants shall pay 50 percent of the amount otherwise due. In calendar 1993 applicants shall pay 75 percent of the amount otherwise due. In calendar 1994 and later years applicants shall pay 100 percent of the amount due.
- (c) *Appeal of Amount.* An applicant aggrieved by a decision of the Director of Inspections, Licenses and Permits regarding the calculation of the amount of building excise tax may appeal the decision to the Board of Appeals within 30 days of the Director's decision, provided that either:
  - (1) Processing of the building permit is delayed pending the decision of the Board of Appeals; or
  - (2) The Applicant pays the building excise tax prior to filing the appeal.

(C.B. 38, 1998)

Sec. 20.505. - Payment of tax.

- (a) *Building Excise Tax Paid When Paying for Building Permit.* An Applicant for a building permit for addition construction or new construction shall pay the building excise tax to the Director of Finance of Howard County at the same time the Applicant pays for the building permit.
- (b) *Refunds:*
  - (1) The Director of Finance shall refund to the Applicant the building excise tax paid if the building permit is canceled or expires.
  - (2) If, upon appeal by an applicant who has paid the building excise tax, the Board of Appeals determines that the Director of Inspections, Licenses and Permits has erred in calculating the building excise tax, the Director of Finance shall refund to the Applicant the difference between the amount of building excise tax paid by the Applicant and the correct amount.

(C.B. 38, 1998)

Sec. 20.506. - Development road improvement fund.

- (a) *Establishment of Fund.* The Director of Finance shall establish an account to be known as the development road improvement fund. All receipts from building excise taxes shall be deposited in the development road improvement fund. Interest earned by money in the development road improvement fund shall remain in the development road improvement fund.
- (b) *Use of Development Road Improvement Fund.* Funds from the development road improvement fund shall be expended only for capital projects or indebtedness incurred for capital projects for additional or expanded public road facilities. These funds may be appropriated for capital projects which fund State highway projects only if the capital improvement master plan for transportation indicates that the State's delay in the funding of a proposed State highway project will have a significant adverse impact on the local road network in Howard County. The funds may not be substituted for current State appropriations identified in the Maryland Consolidated Transportation Program or for the cost of any portion of a project for which funds have not been appropriated and which meets the criteria for eligibility for Federal aid within the completion schedule of the project.

(C.B. 38, 1998)

Sec. 20.507. - Annual reports.

Subject to section 22.1000 of the County Code, the Director of Finance shall prepare and submit an annual report on or before July 31 of each year to the County Executive and the County Council which shall include the following information:

- (a) Total amount of building excise taxes collected.
- (b) Amount of funds appropriated from the development road improvement fund.
- (c) Amount of funds expended from the development road improvement fund.
- (d) Amount of funds from County sources appropriated for capital projects for roads, bridges and intersection improvements in the Howard County capital budget.
- (e) Funds remaining in the development road improvement fund.

(C.B. 38, 1998; C.B. 43, 2018, § 1)

#### SUBTITLE 6. - UTILITY CHARGES AND ASSESSMENTS

##### Sec. 20.600. - Definitions.

For the purposes of this subtitle, the following words and phrases have the meanings indicated:

- (a) *Biochemical oxygen demand (BOD)* means for sewage, the quantity of oxygen used in the biochemical oxidation of organic matter during incubation at 20 degrees Celsius for five days. This is expressed in milligrams of oxygen per liter of sewage. The procedures used in the measurement of BOD are those set forth in "Standard Methods for the Examination of Water and Wastewater."
- (b) *Director of Finance* means the Director of the Department of Finance or the Director's designee.
- (c) *Director of Public Works* means the Director of the Department of Public Works or the Director's designee.
- (d) *Industrial sewage* means wastes excluding sanitary sewage resulting from any process or operation of industry, manufacturing, trade, or business discharged to the public sewer system.
- (e) *Loading* means the amount of a sewage parameter contained in the sewage influent to a sewage treatment plant.
- (f) *Metering facilities* means all structures, equipment, and devices necessary to monitor the:
  - (1) Volume, flow variations, and pollutant concentrations of sewage discharged to the public sewer system, including access points for sewage sampling; and
  - (2) The volume and flow variations of water distributed through the public water system.
- (g) *Methods for chemical analysis of water and wastes* means the laboratory procedures set forth in the latest edition of the "Standard Methods for the Examination of Water and wastewater."
- (h) *Metropolitan district* means the water and sewer service district of Howard County as described in section 18.101 of subtitle 1, "public utilities," of title 18, "public works," of this Code.
- (i) *Nonresidential public sewer system user* means except for a single-family residence, multifamily residence, or apartment building, or a waste hauler, any owner of a property or structure that discharges sewage to the public sewer system.
- (j) *Operation and maintenance costs* means all costs of operation and maintenance of the public water, reclaimed water, or sewer system as defined by the United States Environmental Protection Agency or the Department of Public Works. Included are costs for obtaining and installing equipment necessary to maintain design capacity and performance of the water, reclaimed water, or sewer system. Also included are costs for administering the provisions of this subtitle and the costs for operating and administering a program to regulate sewer system discharges pursuant to section 18.122A, "regulation of discharges to the public sewerage system" of this Code.
- (k) *Owner* means any individual, business, partnership, joint stock company, firm, company, corporation, society, group, association, trust or other legal entity that owns property or an

improvement in Howard County, or that owns a vehicle used to haul sewage for disposal to the public sewerage system in Howard County.

- (l) *Public sewerage system* means the system of sewers, pumping stations, treatment plants, and other appurtenant structures owned and operated by Howard County, Baltimore County, Baltimore City, or other political subdivisions for the purpose of collecting and treating sewage, sometimes referred to as *the sewer system*.
- (m) *Public water system* means the system of waterlines, storage tanks, pumping stations, and other appurtenant structures owned and operated by Howard County for the purpose of distributing water. Sometimes referred to as *the water system*.
- (n) *Reclaimed water* means treated wastewater treatment plant effluent that is recycled for nonpotable uses.
- (o) *Reclaimed water system* means the system of waterlines, storage tanks, pumping stations, and other appurtenant structures owned and operated by Howard County for the purpose of distributing reclaimed water.
- (p) *Sanitary sewage* means wastes discharged from the sanitary conveniences of dwellings, business establishments, and institutions to the public sewer system.
- (q) *Sewage* means any combination of sanitary and industrial sewage discharged to the public sewer system, including sludge, septage, and other wastes discharged to the public sewer system by waste haulers. Sometimes referred to as *waste water*.
- (r) *Sewage parameter* means a constituent or property of sewage including but not limited to BOD, TSS, TP, flow rate, and flow volume.
- (s) *Sewage treatment plant* means any combination of structures and devices for treating sewage discharged to the public sewer system owned and operated by Howard County, Baltimore County, Baltimore City, or other political subdivisions. Sometimes referred to as *treatment plant*.
- (t) *Sewer system user* means the owner of a property or improvement that discharges sewage to the public sewer system.
- (u) *Total phosphorus (TP)* means the concentration of phosphorus expressed in mg/l contained in sewage and that can be quantified in accordance with procedures given in "Methods for Chemical Analysis of Water and Wastes."
- (v) *Total suspended solids (TSS)* means the dry weight expressed in mg/l of solids that either float on the surface or are in suspension and can be quantified from sewage in accordance with procedures given in "Methods for Chemical Analysis of Water and Wastes."
- (w) *Waste hauler* means the owner of a vehicle used to haul sewage for disposal to the public sewerage system in Howard County.
- (x) *Water system user* means the owner of a property or improvement which takes water from the public water system.

(C.B. 38, 1998; C.B. 1, 2006, § 1; C.B. 27, 2007, §§ 1, 2)

Sec. 20.601. - Utility charges and assessments; purpose.

- (1) *Water, Reclaimed Water, and Sewer Service Charges; Sewer Use Surcharge*. The water service charge, reclaimed water service charge, sewer service charge, and sewer use surcharge as authorized by this subtitle are the sources of revenue designated to cover the cost to Howard County of operation and maintenance of the public water system, reclaimed water system, and the public sewer system.
- (2) *Annual Front-Foot Benefit Assessment Charge*. The annual front-foot benefit assessment charge as authorized by this subtitle shall be a source of revenue designated to cover the cost to Howard

County of paying the interest and principal on bonds issued by the County or by the former Metropolitan Commission to provide for the construction, purchase or establishment of the public water supply and public sewerage system within the Metropolitan District of Howard County.

- (3) *In-Aid-of-Construction Charge.* The in-aid-of-construction charge as authorized by this subtitle shall be a source of revenue designated to cover the partial cost to Howard County of construction or purchase of facilities in the public water and sewer system which serve or will serve all properties connected to the system, including but not limited to sewerage treatment plants, disposal fields, lagoons, pumping stations, force mains, and interceptor sewers, water storage facilities, water treatment facilities, water pumping stations and transmission mains whether or not such facilities are located within Howard County.
- (4) *Third Addition to Little Patuxent Water Quality Management Center Supplemental In-Aid-of-Construction Charge.* Repealed by C.B. 53, 1984.
- (5) *Middle Patuxent Drainage Area Supplemental in-Aid-of-Construction Charge.* The Middle Patuxent Drainage Area supplemental in-aid-of-construction charge as authorized by this subtitle was the source of revenue designated to cover a portion of 87.5 percent of the construction costs, bond retirement costs, interest charges, and all other expenses (exclusive of land acquisition and right-of-way expenses) of the Middle Patuxent Interceptor projects. As of July 1, 2006, the Middle Patuxent Drainage Area supplemental in-aid-of-construction charge was discontinued.
- (6) *Ad Valorem Charge.* The ad valorem charge as authorized by this subtitle shall be a source of revenue designated to cover the cost to Howard County of retiring bonds issued by the County and of paying the interest thereon, the payment of salaries and other expenses of the Department of Public Works related to water and sewerage systems, and/or as a funding source for water and sewer capital projects.
- (7) *Middle Patuxent Drainage Area Supplemental Ad Valorem Charge.* The Middle Patuxent Drainage Area supplemental ad valorem charge as authorized by this subtitle was the source of revenue designated to cover the cost to Howard County of that portion of 87.5 percent of construction, bond retirement, interest and all other costs (not including land acquisition and right-of-way expenses) of the Middle Patuxent Interceptors not covered by the Middle Patuxent Drainage Area supplemental in-aid-of-construction charge or other available and authorized revenue sources. As of July 1, 2006, the Middle Patuxent Drainage Area supplemental ad valorem charge was discontinued.

(C.B. 38, 1998; C.B. 41, 2006, § 2; C.B. 27, 2007, § 2; C.B. 69, 2016, § 1)

Sec. 20.602. - Requirement to pay utility charges and assessments; liens.

- (1) *Liability for Utility Charges Generally.* All owners of real estate, including Howard County, the State of Maryland, the U.S. Government and other municipalities and political subdivisions who have connected or who shall hereafter connect to the water, reclaimed water, or sewer facilities of such real estate to the facilities of the County, or where such real estate is benefited by the water, reclaimed water, or sewer system of the County, shall pay the applicable charges, surcharges, levies and assessments as provided in this subtitle. All waste haulers who discharge sewage to the public sewer system shall pay the applicable charges and surcharges as provided in this subtitle.
- (2) *Property Owner Responsible.* Waste haulers and owners of property have the responsibility for the payment of all charges, levies and assessments. The County does not recognize a third-party liability for water, reclaimed water, and sewer charges.
- (3) *Limited Liability for Water Service Charges, Reclaimed Water Service Charges, Sewer Service Charges, and Sewer Use Surcharges.* In the event the County underbills the property owner or waste hauler for water, reclaimed water, and sewer service charges and surcharges as defined, in sections 20.605 and 20.606 of this subtitle, the property owner or waste hauler shall be liable for the additional amount represented by those charges and surcharges. The County shall rebill the property owner or waste hauler within one year of discovering the error. If the County does not re-bill the

owner or waste hauler within one year of discovering the error, the property owner or waste hauler is not liable for the additional amount.

- (4) *Liens.* All charges, levies and assessments provided in this subtitle shall be a lien or charge against the real estate served or benefited and shall be levied, collected and enforced and shall have the same priority, and right, bear the same interest and penalties, and in every respect be treated as County real estate taxes.
- (5) *Surety by Waste Hauler.* Prior to discharging sewage to the public sewerage system, each waste hauler shall provide the Director of Public Works with surety in the form of a cash deposit, a bond, a letter of credit, a pledge of real property situated in Howard County, or other surety acceptable to the Director. The amount of the surety shall be determined by the Director and shall equal the estimated average quarterly service charges and sewer use surcharges payable by a waste hauler who regularly discharges sewage to the public sewerage system. The surety shall be used to recover unpaid charges and penalties in accordance with section 20.615 of this subtitle.

(C.B. 38, 1998; C.B. 17, 2003, § 4; C.B. 27, 2007, § 2)

Sec. 20.603. - Regulations.

The Director of Public Works is authorized to adopt rules and regulations necessary or proper for the administration and enforcement of this subtitle.

(C.B. 38, 1998)

Sec. 20.604. - Appeals.

Any property owner in the metropolitan district or waste hauler aggrieved by any determination, decision or order relating to water, reclaimed water, or sewer charges or assessments made by the Director of Public Works or the Director of Finance (except where other appeal procedures are authorized in this subtitle) may appeal such determination, decision or order to the Board of Appeals within 30 days after such determination, decision or order is made. After notice and hearing, the Board of Appeals shall review the case consistent with its duly adopted rules of procedures. The Board of Appeals may not waive, set aside or change any specific provision(s) of this subtitle.

(C.B. 38, 1998; C.B. 27, 2007, § 2)

Sec. 20.605. - Utility service charges.

(1) *Establishment of Utility Service Charges:*

- (a) *Water service charge established.* There is a water service charge for the volume of metered water taken from the public water system by a water system user. The water service charge is composed of an account user charge and seasonal volumetric charges.
- (b) *Reclaimed water service charge established.* There is a reclaimed water service charge for the volume of metered reclaimed water taken from the reclaimed water system by a reclaimed water system user.
- (c) *Sewer service charge established.* There is a sewer service charge for the volume of sewage discharged to the public sewer system by a sewer system user. The sewer service charge is composed of an account user charge and volumetric charges. See section 20.607 for measurement of sewer system usage.

(2) *Basis of Recommendations for Utility Service Charge Rates:*

- (a) *Water service charge rate.* The water service charge recommended by the County Executive at the time of submission of the annual budget to the County Council shall be calculated to result in revenue equal to the total projected operation and maintenance costs of the public water system for the upcoming fiscal year, plus or minus any water service charge revenue surplus or deficit which the Director of Public Works projects for the current fiscal year.
  - (b) *Reclaimed Water Service Charge Rate.* The reclaimed water service charge shall be calculated to result in revenue equal to the total projected operation and maintenance costs of the reclaimed water system for the upcoming fiscal year, plus or minus any reclaimed water service charge revenue surplus or deficit which the Director of Public Works projects for the current fiscal year. The rate may account for credits that the County receives from the State for nitrogen discharge.
  - (c) *Sewer service charge rate.* The sewer service charge recommended by the County Executive at the time of submission of the annual budget to the County Council shall be calculated to result in revenue equal to the total projected operation and maintenance costs of the public sewer system for the upcoming fiscal year, plus or minus any sewer service charge revenue surplus or deficit which the Director of Public Works projects for the current fiscal year.
- (3) *Adoption of Rate Schedule Annually:*
- (a) *Council adoption of rate schedule.* At the time of adoption of the annual budget and appropriation ordinance, the County Council shall adopt by resolution a service charge rate schedule and a special charge schedule for the upcoming fiscal year. With the exception of the sewer use surcharge rates, the rates adopted in the schedules shall be uniform throughout the metropolitan district. The service charge rates shall be equal to or greater than the base charge rates consistent with the approval of the operation and maintenance budget by the County Council.
  - (b) *Duration of rate schedule.* The service charge rate schedule and special charge schedule shall remain in effect until the effective date of any new rate schedule adopted by the County Council.
- (4) *Computation and Billing of Service Charges:*
- (a) *Computation of water service charge:*
    - (i) The water service charge shall be computed by multiplying the seasonal volumetric component of the water service charge rate by the volume of metered water taken from the public water system by a water system user during a specified billing period, and adding the product to the account user charge. An alternative method authorized and approved by the Director of Public Works may be used in the case of industrial and commercial users and waste haulers where the aforementioned method is not applicable.
    - (ii) Where a single-family residential user is not metered, the water service charge shall be a special charge as provided for in subsections (3)(a) and (b) above.
  - (b) *Computation of reclaimed water service charge.* The reclaimed water service charge shall be computed by multiplying the reclaimed water service charge rate by the volume of metered reclaimed water taken from the reclaimed water system by a reclaimed water system user during a specified billing period.
  - (c) *Computation of sewer service charge.*
    - (i) The sewer service charge shall be computed by multiplying the volumetric component of the sewer service charge rate by the metered volume of water taken from the public water system by a sewer system user during a specified billing period and adding the product to the account user charge. An alternative method authorized and approved by the Director of Public Works may be used in the case of industrial and commercial users and waste haulers where the aforementioned method is not applicable.



- (ii) Where a single-family residential user of the public sewer system obtains water from sources other than the public water system, the sewer service charge shall be a special charge as provided for in subsections (3)(a) and (b) above.

(d) *Billing*.

- (1) The water, reclaimed water, and sewer service charges shall be billed by the Department of Finance and shall be billed quarterly unless otherwise stipulated by the Director of Finance. Penalties for late payment of such charges shall be made in accordance with section 20.316 of this subtitle. If only a portion of the service charge revenues are used to cover operation and maintenance costs of the water system, reclaimed water system, or public sewer system, the amount of the service charge dedicated to operation and maintenance costs shall be indicated on each bill.

- (2) The Department of Finance shall include on each bill a checkbox that, when checked by the bill payer, adds a \$3.00 contribution for the Citizens' Election Fund. The Department of Finance shall deposit the money collected because of the check-off into the Citizens' Election Fund required by section 907 of the Howard County Charter.

(5) *Help to Others (H20) Round-Up Program:*

For the purpose of assisting residential customers who are facing financial hardships and the possibility of utility service disconnections, there is a help to others (H20) round-up program to be administered as follows:

- (a) For purposes of this subsection, "rounded amount" shall mean the difference between the amount billed under subsection (4)(d) of this section and the nearest dollar that is higher than the amount billed.
- (b) On a residential customer's utility service bill, the Department of Finance may allow the residential customer to:
  - (1) Pay the rounded amount of the customer's utility service charge; or
  - (2) Make a one-time contribution.
- (c) Rounded amounts and one-time contributions shall be placed into an account held by the County to assist residential customers facing financial hardship and possible utility service disconnections.
- (d) The County may enter into a grant agreement with a private entity to administer the help to others (H20) round-up program, and
- (e) If a customer fails to pay the rounded amount or one-time contribution, the unpaid rounded amount or contribution may not serve as the basis for a late fee or penalty.
- (f) If a customer fails to pay the rounded amount or one-time contribution, the unpaid rounded amount or contribution may not serve as the basis for a lien or charge against the real estate served or benefited by the utilities.

(C.B. 38, 1998; C.B. 13, 2000; C.B. 27, 2007, § 2; C.B. 50, 2014, § 1; C.B. 30, 2017, § 1)

Sec. 20.606. - Sewer use surcharge.

There is a sewer use surcharge which shall be paid by nonresidential public sewer system users and waste haulers discharging sewage to the public sewer system with average daily pollutant concentrations exceeding one or more of the following limits:

Biochemical oxygen demand (BOD) ..... 300 mg/l

Total suspended solids (TSS) ..... 300 mg/l

Total phosphorus (TP) ..... 12 mg/l

- (1) *Computation of sewer use surcharge.* The sewer use surcharge shall be computed using the formula:

Sewer use surcharge (S) =

$$V \times 8.34 \times [F_b(A_b - 300) + F_s(A_s - 300) + F_p(A_p - 12)]$$

Where:

- V is the volume of sewage in millions of gallons discharged by a public sewer system user during the billing period.
- F<sub>b</sub> is the sewer use surcharge rate for BOD expressed in dollars/pound.
- F<sub>s</sub> is the sewer use surcharge rate for TSS expressed in dollars/pound.
- F<sub>p</sub> is the sewer use surcharge rate for TP expressed in dollars/pound.
- A<sub>b</sub> is the average daily concentration of BOD constituents in the sewage discharged expressed in mg/l.
- A<sub>s</sub> is the average daily concentration of TSS in the sewage discharged expressed in mg/l.
- A<sub>p</sub> is the average daily concentration of TP in the sewage discharged expressed in mg/l.
- 300 BOD or TSS in the sewage discharged for which a sewer use surcharge is not required for that sewage parameter.
- 12 is the maximum average daily concentration (mg/l) of TP in the sewage discharged for which a sewer use surcharge payment is not required for that sewage parameter.

Of the three terms  $F_b(A_b - 300)$ ,  $F_s(A_s - 300)$  and  $F_p(A_p - 12)$  in the above formula, only those terms having positive values for the sewage discharged shall be used in the computation of the sewer use surcharge.

- (2) *Establishing sewer use surcharge rates.* Sewer use surcharge rates for BOD, TSS and TP shall be determined by the Director of Public Works prior to the beginning of each fiscal year for each sewage treatment plant to which sewage generated in Howard County is discharged. Surcharge rates shall be computed using a method specified in regulations promulgated by the Director and approved by the U.S. Environmental Protection Agency. The method of surcharge rate computation shall be based upon:
- (a) Projected operation and maintenance costs for the upcoming fiscal year for treating sewage at treatment plants to which sewage generated in Howard County is discharged.
  - (b) Projected loadings of BOD, TSS and TP for the upcoming fiscal year at treatment plants to which sewage generated in Howard County is discharged.

Sewer use surcharge rates shall be included in the special charge schedule adopted by the County Council.

- (3) *Apportionment of sewer use surcharge revenue.* Sewer use surcharge revenue collected by Howard County from public sewer system users shall be apportioned and distributed annually between Howard County and other political subdivisions to which sewage generated in Howard County is discharged. Collected revenue shall be apportioned by the Director of Public Works as specified in regulations promulgated by the Director and approved by the U.S. Environmental Protection Agency. The method of apportionment shall be based upon the quantity and quality of sewage discharged by nonresidential public sewer system users and waste haulers paying

sewer use surcharges to Howard County. Collected surcharge revenue retained by Howard County shall be applied to the operation and maintenance costs of the public sewer system.

- (4) *Billing.* The sewer use surcharge shall be billed quarterly by the Office of Finance.

(C.B. 38, 1998)

Sec. 20.607. - Measurement of sewer system usage.

- (1) *Property Which Uses All Public Water—Discharges All Water Used to Public Sewer System.* Where a public sewer system user takes all water from the public water system and discharges all water used to the public sewer system, the metered volume of water used shall be a measure of the volume of sewage discharged.
- (2) *Property Which Uses All Public Water—Discharges Portion of Water Used to Public Sewer System.* Where a public sewer system user takes all water used from the public water system and discharges a portion of it to the public sewer system, discharge may be metered separately before entering the sewer system. The user shall provide at his own expense metering facilities to indicate accurately to the satisfaction of the Director of Public Works the volume of water claimed as a credit, or the volume of discharge to the sewer system. The Director shall determine what method of metering is acceptable. If metering facilities are not installed, then metered volume of water used shall be a measure of the volume of sewage discharged.
- (3) *Property Which Uses No Public Water—Discharges Sewage to Public Sewer System.* Where a user of the public sewer system, other than a single-family residential user, obtains water from sources other than the public water system, the measure of sewage discharged to the sewer system shall be based upon either:
- (a) Metered use of water from sources which result in discharge to the sewer system; or
  - (b) Metered discharge entering the sewer system.

The user shall provide at own expense metering facilities as required to indicate accurately to the satisfaction of the Director of Public Works the volume of discharge to the public sewer. The Director shall determine what method of metering is acceptable.

- (4) *Single-Family Residential—Property Which Uses No Public Water—Discharges Sewage to Public Sewer System.* Where a single-family residential user of the public sewer system obtains water from sources other than the public water system, the sewer service charge shall be set as a special charge in the special charge schedule adopted pursuant to this subtitle.
- (5) *Waste Hauler-Discharges Sewage to Public Sewer System.* Where a waste hauler discharges sewage to the public sewer system, the volume of sewage discharged shall be based upon either:
- (a) The actual volume of sewage discharged as determined by a method acceptable to the Director of Public Works; or
  - (b) The carrying capacity of the waste hauler's vehicle, if the actual volume of sewage discharged cannot be determined by a method acceptable to the Director of Public Works.
- (6) *Requirement to Furnish Sewage Data.* Users of the public sewer system shall, at the request of the Director of Public Works, furnish data covering the source, flow properties, quantity, quality and discharge location of sewage discharged or proposed for discharge to the public sewerage system. Data shall be submitted in a format and content acceptable to the Director and within a reasonable period of time as specified by the Director. Data approved by the Director shall be used in the computation of sewer service charges and sewer use surcharges.
- (7) *Other Measurements.* In cases where:
- (a) The Director determines that the installation and use of metering facilities by a public sewer system user is not feasible or warranted; or

- (b) The Director determines that a user's water usage and/or sewage discharge situation is not adequately provided for in this subtitle; or
  - (c) The user is unable or unwilling, for reasons acceptable to the Director, to furnish water or sewage data obtained through the use of metering facilities or other methods; then sewer discharges and other data shall be metered, computed or determined using a method approved by the Director. Where applicable, computed or determined discharges and flow data shall be based on historical records for sewer system users having similar water usage and discharge characteristics.
- (8) *Charges and Determinations.* In all cases where the volume of discharge to the public sewer system, the quality of discharge, the water use charge, the sewer use charge or the sewer use surcharge cannot be reasonably agreed upon between a public water or sewer system user and the Director of Public Works, the Director shall have the power and authority to determine the volume or quality of discharge and any charge or surcharge amounts.

(C.B. 38, 1998)

Sec. 20.608. - Utility connection charges.

- (1) *Establishment of Water and Sewer Connection Charges.* There are connection charges for each connection made to the County water and sewer system. The connection charges shall be paid before any connection is made. The payment shall be made in a lump sum; however, if the connection is to an existing dwelling, it may be paid plus interest and service charges in installments over a period not to exceed five years. Potential public water and sewer system users shall comply with all other applicable provisions of this subtitle prior to connection to the water or sewer system.
- (2) *Basis of Recommendations for Water and Sewer Connection Charges.* The basis for water and sewer connection charges is as follows:
  - (a) For connections applied for by a property owner after August 13, 2007 in accordance with subsection 18.104(b) of this Code, the charges shall be based on administrative costs and the cost of inspecting;
  - (b) The charges shall be based on the average cost of making connections during the fiscal year, plus an amount for anticipated increased costs of making connections in subsequent fiscal years for water and sewer connections applied for by a property owner:
    - (i) After August 13, 2007 and constructed under a Howard County capital project; and
    - (ii) On or before August 13, 2007 in accordance with subsection 18.104(c) of this Code; and
  - (c) For mandatory water and sewer connections as required by section 18.104A, the charges shall be based on administrative costs and the cost of inspection and, if the connection is made by the Department, the charge shall include subcontractor costs for construction and inspection.
- (3) *Annual Adoption of Water and Sewer Connection Charges:*
  - (a) At the time of submission of the annual budget and appropriation ordinance to the County Council, the County Executive shall recommend water and sewer connection charges.
  - (b) At the time of adoption of the annual budget and appropriation ordinance, the County Council shall adopt, by resolution, water connection charge rates and sewer connection charge rates for the upcoming fiscal year. These charges shall be established at such a rate as to raise sufficient revenue to cover the annual costs of making all water and sewer connections. The charges shall be uniform throughout the metropolitan district.
- (4) The Director may charge a fee for connecting to the reclaimed water system that shall be adopted by the County Council in the same manner as water and sewer connection charges.

(C.B. 38, 1998; C.B. 26, 2007, § 2; C.B. 27, § 2)

Sec. 20.609. - Private fire protection systems, charges.

- (1) *Establishment of Private Fire Protection System Charges.* There is an annual charge for unmetered water connections provided for private fire protection systems. No charge shall be made for water actually used to extinguish a fire.
- (2) *Use of Water from the Unmetered Connection.* The County Executive shall enter into written agreements with each unmetered private fire protection system user governing such use. The Director of Public Works may determine the conditions and terms for the use of water from the unmetered connection. Water from the unmetered connection shall not be used for purposes other than firefighting. If the Director of Public Works finds that unmetered private fire protection water is being or has been used for purposes other than fire protection, he shall deny further unmetered services to such premises.
- (3) *Adoption of Annual Private Fire Protection System Charges.* At the time of the adoption of the annual budget and appropriation ordinance, the County Council shall adopt, by resolution, the unmetered water connection charge rates for the upcoming fiscal year. The charges shall be uniform throughout the Metropolitan District.

(C.B. 38, 1998)

Sec. 20.610. - Annual front-foot benefit assessment charges.

- (1) *Purpose of Annual Front-Foot Benefit Assessment Charges.* The annual front-foot benefit assessment charge shall be a source of revenue designated to cover the cost to Howard County of paying the interest and principal on bonds issued by the County for the construction, purchase or establishment of the public water supply and sewerage system within the metropolitan district of Howard County.
- (2) *Levying and Fixing of Charges by County Council.* At the time of adoption of the annual budget and appropriation ordinance, the County Council shall, by resolution, levy and fix the annual front-foot benefit assessment charge for each class or subclass of property within the metropolitan district. The charges shall be as nearly uniform as is practical for each class or subclass of property throughout the district.
- (3) *Properties Paying Annual Front-Foot Benefit Assessment Charges.* All properties, improved or unimproved, binding upon a street, road, lane, alley, or right-of-way in which a water main or sewer main has been built or purchased and such properties not abutting upon a water main or sewer which have been connected to the public water or sewer system with the permission of the Director of Public Works, shall pay an annual front-foot benefit assessment charge for water or sewer provided that such water main or sewer shall have been financed by the issuance of Howard County bonds and:
  - (a) The developer received a rebate from the County pursuant to section 18.112 of the Howard County Code; or
  - (b) The capital project under which the water main or sewer main was constructed was fully or partially funded by appropriations in fiscal year 2004 or prior.
- (4) *Period of Payment; Decrease Permitted; Increase Not Permitted:*
  - (a) The front-foot benefit assessment charge shall be paid annually by all properties described in subsection (3) above for a period not to exceed 30 years.
  - (b) If the Director of Finance determines that costs and conditions warrant a reduction in the front foot benefit assessment, the Director may reduce the front-foot benefit assessment charge for each class of property.

- (c) Once levied, a front-foot benefit assessment charge shall not be increased.
- (5) *Basis of Charges.* Charges are based upon intensity of use of the property, its classification and the number of front feet of property abutting upon a water main or sewer main.
- (a) *Classification of property.* The Director of Finance shall divide all properties, improved or unimproved, binding upon a street, road, lane, alley, or right-of-way in which a water main or sewer is to be laid, and also such properties not abutting a water main or sewer main which have connected to the public water or sewerage system with the permission of the Director of Public Works, into various classes. The classes include but are not limited to agricultural, small acreage, industrial/business and subdivision/residential. If the Director of Finance determines it to be in the public interest, the Director may subdivide the classes into subclasses. The Director of Finance shall change the classification of property from time to time as the use of the property changes.
  - (b) *Front-foot basis.* Charges for each class (or subclass) of property shall be based upon the number of front feet abutting upon the street, lane, road, alley, or right-of-way in which the water main or sewer main is placed. A property owner shall pay charges for the entire front footage, even though a water main or sewer may not extend along the full length of the property. The Director of Finance shall determine a reasonable and fair amount of footage upon which to base charges for the property for:
    - (i) Irregularly shaped property which abuts at any point upon a water main or sewer;
    - (ii) Corner property;
    - (iii) Property which abuts upon two streets with water mains or sewers; or
    - (iv) Property that does not abut upon a water main or sewer, but which has connected to the water or sewer system with the permission of the Director of Public Works.
  - (c) *Agricultural land.* Land classified as agricultural is not charged a front-foot benefit assessment charge until such time as a water or sewer connection is made. Upon connection, agricultural land shall become liable for a front-foot benefit assessment charge not exceeding 300 feet for each connection.
- (6) *Initial Charge; Notification of Charge and Classification; Review and Appeal:*
- (a) *Notification of charge and classification.* Upon billing the initial front-foot benefit assessment charge, the Director of Finance shall notify the property owner in writing of the amount of the charge and the class (or subclass) of the property. This notice shall be mailed to the last-known address of the owner; or, if the address is unknown, it may be served in person upon any adult occupying the premises or posted upon vacant or unimproved property.
  - (b) *Board of Appeals hearing.* At the time that notification of front-foot benefit assessment charge and property class is first given, the Director of Finance shall notify the property owner of appeal rights to the Board of Appeals. The property owner may appeal the classification of the property and the assessment charge to the Board of Appeals. An appeal shall be conducted pursuant to title 2, subtitle 2 of the Howard County Code, the rules of procedure before the Board of Appeals. The Board of Appeals shall have the power to change or adjust the assessment charge or the property classification only where an error as to any factual matter has been made in the original assessment charge or property classification.
- (7) *Exemption for Land with Religious Uses.* Any land owned by a church which serves as the location of the church or its parsonage, and is used exclusively for public worship or other religious or customary purposes of a church or parsonage, and not for investment or other secular purposes, shall be exempt from the front-foot benefits assessment charge provided for by this section in respect of a frontage not exceeding 150 feet.
- (8) *Billing.* The Director of Finance of Howard County shall include all front-foot benefit assessment charges on the County tax bills.

- (9) *Metropolitan Account.* The Director of Finance shall credit all receipt from the front-foot benefit assessment charges to a separate fund to be known as the metropolitan account.

(C.B. 38, 1998; C.B. 67, 2004)

Sec. 20.611. - In-aid-of-construction charge.

- (1) *Purpose.* The in-aid-of-construction charge shall be a source of revenue designated to cover the partial cost to Howard County of construction or purchase of facilities in the water and sewer system which serve or will serve all properties connected to the system, including but not limited to sewerage treatment plants, disposal fields, lagoons, pumping stations, force mains and interceptor sewers, water storage facilities, water treatment facilities, water pumping stations and water transmission mains, whether or not such facilities are located within Howard County.
- (2) *Levying and Fixing in-Aid-of-Construction Charge:*
- (a) At the time of submission of the annual budget and appropriation ordinance to the County Council, the County Executive shall recommend a water and a sewer in-aid-of-construction charge.
- (b) At the time of the adoption of the annual budget and appropriation ordinance, the County Council shall, by resolution, levy and fix a water and a sewer in-aid-of-construction charge for the upcoming fiscal year.
- (c) The charge may be uniform for all properties in the metropolitan district or may be variable based on the maximum hourly intensity or volume of use of the public water/sewerage system anticipated for each property based on the maximum flow rate for continuous operation for the size of a customer meter installed by the Department of Public Works. The following ratings shall be applied to the meter:
- (1) For displacement type meters, up to two-inch, American Water Works Association (AWWA) Standard Specification C 700-09, "Table 1, Recommended Maximum Rate for Continuous Operations", shall apply; and
- (2) For compound type meter sizes three inches and larger, AWWA Standard C702-10 "Table 1, Class 1, Maximum Flow Rate for Continuous Duty", shall apply.
- (d) The in-aid-of-construction charges adopted shall remain in effect until the effective date of any new in-aid-of-construction charges adopted by the County Council.
- (3) *Payment:*
- (a) *At time of permit.* All owners in the metropolitan district shall pay the water and the sewer in-aid-of-construction charge prior to being issued a permit from the Department of Inspections, Licenses and Permits. An in-aid-of-construction charge shall be imposed only once with respect to each property except where intensity of use or volume of consumption generated is increased as set forth in subsection (b) below. The Director of Public Works shall determine the charge for each property on the basis of one consumption unit or any multiple thereof depending upon intensity or volume of use or the flow capacity of each of the customer meter(s), exclusive of "fire protection only", installed by the Department of Public Works as set forth in subsection 20.611(2)(c). Each water meter supplied to a property by the Department of Public Works is subject to the applicable in-aid-of-construction charge.
- (b) *Review of actual water use patterns; meter size adjustment; and adjustments to in-aid-of-construction.* The Department of Public Works may review patterns of water use to determine whether a meter is of appropriate type and capacity. A review may include temporary on-site metering studies to assess short-term patterns of use within the day. A review may also be conducted when an owner submits an application for a permit for an alteration, enlargement, renovation, or addition. If a review indicates that actual or projected use is significantly greater than that which was previously used for the calculation of the in-aid-of-construction charge, the

owner will be charged an additional fee based on the difference between the in-aid-of-construction fee established for the size of the replacement meter and the fee already paid based on the previous meter size.

- (c) If an owner fails to pay the in-aid-of-construction charge, the Department of Inspections, Licenses and Permits may withhold a permit including a permit for an alteration, enlargement, renovation, or addition. An owner who fails to pay the assessed in-aid-of-construction charge is also subject to possible suspension of water or sewer service.
- (4) *Special Account; Use of Receipts.* The Director of Finance shall credit all receipts from in-aid-of-construction charges to a special account. The receipts shall be used only for payments for the development of facilities in the water and sewerage system as described in subsection (1) above, or to liquidate bonds issued by the County or by the former Metropolitan Commission, for such development, to the end that the front-foot benefit assessment charges and ad valorem charges may be reduced.

(C.B. 38, 1998; C.B. 1, 2006, § 2; C.B. 22, 2011, § 1)

Sec. 20.612. - Middle Patuxent Drainage Area supplemental in-aid-of-construction charge.

The Middle Patuxent Drainage Area supplemental in-aid-of-construction charge was a source of revenue to cover a portion of 87½ percent of the construction costs, bond retirement costs, interest charges and all other expenses (exclusive of land acquisition and right-of-way expenses) of the Middle Patuxent interceptor projects. As of July 1, 2006, the Middle Patuxent Drainage Area supplemental in-aid-of-construction charge was discontinued.

(C.B. 38, 1998; C.B. 41, 2006, §§ 1, 2)

Sec. 20.613. - Ad valorem charge.

- (1) *Purpose.* The ad valorem charge shall be a source of revenue designated to cover the cost to Howard County of retiring bonds issued by the County and of paying the interest thereon. The charge may also be used for the payment of salaries and other expenses of the Department of Public Works related to water and sewerage systems or as a funding source for water and sewer capital projects, or both.
- (2) *Basis of Charge.* Subject to section 22.1000 of the County Code, the Director of Public Works shall provide to the County Council at the time of submission of the annual budget and appropriation ordinance an estimate of the total funds necessary to cover the expenses set forth in subsection (1) above. He shall also prepare an estimate of sources of income to cover those expenses, including receipts from the front-foot benefit assessment charge as authorized in this subtitle.
- (3) *Levying and Fixing of Charge by County Council.* At the time of adoption of the annual budget and appropriation ordinance, the County Council shall, by resolution, levy and fix for the upcoming fiscal year an ad valorem charge against all properties within the metropolitan district except as otherwise be provided by law. The amount of the ad valorem charge shall be sufficient to provide such sums as the County Council deems necessary to meet the expenses of the utility after considering all other available sources. The charge adopted by the County Council shall be expressed in terms of a rate per \$100.00 of assessed valuation of property. The charge shall remain in effect until the effective date of any new charge.
- (4) *Properties Paying Ad Valorem Charge.* Owners of all property in the metropolitan district except as otherwise provided by law shall pay the ad valorem charge. Owners of property in the metropolitan district, who have been adjudged by the Veteran's Administration to have a permanent service-connected 100 percent disability, and their surviving spouses who have not remarried and who continue to own and reside on the property, shall be exempt from paying the ad valorem charge.