

SENATE BILL 624

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HB 658/99 - CGM

2000 Regular Session
0lr0484
CF 0lr1823

By: **Senator Frosh (Article 66B Study Commission)**
Introduced and read first time: February 4, 2000
Assigned to: Economic and Environmental Affairs

Committee Report: Favorable
Senate action: Adopted
Read second time: March 17, 2000

CHAPTER _____

1 AN ACT concerning

2 **Growth Management - Land Use Definitions and Controls**

3 FOR the purpose of revising, restating, and recodifying the growth management and
4 land use laws of the State; renaming Article 66B - Zoning and Planning of
5 Annotated Code of Maryland to be Article 66B - Land Use; and making stylistic
6 changes in the growth management and land use laws of the State.

7 BY renumbering

8 Article 66B - Zoning and Planning
9 Section 7.01(c), 7.02, 3.02(b)(1), 7.01(a)(2), 3.02(b)(2), 5.05(c), 3.02(b)(4), 3.04(b),
10 4.07(b-3), 3.02(b)(3), 4.07(b-2) and (e), 5.05(b), 5.08, 3.08.1, 4.07(b-1),
11 4.01(c), 5.05(d), 7.01(d), 4.05(d), (f), and (g), respectively
12 to be Section 7.02, 7.03, 7.06, 14.01, 14.02, 14.03(b) and (c), 14.04(b) through (d),
13 14.05(b) and (d) through (g), 14.06(b) and (c), 14.07(b), (c), (f), and (g),
14 14.08, and 14.09(b) and (c), respectively, to be under the new subtitle
15 "Miscellaneous Local Provisions"
16 Annotated Code of Maryland
17 (1998 Replacement Volume and 1999 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article 66B - Zoning and Planning
20 Section 1.00, 2.01 through 2.06, 2.08 through 2.12, 3.01(a) and (b), 3.03, 3.05(a),
21 (b)(2) through (4), and (c), 3.06, 3.07, 3.08, 3.09, 4.02, 4.03, 4.04, 4.06, 4.08,
22 5.01 through 5.04, 5.06, 5.07, 6.01 through 6.03, 8.01 through 8.14, 8.15
23 through 8.17, 10.01, 11.01, 12.01, and 13.01
24 Annotated Code of Maryland

1 (1998 Replacement Volume and 1999 Supplement)

2 BY adding to

3 Article 66B - Zoning and Planning

4 Section 1.01 through 1.03 and 2.13

5 Annotated Code of Maryland

6 (1998 Replacement Volume and 1999 Supplement)

7 BY repealing

8 Article 66B - Zoning and Planning

9 Section 3.05(d) and (e), 7.03, and 4.09(b)

10 Annotated Code of Maryland

11 (1998 Replacement Volume and 1999 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article 66B - Zoning and Planning

14 Section 3.02, 3.04, 4.01, 4.05, 4.07, 4.09(a), 5.05, 7.01, 7.02 through 7.06, and

15 14.01 through 14.09

16 Annotated Code of Maryland

17 (1998 Replacement Volume and 1999 Supplement)

18 (As enacted by Section 1 of this Act)

19 BY repealing and reenacting, with amendments, and transferring to the Session

20 Laws

21 Article 66B - Zoning and Planning

22 Section 3.01(c), and 3.05(b)(1)

23 Annotated Code of Maryland

24 (1998 Replacement Volume and 1999 Supplement)

25 BY renaming

26 Article 66B - Zoning and Planning

27 to be Article 66B - Land Use

28 Annotated Code of Maryland

29 (1998 Replacement Volume and 1999 Supplement)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

31 MARYLAND, That Section(s) 7.01(c), 7.02, 3.02(b)(1), 7.01(a)(2), 3.02(b)(2), 5.05(c),

32 3.02(b)(4), 3.04(b), 4.07(b-3), 3.02(b)(3), 4.07(b-2) and (e), 5.05(b), 5.08, 3.08.1,

33 4.07(b-1), 4.01(c), 5.05(d), 7.01(d), 4.05(d), (f), and (g), respectively, of Article 66B -

34 Zoning and Planning of the Annotated Code of Maryland be renumbered to be

35 Section(s) 7.02, 7.03, 14.01, 14.02, 14.03(b) and (c), 14.04(b) through (d), 14.05(b) and

36 (d) through (g), 14.06(b) and (c), 14.07(b), (c), (f), and (g), 14.08, and 14.09(b) and (c),

37 respectively, to be under the new subtitle "Miscellaneous Local Provisions".

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article 66B - Zoning and Planning**

4 1.00. Definitions.

5 (a) In this article the following words have the meanings indicated, except
6 where the context clearly indicates otherwise.

7 (b) "Development" means any activity, other than normal agricultural activity,
8 which materially affects the existing condition or use of any land or structure.

9 (c) "Development rights and responsibilities agreement" means an agreement
10 made between a governmental body of a jurisdiction and a person having a legal or
11 equitable interest in real property for the purpose of establishing conditions under
12 which development may proceed for a specified time.

13 [(d) "Jurisdiction" means the territory of a county or municipal corporation
14 within which its powers may be exercised.]

15 [(e) (D) (1) "Local executive" means the chief executive of [the] A political
16 subdivision [whether the official designation of his office be elected county executive
17 or executive head, mayor, or similar term].

18 (2) "LOCAL EXECUTIVE" INCLUDES:

19 (I) A COUNTY EXECUTIVE;

20 (II) A BOARD OF COUNTY COMMISSIONERS;

21 (III) AN EXECUTIVE HEAD; OR

22 (IV) A MAYOR.

23 [(f) (E) (1) "Local legislative body" means the elected body of a political
24 subdivision [whether known as county commissioner, or county council, city, town, or
25 village council, or similar terms].

26 (2) "LOCAL LEGISLATIVE BODY" INCLUDES:

27 (I) A BOARD OF COUNTY COMMISSIONERS;

28 (II) A COUNTY COUNCIL; OR

29 (III) A GOVERNING BODY OF A MUNICIPAL CORPORATION.

30 (F) "LOCAL JURISDICTION" MEANS A COUNTY OR MUNICIPAL CORPORATION
31 AND THE TERRITORY WITHIN WHICH ITS POWERS MAY BE EXERCISED.

1 (g) (1) "Plan" means the policies, statements, goals, and interrelated plans
2 for private and public land use, transportation, and community facilities documented
3 in texts and maps which constitute the guide for the area's future development.

4 (2) "Plan" includes A general plan, master plan, comprehensive plan, OR
5 community plan[, and the like as] adopted in accordance with §§ 3.01 through 3.09 of
6 this article.

7 (h) "Regulation" means any rule of general applicability and future [effect]
8 EFFECT, including any map or plan.

9 (I) "SENSITIVE AREAS" INCLUDES:

10 (1) STREAMS AND THEIR BUFFERS;

11 (2) 100-YEAR FLOOD PLAINS;

12 (3) HABITATS OF THREATENED AND ENDANGERED SPECIES;

13 (4) STEEP SLOPES; AND

14 (5) OTHER AREAS IN NEED OF SPECIAL PROTECTION, AS DETERMINED
15 IN THE PLAN.

16 DRAFTER'S NOTE: The definition of "sensitive areas" in subsection (i) of this
17 section is derived without substantive change from former § 3.05(a)(1)(viii)
18 and (a)(2) of this article.

19 [(i)] (J) "Special exception" means a grant of a specific use that would not be
20 appropriate generally or without restriction and shall be based upon a finding that
21 certain conditions governing special exceptions as detailed in the zoning ordinance
22 exist, that the use conforms to the plan and is compatible with the existing
23 neighborhood.

24 [(j)] (K) (1) "Subdivision" means the division of a lot, tract, or parcel of land
25 into two or more lots, plats, sites, or other divisions of land for the IMMEDIATE OR
26 FUTURE [purpose, whether immediate or future, of sale] PURPOSES OF SELLING THE
27 LAND or of building development.

28 (2) (I) [Subdivision] "SUBDIVISION" includes [resubdivision and, when]
29 RESUBDIVISION.

30 (II) AS appropriate to the context, [relates to] "SUBDIVISION" MAY
31 INCLUDE EITHER the process of resubdividing or [to] the land or territory
32 [subdivided] RESUBDIVIDED.

33 [(k)] (L) "Variance" means a modification only of density, bulk, or area
34 requirements in the zoning ordinance [where such modification will not be] THAT IS:

35 (1) NOT contrary to the public [interest and where owing]
36 INTEREST; AND

1 (2) [to conditions peculiar to the property, and not the results of
2 any action taken by the applicant,] SPECIFIED BY THE LOCAL GOVERNING BODY IN A
3 ZONING ORDINANCE TO AVOID a literal enforcement of the ordinance THAT, BECAUSE
4 OF CONDITIONS PECULIAR TO THE PROPERTY AND NOT ANY ACTION TAKEN BY THE
5 APPLICANT, would result in [either, as specified by the local governing body in a
6 zoning ordinance,] unnecessary hardship or practical difficulty.

7 1.01. VISIONS.

8 IN ADDITION TO THE REQUIREMENTS OF § 3.05(C) OF THIS ARTICLE, A
9 COMMISSION SHALL IMPLEMENT THE FOLLOWING VISIONS THROUGH THE PLAN
10 DESCRIBED IN § 3.05 OF THIS ARTICLE:

11 (1) DEVELOPMENT IS CONCENTRATED IN SUITABLE AREAS.

12 (2) SENSITIVE AREAS ARE PROTECTED.

13 (3) IN RURAL AREAS, GROWTH IS DIRECTED TO EXISTING POPULATION
14 CENTERS AND RESOURCE AREAS ARE PROTECTED.

15 (4) STEWARDSHIP OF THE CHESAPEAKE BAY AND THE LAND IS A
16 UNIVERSAL ETHIC.

17 (5) CONSERVATION OF RESOURCES, INCLUDING A REDUCTION IN
18 RESOURCE CONSUMPTION, IS PRACTICED.

19 (6) TO ASSURE THE ACHIEVEMENT OF ITEMS (1) THROUGH (5) OF THIS
20 SECTION, ECONOMIC GROWTH IS ENCOURAGED AND REGULATORY MECHANISMS
21 ARE STREAMLINED.

22 (7) FUNDING MECHANISMS ARE ADDRESSED TO ACHIEVE THESE
23 VISIONS.

24 DRAFTER'S NOTE: This section is transferred without substantive change
25 from former § 3.06(b) of this article.

26 1.02. CHARTER COUNTIES - LIMITED APPLICATION OF ARTICLE.

27 (A) EXCEPT AS PROVIDED IN THIS SECTION, THIS ARTICLE DOES NOT APPLY
28 TO CHARTER COUNTIES.

29 (B) THE FOLLOWING SECTIONS OF THIS ARTICLE APPLY TO A CHARTER
30 COUNTY:

31 (1) § 1.00(I) (DEFINITION OF "SENSITIVE AREAS");

32 (2) § 1.01 (VISIONS);

33 (3) § 1.03 (CHARTER COUNTY - COMPREHENSIVE PLANS);

34 (4) § 4.01(B)(2) (REGULATION OF BICYCLE PARKING);

- 1 (5) § 5.03(D) (EASEMENTS FOR BURIAL SITES);
- 2 (6) § 7.02 (CIVIL PENALTY FOR ZONING VIOLATION);
- 3 (7) § 10.01 (ADEQUATE PUBLIC FACILITIES ORDINANCES);
- 4 (8) § 11.01 (TRANSFER OF DEVELOPMENT RIGHTS);
- 5 (9) § 12.01 (INCLUSIONARY ZONING);
- 6 (10) EXCEPT IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, §
7 13.01 (DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS); AND
- 8 (11) FOR BALTIMORE COUNTY ONLY, § 14.02.

9 (C) THIS SECTION SUPERSEDES ANY INCONSISTENT PROVISION OF ARTICLE
10 28 OF THE CODE.

11 DRAFTER'S NOTE: Subsection (a) of this section is new language derived
12 without substantive change from former § 7.03(a).

13 Subsection (b)(2) of this section is new language added for clarity.

14 Subsection (b)(3) of this section is new language added in light of the
15 addition of this section.

16 Subsection (b)(1) and (3) through (9) of this section is new language
17 derived without substantive change from former § 7.03(a).

18 Subsection (b)(10) of this section is new language derived without
19 substantive change from former § 7.03(a) and (b).

20 Subsection (b)(11) of this section is new language added in light of the
21 addition of § 14.02 of this article.

22 Subsection (c) of this section is new language derived without substantive
23 change from former § 7.03(a).

24 Subsection (b)(1) of this section refers to a section that is new in this Act,
25 which applies to charter counties as indicated in that section and this
26 section.

27 In subsection (b)(3) of this section, the reference to § 4.01(b)(1) reflects the
28 renumbering in this Act of former § 4.01(a)(1) to be new § 4.01(b)(1).

29 In subsection (b)(5) of this section, the reference to § 7.02 reflects the
30 renumbering in this Act of former § 7.01(c) to be new § 7.02.

31 Subsection (c) of this section is added for clarity.

1 1.03. SAME - COMPREHENSIVE PLANS.

2 (A) (1) WHEN DEVELOPING A COMPREHENSIVE PLAN FOR A CHARTER
3 COUNTY, A PLANNING COMMISSION SHALL INCLUDE:

4 (I) A TRANSPORTATION PLAN ELEMENT WHICH SHALL:

5 1. PROPOSE THE MOST APPROPRIATE AND DESIRABLE
6 PATTERNS FOR THE GENERAL LOCATION, CHARACTER, AND EXTENT OF THE
7 CHANNELS, ROUTES, AND TERMINALS FOR TRANSPORTATION FACILITIES, AND FOR
8 THE CIRCULATION OF PERSONS AND GOODS ON A SCHEDULE THAT EXTENDS AS FAR
9 INTO THE FUTURE AS IS REASONABLE;

10 2. PROVIDE FOR BICYCLE AND PEDESTRIAN ACCESS AND
11 TRAVELWAYS; AND

12 3. INCLUDE AN ESTIMATE OF THE PROBABLE UTILIZATION
13 OF ANY PROPOSED IMPROVEMENT;

14 (II) IF CURRENT GEOLOGICAL INFORMATION IS AVAILABLE, A
15 MINERAL RESOURCES PLAN ELEMENT THAT:

16 1. IDENTIFIES UNDEVELOPED LAND THAT SHOULD BE KEPT
17 IN ITS UNDEVELOPED STATE UNTIL THE LAND CAN BE USED TO PROVIDE OR ASSIST
18 IN PROVIDING A CONTINUOUS SUPPLY OF MINERALS, AS DEFINED IN § 15-801(I) OF
19 THE ENVIRONMENT ARTICLE;

20 2. IDENTIFIES APPROPRIATE POSTEXCAVATION USES FOR
21 THE LAND THAT ARE CONSISTENT WITH THE COUNTY'S LAND PLANNING PROCESS;

22 3. INCORPORATES LAND USE POLICIES AND
23 RECOMMENDATIONS FOR REGULATIONS:

24 A. TO BALANCE MINERAL RESOURCE EXTRACTION WITH
25 OTHER LAND USES; AND

26 B. TO THE EXTENT FEASIBLE, TO PREVENT THE
27 PREEMPTION OF MINERAL RESOURCES EXTRACTION BY OTHER USES; AND

28 4. HAS BEEN REVIEWED BY THE DEPARTMENT OF THE
29 ENVIRONMENT TO DETERMINE WHETHER THE PROPOSED COMPREHENSIVE PLAN IS
30 CONSISTENT WITH THE PROGRAMS AND GOALS OF THE DEPARTMENT;

31 (III) AN ELEMENT WHICH CONTAINS THE PLANNING COMMISSION'S
32 RECOMMENDATION FOR LAND DEVELOPMENT REGULATIONS TO IMPLEMENT THE
33 COMPREHENSIVE PLAN AND WHICH ENCOURAGES:

34 1. STREAMLINED REVIEW OF APPLICATIONS FOR
35 DEVELOPMENT, INCLUDING PERMIT REVIEW AND SUBDIVISION PLAT REVIEW
36 WITHIN THE AREAS DESIGNATED FOR GROWTH IN THE COMPREHENSIVE PLAN;

1 (D) ON OR BEFORE JULY 1, 1997, AND SUBSEQUENTLY AT INTERVALS OF NOT
2 MORE THAN 6 YEARS WHICH CORRESPOND TO THE COMPREHENSIVE PLAN REVISION
3 UNDER SUBSECTION (B) OF THIS SECTION, A CHARTER COUNTY SHALL ENSURE THAT
4 THE IMPLEMENTATION OF THE PROVISIONS OF THE COMPREHENSIVE PLAN THAT
5 COMPLY WITH § 1.01 OF THIS ARTICLE AND SUBSECTION (A)(1)(III) AND (IV) OF THIS
6 SECTION ARE ACHIEVED THROUGH THE ADOPTION OF:

- 7 (1) APPLICABLE ZONING ORDINANCES AND REGULATIONS;
- 8 (2) PLANNED DEVELOPMENT ORDINANCES AND REGULATIONS;
- 9 (3) SUBDIVISION ORDINANCES AND REGULATIONS; AND
- 10 (4) OTHER LAND USE ORDINANCES AND REGULATIONS THAT ARE
11 CONSISTENT WITH THE COMPREHENSIVE PLAN.

12 DRAFTER'S NOTE: Subsection (a)(1)(i) of this section is new language derived
13 without substantive change from former §§ 3.05(a)(1)(iii) and 7.03(a).

14 Subsection (a)(1)(ii) of this section is new language derived without
15 substantive change from former §§ 3.05(a)(1)(v) and 7.03(a).

16 Subsection (a)(1)(iii) of this section is new language derived without
17 substantive change from former §§ 3.05(a)(1)(vi) and 7.03(a).

18 Subsection (a)(1)(iv) of this section is new language derived without
19 substantive change from former §§ 3.05(a)(1)(viii) and 7.03(a). The
20 description of the sensitive areas in former § 3.05(a)(1)(viii)1 through 4 is
21 deleted in light of the definition of "sensitive areas" in § 1.00.

22 Subsection (a)(2) of this section is new language derived without
23 substantive change from former §§ 3.05(a)(1)(iii) and 7.03(a).

24 Subsection (a)(3) of this section is new language derived without
25 substantive change from former §§ 3.05(a)(4) and 7.03(a).

26 Subsection (b) of this section is new language derived without substantive
27 change from former §§ 3.05(b) and 7.03(a).

28 Subsection (c) of this section is new language derived without substantive
29 change from former § 3.06(b) and (c) and 7.03(a).

30 Subsection (d) of this section is new language derived without substantive
31 change from § 4.09(a) and former § 7.03(a).

Zoning in Baltimore City

2 2.01. Grant of powers; statement of policy; construction of powers.

3 [(a) For the purpose of promoting the health, security, general welfare, and
4 morals of the community, the Mayor and City Council of Baltimore City are hereby
5 empowered to regulate and restrict the height, number of stories, and size of
6 buildings and other structures, the percentage of lot that may be occupied, off-street
7 parking, the size of yards, courts, and other open spaces, the density of population,
8 and the location and use of buildings, signs, structures, and land for trade, industry,
9 residence, or other purposes.]

10 [(b) (A) (1) It [has been and shall continue to be] IS the policy of this State
11 [that the] THAT:

12 (I) THE orderly development and use of land and structures
13 requires comprehensive regulation through THE implementation of planning and
14 zoning [controls.] CONTROLS; AND

15 [(2) (II) [It has been and shall continue to be the policy of this State
16 that planning] PLANNING and zoning controls shall be implemented by local
17 government.

18 [(3) (2) To achieve the public purposes of this regulatory scheme, the
19 General Assembly recognizes that local government action will limit free business
20 enterprise and competition by owners and users of property[.

21 (4) It is the policy of the General Assembly and of this State that
22 competition and enterprise shall be so limited for the attainment of the purposes of
23 the State policy for implementing] THROUGH THE planning and zoning controls [as]
24 set forth in this article and elsewhere in the public local and public general [law]
25 LAWS.

26 (B) TO PROMOTE THE HEALTH, SECURITY, GENERAL WELFARE, AND MORALS
27 OF THE COMMUNITY, THE MAYOR AND CITY COUNCIL OF BALTIMORE MAY
28 REGULATE AND RESTRICT, FOR TRADE, INDUSTRY, RESIDENCE, OR OTHER
29 PURPOSES:

30 (1) THE HEIGHT, NUMBER OF STORIES, AND SIZE OF BUILDINGS AND
31 OTHER STRUCTURES;

32 (2) THE PERCENTAGE OF A LOT THAT MAY BE OCCUPIED;

33 (3) OFF-STREET PARKING;

34 (4) THE SIZE OF YARDS, COURTS, AND OTHER OPEN SPACES;

35 (5) THE DENSITY OF POPULATION; AND

1 (6) THE LOCATION AND USE OF BUILDINGS, SIGNS, STRUCTURES, AND
2 LAND.

3 [(5)] (C) The powers granted to the Mayor and City Council of Baltimore
4 [City pursuant to] UNDER this [subsection shall not be construed] SUBTITLE DO
5 NOT:

6 [(i)] (1) [To grant] GRANT to the Mayor and City Council OF
7 BALTIMORE powers in any substantive area not otherwise granted to the Mayor and
8 City Council OF BALTIMORE by ANY other public general or public local law;

9 [(ii)] (2) [To restrict] RESTRICT the Mayor and City Council OF
10 BALTIMORE from exercising any power granted to the Mayor and City Council OF
11 BALTIMORE by ANY other public general or public local [law] LAW, or otherwise;

12 [(iii)] (3) [To authorize] AUTHORIZE the Mayor and City Council
13 OF BALTIMORE or [its] THE officers OF THE CITY to engage in any activity [which]
14 THAT is beyond their power under ANY other public general law, public local law, or
15 otherwise; or

16 [(iv)] (4) [To preempt] PREEMPT or supersede the regulatory
17 authority of any State department or agency under any public general law.

18 2.02. Districts.

19 (A) [For any or all of said purposes the] THE Mayor and the City Council OF
20 BALTIMORE [may divide] MAY:

21 (1) DIVIDE the [municipality] CITY into districts of [such] A number,
22 shape, and area as [may be deemed] THEY DETERMINE ARE best suited to execute
23 the [purpose] PURPOSES LISTED IN § 2.03 of this [article;] SUBTITLE; and

24 (2) [within such districts it may] WITHIN THOSE DISTRICTS, regulate
25 and restrict the erection, construction, reconstruction, alteration, repair, or use of
26 buildings, structures, or land.

27 (B) (1) All [such] regulations ADOPTED BY THE MAYOR AND CITY COUNCIL
28 OF BALTIMORE UNDER THIS SUBTITLE shall be uniform for each class or kind of
29 development throughout each [district, but the] DISTRICT.

30 (2) THE regulations in one district may differ from those in other
31 districts.

32 2.03. Purposes.

33 (A) [Such] THE regulations ADOPTED BY THE MAYOR AND CITY COUNCIL OF
34 BALTIMORE UNDER THIS SUBTITLE shall be [made] WRITTEN in accordance with the
35 [plan and designed to control] PLAN.

1 (B) THE REGULATIONS ADOPTED BY THE MAYOR AND CITY COUNCIL OF
2 BALTIMORE SHALL BE DESIGNED TO:

- 3 (1) CONTROL congestion in the streets;
- 4 (2) [to secure] SECURE the public safety;
- 5 (3) [to promote] PROMOTE health[,] and the general welfare;
- 6 (4) [to provide] PROVIDE adequate light and air;
- 7 (5) [to promote] PROMOTE the conservation of natural resources;
- 8 (6) [to prevent] PREVENT environmental pollution;
- 9 (7) [to avoid] AVOID AN undue concentration of population; AND
- 10 (8) [to facilitate] FACILITATE the adequate provision [for] OF
11 transportation, water, sewerage, schools, recreation, parks, and other public
12 requirements.

13 (C) [Such] THE regulations ADOPTED BY THE MAYOR AND CITY COUNCIL OF
14 BALTIMORE shall [be made with reasonable consideration, among other things, to
15 the] INCLUDE A REASONABLE CONSIDERATION OF:

- 16 (1) THE character of the district and its suitability for particular [uses,
17 and with a view to conserving] USES;
- 18 (2) THE CONSERVATION OF the value of [buildings and encouraging the]
19 BUILDINGS; AND
- 20 (3) ENCOURAGEMENT FOR orderly development and the most
21 appropriate use of land throughout the City of Baltimore.

22 2.04. Method of procedure.

23 (A) The Mayor and City Council of Baltimore [City] shall provide for the
24 manner in which [such regulations and restrictions] REGULATIONS, RESTRICTIONS,
25 and the boundaries of [such] districts shall be determined, established, [and]
26 enforced, and [from time to time] PERIODICALLY amended[, supplemented, or
27 modified].

28 (B) (1) [However, no such] A regulation, restriction, or boundary [shall]
29 MAY NOT become effective until after at least one public hearing [in relation thereto,]
30 IS HELD at which parties in interest and citizens [shall] have an opportunity to be
31 heard.

32 (2) (I) At least [fifteen days'] 15 DAYS BEFORE A PUBLIC HEARING IS
33 HELD UNDER THIS SECTION, THE MAYOR AND CITY COUNCIL OF BALTIMORE SHALL
34 PUBLISH notice of the time and place of [such] THE hearing [shall be published] in

1 an official paper[,] or a paper of general circulation[,] in Baltimore [City and, in
2 case of the] CITY.

3 (II) IF THE HEARING WILL BE ON A PROPOSED change in THE
4 [boundary or] boundaries of [any] A zoning district, [a] THE MAYOR AND CITY
5 COUNCIL OF BALTIMORE SHALL:

6 1. POST A similar notice [shall be posted] at [such] A place
7 or AT places [as] DESIGNATED BY the respective zoning authorities [shall designate]
8 within the zone proposed to be [changed, and] CHANGED; AND

9 2. MAIL notice of the proposed change [shall be sent] by first
10 class United States mail to [the] ANY person [or persons] whose name last appeared
11 [among] IN the tax records of Baltimore City as the owner of the property proposed to
12 be changed.

13 DRAFTER'S NOTE: In subsection (a) of this section, the former reference to
14 "supplemented, or modified" is deleted as included within the reference to
15 "amended".

16 2.05. Amendment, [modification, repeal] REPEAL, and reclassification.

17 (a) (1) [Such] THE MAYOR AND CITY COUNCIL OF BALTIMORE MAY
18 PERIODICALLY AMEND OR REPEAL regulations, [restrictions] RESTRICTIONS, and
19 [boundaries may from time to time be amended, supplemented, modified, or
20 repealed] BOUNDARIES.

21 (2) (I) [Where] IF the purpose and effect of [the] A proposed
22 amendment is to change the zoning classification of particular property, the [local
23 legislative body] CITY COUNCIL shall make findings of [fact in each specific case
24 including, but not limited to, the following matters: population change, availability of
25 public facilities, present and future transportation patterns, compatibility with
26 existing and proposed development for the area, the recommendation of the planning
27 commission and the board of municipal and zoning appeals, and the relation of such
28 proposed amendment to the jurisdiction's plan; and may] FACT.

29 (II) THE FINDINGS OF FACT SHALL INCLUDE:

30 1. POPULATION CHANGES;

31 2. THE AVAILABILITY OF PUBLIC FACILITIES;

32 3. PRESENT AND FUTURE TRANSPORTATION PATTERNS;

33 4. COMPATIBILITY WITH EXISTING AND PROPOSED
34 DEVELOPMENT FOR THE AREA;

35 5. THE RECOMMENDATIONS OF THE PLANNING
36 COMMISSION AND THE BOARD OF MUNICIPAL AND ZONING APPEALS; AND

1 (d) The provisions of § 2.04 OF THIS SUBTITLE relative to public hearings and
2 official notice shall apply equally to all changes or amendments OF REGULATIONS,
3 RESTRICTIONS, AND BOUNDARIES.

4 DRAFTER'S NOTE: The last sentence of subsection (a) of this section is deleted
5 as included within subsection (d) of this section.

6 In subsection (a)(1) of this section, the former reference to "supplemented,
7 modified," is deleted as included within the reference to amended.

8 In subsection (a)(2) of this section, the reference to "City Council" is
9 substituted for the former reference to "local legislative body" for
10 consistency within the subtitle.

11 Throughout subsection (b) of this section, the reference to "board of
12 municipal and zoning appeals" is substituted for the former reference to
13 "board of municipal zoning appeals" to conform to current practice.

14 2.06. Hearing examiners.

15 (a) (1) The City Council [may appoint from time to time] MAY:

16 (I) PERIODICALLY APPOINT full- and part-time hearing examiners
17 as [in its discretion may be deemed] THE CITY COUNCIL CONSIDERS necessary and
18 [appropriate and] APPROPRIATE; AND

19 (II) [may delegate] DELEGATE to [the said] ANY hearing examiner
20 [or examiners] the power to [hold and] conduct public hearings [in any specific
21 case] as required [and set forth in] UNDER § 2.05 [above] OF THIS SUBTITLE.

22 (2) [Such] A HEARING EXAMINER SHALL CONDUCT A hearing [shall be
23 conducted] in [such a] THE SAME manner and subject to [such] THE SAME rules and
24 regulations as [may be provided] A HEARING CONDUCTED by the [local legislative
25 body] CITY COUNCIL.

26 (b) The CITY COUNCIL SHALL ESTABLISH TERMS OF OFFICE,
27 QUALIFICATIONS, AND COMPENSATION FOR hearing [examiner or examiners shall
28 be appointed for such terms of office, possessed of such qualifications, and shall
29 receive such compensation as may be required or provided by the local legislative
30 body] EXAMINERS.

31 (c) (1) The [hearing examiner shall render a written recommendation at
32 such time and such manner and form as may be required by the local legislative
33 body] CITY COUNCIL SHALL ESTABLISH THE TIME FRAME, MANNER, AND FORM FOR
34 A RECOMMENDATION BY A HEARING EXAMINER.

35 (2) A RECOMMENDATION BY A HEARING EXAMINER SHALL BE IN
36 WRITING.

1 DRAFTER'S NOTE: In subsection (a)(1)(ii) of this section, the former reference
2 to "hold" is deleted as included within the reference "conduct".

3 In subsection (a)(2) of this section, the reference to "City Council" is
4 substituted for the former reference to "local legislative body" for
5 consistency within the subtitle.

6 2.08. Board of MUNICIPAL AND zoning appeals.

7 (a) (1) [The Mayor with] WITH the advice and consent of the City [Council]
8 COUNCIL, THE MAYOR may provide for the appointment of a [Board of Zoning
9 Appeals] BOARD OF MUNICIPAL AND ZONING APPEALS.

10 (2) (I) The [Board of Zoning Appeals] BOARD OF MUNICIPAL AND
11 ZONING APPEALS shall consist of five [members and they] MEMBERS.

12 (II) 1. A MEMBER OF THE BOARD OF MUNICIPAL AND ZONING
13 APPEALS shall be appointed for a [term of four years, but of the first appointed
14 members one shall be appointed for a term of one year, one for a term of two years,
15 one for a term of three years, and one for a term of four years] 4-YEAR TERM.

16 2. THE TERMS OF THE MEMBERS OF THE BOARD OF
17 MUNICIPAL AND ZONING APPEALS SHALL BE STAGGERED.

18 (III) [Vacancies shall be filled for] THE MAYOR, WITH THE ADVICE
19 AND CONSENT OF THE CITY COUNCIL, SHALL APPOINT A PERSON TO FILL the
20 unexpired term of any member [whose term becomes vacant].

21 (IV) [The members] ON WRITTEN CHARGES AND AFTER A PUBLIC
22 HEARING, THE MAYOR MAY REMOVE ANY MEMBER of the [Board of Zoning Appeals
23 shall be removable] BOARD OF MUNICIPAL AND ZONING APPEALS for cause [by the
24 appointing authority upon written charges and after public hearing].

25 (b) (1) The [Board] BOARD OF MUNICIPAL AND ZONING APPEALS shall
26 adopt rules in accordance with [the provision of] any ordinance adopted [pursuant
27 to] UNDER this article.

28 (2) Meetings of the [Board] BOARD OF MUNICIPAL AND ZONING
29 APPEALS shall be held at the call of the chairman and at [such] other times [as]
30 DETERMINED BY the [Board may determine] BOARD.

31 (3) (I) The chairman OF THE BOARD OF MUNICIPAL AND ZONING
32 APPEALS[, or] OR, in the chairman's [absence] ABSENCE, the acting chairman[,]
33 may administer oaths and compel the attendance of witnesses.

34 (II) All meetings of the [Board] BOARD OF MUNICIPAL AND
35 ZONING APPEALS shall be open to the public.

36 (III) 1. The [Board] BOARD OF MUNICIPAL AND ZONING APPEALS
37 shall keep minutes of its [proceedings, showing] PROCEEDINGS.

1 (II) [by any] ANY officer, department, [board] BOARD, or bureau of
2 the City of Baltimore affected by any decision of the administrative officer.

3 (2) [Such] A PERSON FILING AN APPEAL WITH THE BOARD OF
4 MUNICIPAL AND ZONING APPEALS SHALL FILE THE appeal [shall be taken] within a
5 reasonable time, as provided by the rules of the [Board, by filing] BOARD.

6 (3) (I) A PERSON FILING AN APPEAL WITH THE BOARD OF MUNICIPAL
7 AND ZONING APPEALS SHALL FILE with the ADMINISTRATIVE officer from whom the
8 appeal is taken and with the [Board of Zoning Appeals] BOARD a notice of appeal
9 specifying the grounds [thereof] FOR THE APPEAL.

10 (II) The ADMINISTRATIVE officer from whom the appeal is taken
11 [shall forthwith] SHALL, ON RECEIVING THE NOTICE OF APPEAL, transmit to the
12 [Board] BOARD OF MUNICIPAL AND ZONING APPEALS all [the] papers constituting
13 the record [upon which] OF the action appealed [from was taken].

14 (e) (1) [An] UNLESS, AFTER RECEIVING THE NOTICE OF THE APPEAL, THE
15 ADMINISTRATIVE OFFICER FROM WHOM AN APPEAL IS TAKEN CERTIFIES FACTS TO
16 THE BOARD OF MUNICIPAL AND ZONING APPEALS THAT THE ADMINISTRATIVE
17 OFFICER BELIEVES SHOW THAT A STAY WOULD CAUSE IMMINENT PERIL TO LIFE OR
18 PROPERTY, AN appeal stays all proceedings in [furtherance of] the action [appealed
19 from, unless the officer from whom the appeal is taken certifies to the Board of
20 Zoning Appeals after the notice of appeal shall have been filed with the officer that by
21 reason of facts stated in the certificate a stay would, in the officer's opinion, cause
22 imminent peril to life or property] APPEALED.

23 (2) [In such case proceedings] IF THE ADMINISTRATIVE OFFICER
24 PROVIDES FACTS SHOWING THAT A STAY WOULD CAUSE IMMINENT PERIL TO LIFE
25 OR PROPERTY, THE PROCEEDINGS [shall not be stayed otherwise than] MAY BE
26 STAYED ONLY by a restraining order [which may be] granted by the [Board of
27 Zoning Appeals] BOARD OF MUNICIPAL AND ZONING APPEALS or by a court of
28 [record on application, on notice to the officer from whom the appeal is taken and on
29 due cause shown] RECORD.

30 (3) A RESTRAINING ORDER MAY BE ISSUED ONLY:

31 (I) ON APPLICATION;

32 (II) FOR GOOD CAUSE SHOWN; AND

33 (III) AFTER NOTICE IS GIVEN TO THE ADMINISTRATIVE OFFICER
34 FROM WHOM THE APPEAL IS TAKEN.

35 (f) The [Board of Zoning Appeals shall fix] BOARD OF MUNICIPAL AND
36 ZONING APPEALS SHALL:

37 (1) FIX a reasonable time for the hearing of [the appeal, give] AN
38 APPEAL;

1 (2) GIVE public notice [thereof, as well as] AND due notice to the parties
2 in interest[, and decide] OF THE APPEAL; AND

3 (3) DECIDE the [same] APPEAL within a reasonable time.

4 (G) [Upon the hearing any] ANY party may appear AT AN APPEAL in person or
5 by AN agent or [by] attorney.

6 [(g)] (H) (1) In exercising [the above-mentioned] ITS powers UNDER THIS
7 SECTION, the [Board] BOARD OF MUNICIPAL AND ZONING APPEALS may, in
8 conformity with [the provisions of] this [article, reverse] ARTICLE:

9 (I) REVERSE, [or affirm, wholly or partly, or may modify] IN
10 WHOLE OR PART, THE ORDER, REQUIREMENT, DECISION, OR DETERMINATION THAT
11 IS THE SUBJECT OF THE APPEAL;

12 (II) AFFIRM, IN WHOLE OR PART, THE ORDER, REQUIREMENT,
13 DECISION, OR DETERMINATION THAT IS THE SUBJECT OF THE APPEAL; OR

14 (III) MODIFY the order, requirement, decision, or determination [as
15 ought to be made, and to that end] THAT IS THE SUBJECT OF THE APPEAL.

16 (2) THE BOARD OF MUNICIPAL AND ZONING APPEALS shall have the
17 powers of the ADMINISTRATIVE officer from whom the appeal is taken.

18 [(h)] (I) (1) If five members of the [Board of Zoning Appeals] BOARD OF
19 MUNICIPAL AND ZONING APPEALS are present, the concurring vote of at least four
20 members is necessary [to reverse] TO:

21 (I) REVERSE any order, requirement, decision, or determination of
22 an administrative [official, or to decide] OFFICER;

23 (II) DECIDE in favor of the applicant on any matter on which it is
24 required to [pass] ACT under an [ordinance, or to effect] ORDINANCE; OR

25 (III) EFFECT any variation in [the] AN ordinance.

26 (2) If only four members of the [Board] BOARD are present, the
27 concurring vote of at least three members is necessary to take any action under this
28 subsection.

29 DRAFTER'S NOTE: In subsection (a)(2)(ii) of this section, the former language
30 detailing the initial terms of the board of zoning appeals is deleted as
31 obsolete.

32 Throughout this section, the reference to "the board of municipal and
33 zoning appeals" is substituted for the former reference to the "board of
34 zoning appeals" to conform to current practice.

35 In subsection (a)(2)(iv) of this section, a reference to "the Mayor" is
36 substituted for the former reference to "the appointing authority" for

1 consistency within the subtitle.

2 In subsection (c)(1)(iv) of this section, a reference to "City Council" is
3 substituted for the former reference to "the local legislative body" for
4 consistency within the subtitle.

5 2.09. Appeals to courts.

6 (a) (1) [Any] AN APPEAL TO THE CIRCUIT COURT OF BALTIMORE CITY MAY
7 BE FILED JOINTLY OR SEVERALLY BY ANY person [or persons], [or any] taxpayer, or
8 [any] officer, department, board, OR bureau of the [jurisdiction, jointly or severally]
9 CITY aggrieved [by any] BY:

10 (I) A decision of the [board of appeals, or by a] BOARD OF
11 MUNICIPAL AND ZONING APPEALS; OR

12 (II) A zoning action by the [local legislative body, may appeal the
13 same to the Circuit Court for Baltimore City] CITY COUNCIL.

14 (2) [Such] A PERSON FILING AN appeal shall [be taken in accordance]
15 COMPLY with Title 7, Chapter 200 of the Maryland Rules.

16 (3) [Nothing in this subsection shall] THIS SUBSECTION DOES NOT
17 change the existing standards for review of any zoning action.

18 (b) The court may hear the appeal on the record [or if, in the opinion of the
19 court,] OR, IF THE COURT BELIEVES THAT additional testimony is required for the
20 proper disposition of the [case] APPEAL, the court may [permit] ALLOW either or
21 both sides to present additional testimony.

22 (c) The court shall hear the [case] APPEAL without [the intervention of] a
23 jury.

24 (d) (1) [THE] IN REVIEWING A DECISION OF THE BOARD OF MUNICIPAL
25 AND ZONING APPEALS, THE court [may reverse or affirm, wholly or partly, or may
26 modify or remand] MAY:

27 (I) REVERSE IN WHOLE OR PART;

28 (II) AFFIRM IN WHOLE OR PART;

29 (III) MODIFY; OR

30 (IV) REMAND for further consideration[, any decision of the board of
31 appeals].

32 (2) [When a case] IF AN APPEAL is remanded for further consideration,
33 [the] ANY testimony[, if any,] taken in court shall be made available to the board OF
34 MUNICIPAL AND ZONING APPEALS.

1 (3) The costs of preparing [such] THE testimony shall be made a part of
2 the costs of the [case] APPEAL.

3 (e) [An appeal may be taken to the Court of Special Appeals from any decision
4 of the Circuit Court for Baltimore City.] ANY DECISION OF THE CIRCUIT COURT OF
5 BALTIMORE CITY MAY BE APPEALED TO THE COURT OF SPECIAL APPEALS.

6 (f) (1) In addition to the appeal provided in this section, the Mayor and City
7 Council OF BALTIMORE may [provide for] ALLOW AN appeal to the Circuit Court for
8 Baltimore City of any matter arising under the planning and zoning laws of the City
9 of Baltimore.

10 (2) [The] A decision of the Circuit Court for Baltimore City UNDER THIS
11 SUBSECTION may be appealed to the Court of Special Appeals.

12 (3) This subsection does not restrict any charter POWER or other power
13 of [the city] THE MAYOR AND CITY COUNCIL OF BALTIMORE.

14 DRAFTER'S NOTE: In subsection (a)(1)(ii) of this section, the reference to "City
15 Council" is substituted for the former reference to "local legislative body"
16 for consistency within the subtitle.

17 In subsection (a)(1)(i) of this section, the reference to "the board of
18 municipal and zoning appeals" is substituted for the former reference to
19 the "board of appeals" to conform to current practice and for consistency
20 throughout this subtitle.

21 2.10. Enforcement and remedies.

22 (a) (1) The Mayor and City Council OF BALTIMORE may provide by
23 ordinance for the enforcement of this article and of any ordinance ENACTED or
24 regulation [made thereunder] ADOPTED UNDER THIS ARTICLE.

25 (2) (I) A violation of this article or of [such] AN ordinance ENACTED or
26 regulation ADOPTED UNDER THIS ARTICLE is a [misdemeanor, and the]
27 MISDEMEANOR.

28 (II) THE Mayor and City Council OF BALTIMORE [may provide for]
29 MAY:

30 1. REQUIRE punishment by fine or imprisonment or [both. It
31 is also empowered to provide] BOTH; AND

32 2. ENACT OR ADOPT civil penalties for [such] A violation.

33 (b) (1) The Mayor and City Council OF BALTIMORE may provide by
34 ordinance that a violation of this article or of an ordinance ENACTED or regulation
35 [enacted] ADOPTED under this article [shall be] IS a civil zoning violation.

1 (2) [The] A CIVIL ZONING violation shall be enforced as provided in [§
2 7.01(c)] § 7.02 of this article.

3 (c) [In case any building, sign, or structure is erected, constructed,
4 reconstructed, altered, repaired, converted, or maintained, or any building, sign,
5 structure, or land is used in violation of this article or of any ordinance or other
6 regulation made under authority conferred hereby, the proper local authorities of
7 Baltimore City, in] IN addition to ANY other AVAILABLE remedies, THE PROPER
8 LOCAL AUTHORITIES OF BALTIMORE CITY may institute any appropriate action or
9 proceedings [to prevent] TO:

10 (1) PREVENT [such] THE unlawful erection, construction,
11 reconstruction, alteration, repair, conversion, maintenance, or use[, to restrain,] OF A
12 SIGN, A BUILDING, A STRUCTURE, OR LAND IN VIOLATION OF THIS ARTICLE OR OF
13 ANY ORDINANCE ENACTED OR REGULATION ADOPTED UNDER THIS ARTICLE;

14 (2) RESTRAIN, correct, or abate [such violation, to prevent] THE
15 VIOLATION;

16 (3) PREVENT the occupancy of [said] THE building, structure, or [land,
17 or to prevent] LAND; OR

18 (4) PREVENT any illegal act, conduct, business, or use in or about [such
19 premises] THE PREMISES OF THE BUILDING, STRUCTURE, OR LAND.

20 2.11. Conflict with other laws.

21 (A) [Wherever] IF the regulations [made under authority of] ADOPTED
22 UNDER this article require a greater width or size of yards, courts, or other open
23 spaces, [or require] a lower height of building or [less number of] A REDUCED
24 NUMBER OF stories, or [require] a greater percentage of lot [to be] left unoccupied,
25 or impose other higher standards than are required [in any other] UNDER ANOTHER
26 statute or local ordinance or regulation, the [provisions of the] regulations [made
27 under authority of] ADOPTED UNDER this article [shall] govern.

28 (B) [Wherever the provisions of any other] IF ANOTHER statute or local
29 ordinance or regulation [require] REQUIRES a greater width or size of yards, courts,
30 or other open spaces, [or require] a lower height of building or [a less] A REDUCED
31 number of stories, or [require] a greater percentage of lot [to be] left unoccupied, or
32 [impose] IMPOSES other higher standards than are required by the regulations
33 [made under authority of] ADOPTED UNDER this article, the [provisions of such]
34 statute or local ordinance or regulation [shall govern] GOVERNS.

35 2.12. Historic and landmark zoning and preservation.

36 (A) [For the purpose of preserving] TO PRESERVE structures and landmarks of
37 historic and architectural value as [part of] a public purpose [in this] OF THE State,
38 the Mayor and City Council of Baltimore City [have the power generally to] MAY
39 enact laws for historic and landmark zoning and preservation.

1 (B) This section does not restrict any charter POWER or other power of [the
2 city] BALTIMORE CITY.

3 2.13. SCOPE.

4 (A) SECTIONS 3.01 THROUGH 8.15 OF THIS ARTICLE DO NOT APPLY IN
5 BALTIMORE CITY.

6 (B) (1) SECTIONS 2.01 THROUGH 2.11 OF THIS ARTICLE AND ALL LAWS AND
7 ORDINANCES PASSED UNDER THOSE SECTIONS ARE NOT AFFECTED BY THE
8 REMAINING PROVISIONS OF THIS ARTICLE.

9 (2) IN BALTIMORE CITY, THE PROVISIONS OF THIS ARTICLE OTHER
10 THAN §§ 2.01 THROUGH 2.11 OF THIS ARTICLE ARE INTENDED TO SUPPLEMENT §§ 2.01
11 THROUGH 2.11 OF THIS ARTICLE.

12 DRAFTER'S NOTE: Subsection (a) of this section is derived without substantive
13 changes from the last clause of former § 7.02 of this article.

14 Subsection (b) of this section is derived without substantive change from
15 the last clause of former § 7.05 of this article.

16 NOTE TO THE GENERAL ASSEMBLY: Subsections (a) and (b)(2) appear
17 to be contradictory. Former § 7.02 (subsection (a) of the revised section)
18 was the more recently reenacted and would control under normal rules of
19 legislative interpretation. The General Assembly may want to consider a
20 substantive amendment to correct this apparent conflict.

21 One additional substantive change is recommended. In subsection (b), the
22 reference to "§§ 2.01 through 2.11" should probably be amended to
23 reference "§§ 2.01 through 2.12", to reflect the 1975 amendment adding §
24 2.12 to Subtitle 2 of the article.

25 Planning Commission Generally

26 3.01. Grant of power.

27 (a) A [county or municipal corporation is hereby authorized and empowered to
28 make,] LOCAL JURISDICTION MAY ENACT, adopt, amend, [extend, add to, or] AND
29 execute a plan as provided in this article and create by ordinance a planning
30 commission with the powers and duties [herein] set forth IN THIS ARTICLE.

31 (b) [Where] A MUNICIPAL CORPORATION MAY BE INCLUDED AS PART OF A
32 COUNTY PLAN UNDER THIS ARTICLE IF:

33 (1) [the] THE legislative body of [a] THE municipal [corporation]
34 CORPORATION, by A resolution directed to the legislative body of the county in which
35 [said] THE municipal corporation is located, indicates the intention to participate in
36 [a countywide program under the applicable provisions of this article, and where the]
37 THE COUNTY PLAN; AND

1 (2) THE legislative body of [said] THE county approves [such] THE
2 resolution[, then said municipal corporation shall be included for such purposes as
3 part of said county].

4 DRAFTER'S NOTE: In subsection (a) of this section, the defined term "local
5 jurisdiction" is substituted for the former reference to "county or municipal
6 corporation".

7 Former subsection (c) of this section is transferred without substantive
8 change to the Session Laws.

9 3.02. Composition of commission; appointment, compensation, [term] TERM, and
10 removal of members; vacancies[; special provisions as to Allegany, Carroll, Charles,
11 and Cecil Counties].

12 (a) (1) [The] EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A
13 PLANNING commission CREATED UNDER THIS SUBTITLE shall consist of either five or
14 seven [members, one of whom] MEMBERS.

15 (2) ONE OF THE MEMBERS may be a member of the local legislative
16 [body to serve] BODY, SERVING in an ex officio capacity concurrent with [his] THE
17 MEMBER'S official term.

18 (B) (1) The members OF A PLANNING COMMISSION shall be appointed by the
19 local legislative body or by [such] THE person [or persons as the local legislative body
20 creating the commission in the ordinance may designate] DESIGNATED as the
21 appointing power IN THE ORDINANCE CREATING THE COMMISSION.

22 (2) Where there is a single local elected executive, the members OF A
23 PLANNING COMMISSION shall be appointed by the local executive and confirmed by
24 the local legislative body.

25 (C) [All members may serve with] EACH MEMBER OF A PLANNING
26 COMMISSION IS ENTITLED TO the compensation THAT the local legislative body
27 [deems] CONSIDERS appropriate.

28 (D) (1) The term of each member is [five] 5 years or until the member's
29 successor takes office[, except that the respective terms of the five members first
30 appointed shall be].

31 (2) THE TERMS OF THE MEMBERS OF A PLANNING COMMISSION SHALL
32 BE [on a] staggered [basis].

33 (E) (1) After a public hearing, THE LOCAL LEGISLATIVE BODY MAY REMOVE
34 THE members OF A PLANNING COMMISSION [may be removed by the local legislative
35 body] for inefficiency, neglect of duty, or malfeasance in office.

36 (2) The local legislative body THAT REMOVES A MEMBER OF A PLANNING
37 COMMISSION shall file a written statement of reasons for the removal.

1 (F) Vacancies occurring [otherwise] OTHER than through the expiration of A
2 term shall be filled for the unexpired term by the local legislative body or by
3 [whatever] THE person [or persons as the local legislative body creating the
4 commission may designate] DESIGNATED in the ordinance as the appointing power.

5 [(b) (5)] (G) In a municipal corporation, the local legislative body may
6 designate one alternate member of the commission who may sit on the commission in
7 the absence of any member of the commission. When the alternate is absent, the local
8 legislative body may designate a temporary alternate to sit on the commission.

9 DRAFTER'S NOTE: This section is transferred without substantive change
10 from former § 3.02(a) and (b)(5) of this subtitle.

11 In subsection (d) of this section, the first portion of the second clause of the
12 former reference ", except that the respective terms of the five members
13 first appointed" is deleted as obsolete.

14 3.03. Organization; meetings; rules; records.

15 (A) (1) [The] A PLANNING commission shall elect a chairman from one of
16 the appointed members OF THE PLANNING COMMISSION and create and fill [such
17 other of] its OTHER offices as it [may determine] DETERMINES APPROPRIATE.

18 (2) (I) The term of A chairman shall be [one] 1 year[, with eligibility
19 for reelection].

20 (II) A PLANNING COMMISSION CHAIRMAN MAY BE REELECTED.

21 (B) [The] A PLANNING commission shall hold at least one regular meeting
22 each month.

23 (C) (1) [It] A PLANNING COMMISSION shall adopt rules for [transactions of]
24 TRANSACTING business and shall keep [a record] RECORDS of its resolutions,
25 transactions, findings, and [determinations, which record shall be a public record]
26 DETERMINATIONS.

27 (2) THE RECORDS OF THE RESOLUTIONS, TRANSACTIONS, FINDINGS,
28 AND DETERMINATIONS OF A PLANNING COMMISSION SHALL BE OPEN TO THE
29 PUBLIC.

30 3.04. [Staff; consultants; expenditures; director of planning and zoning for Cecil
31 County] GENERAL POWERS OF THE PLANNING COMMISSION.

32 (A) (1) A PLANNING COMMISSION MAY ACCEPT AND USE GIFTS AND PUBLIC
33 OR PRIVATE GRANTS FOR THE EXERCISE OF ITS FUNCTIONS.

34 (2) ON A PLANNING COMMISSION'S REQUEST, ALL PUBLIC OFFICIALS
35 SHALL FURNISH TO THE COMMISSION WITHIN A REASONABLE TIME AVAILABLE
36 INFORMATION THAT THE COMMISSION MAY REQUIRE FOR ITS PROGRAM.

1 (3) IN THE PERFORMANCE OF THEIR FUNCTIONS, A PLANNING
2 COMMISSION, ITS MEMBERS, ITS OFFICERS, AND ITS EMPLOYEES MAY ENTER ON
3 ANY LAND AND MAKE EXAMINATIONS AND SURVEYS.

4 (4) A PLANNING COMMISSION SHALL HAVE THE POWERS NECESSARY TO
5 ENABLE IT TO FULFILL ITS FUNCTIONS, PROMOTE PLANNING, AND EXECUTE THE
6 PURPOSES OF THIS ARTICLE.

7 [(a)] (B) (1) [The] A PLANNING commission may appoint the employees
8 necessary for its work, and may contract with planners, engineers, architects, and
9 other consultants for services that the commission requires.

10 (2) (I) The expenditures of [the] A PLANNING commission, exclusive of
11 gifts, shall be under the conditions and within the amounts appropriated for the
12 purpose by the local legislative [body which] BODY.

13 (II) THE LOCAL LEGISLATIVE BODY shall provide the funds,
14 equipment, and accommodations necessary for the PLANNING commission's work.

15 DRAFTER'S NOTE: Subsection (a) of this section is derived without substantive
16 change from portions of former § 3.05(c) of this subtitle. They are moved to
17 this section as provisions stating the general powers of a planning
18 commission, rather than leaving them among the specific powers over plan
19 development or implementation contained in §§ 3.05 and 3.06 of this
20 subtitle.

21 Former subsection (b) of this section is transferred without substantive
22 change to § 14.04 of this article.

23 3.05. [General powers and duties] THE PLAN.

24 (a) (1) [It shall be the function and duty of the commission to] A PLANNING
25 COMMISSION SHALL make and approve a plan which [shall be recommended] THE
26 COMMISSION SHALL RECOMMEND to the local legislative body for adoption [and
27 which shall serve].

28 (2) THE PLAN SHALL:

29 (I) SERVE as a guide to public and private actions and decisions to
30 insure the development of public and private property in appropriate [relationships]
31 RELATIONSHIPS; and

32 (II) [which shall include] INCLUDE any areas outside of [its] THE
33 boundaries OF THE PLAN which, in the PLANNING commission's judgment, bear
34 relation to the planning responsibilities of the commission.

35 (3) (I) The elements of the plan may be expressed in words, graphics,
36 or ANY other appropriate form.

1 (II) 1. [They] THE ELEMENTS OF THE PLAN shall be interrelated
2 [and each].

3 2. EACH element shall describe how it relates to each of the
4 other elements and to the statement of objectives, principles, policies, and standards.

5 [(1)] (4) The plan shall contain at a minimum the following elements:

6 (i) A statement of goals and objectives, principles, policies, and
7 [standards] STANDARDS, which shall serve as a guide for the development and
8 economic and social well-being of the LOCAL jurisdiction;

9 (ii) A land use plan [element] ELEMENT, which [shall show
10 proposals for]:

11 1. SHALL PROPOSE the most appropriate and desirable
12 patterns for the general location, character, extent, and interrelationship of [the
13 manner in which the community should use its] THE USES OF public and private
14 [land at specified times as far into the future as is reasonable] LAND, ON A
15 SCHEDULE THAT EXTENDS AS FAR INTO THE FUTURE AS IS REASONABLE[. Such land
16 use may include, without being limited to,]; AND

17 2. MAY INCLUDE public and private, residential, commercial,
18 industrial, agricultural, and recreational land uses;

19 (iii) A transportation plan element which [shall show proposals for]
20 SHALL:

21 1. PROPOSE the most appropriate and desirable patterns for
22 the general location, character, and extent of the channels, routes, and terminals for
23 transportation facilities, and for the circulation of persons and goods [at specified
24 times as far into the future as is reasonable.] ON A SCHEDULE THAT EXTENDS AS FAR
25 INTO THE FUTURE AS IS REASONABLE;

26 2. [The transportation plan element shall also provide]
27 PROVIDE for bicycle and pedestrian access and [travelways. An] TRAVELWAYS; AND

28 3. INCLUDE AN estimate of the probable utilization of any
29 proposed [improvement shall be included. Such channels, routes, travelways, and
30 terminals may include, without being limited to, all types of highways or streets,
31 bicycle ways, sidewalks, railways, waterways, airways, routings for mass transit, and
32 terminals for people, goods, and vehicles related to highways, airways, waterways,
33 and railways] IMPROVEMENT;

34 (iv) A community facilities plan [element which shall show
35 proposals for] ELEMENT, WHICH:

36 1. SHALL PROPOSE the most appropriate and desirable
37 patterns for the general location, character, and extent of public and semipublic
38 buildings, land, and facilities [for specified times as far into the future as is

1 (viii) A sensitive area element that contains goals, objectives,
 2 principles, policies, and standards designed to protect SENSITIVE AREAS[,] from the
 3 adverse effects of development[, sensitive areas, including the following:

- 4 1. Streams and their buffers;
- 5 2. 100-year floodplains;
- 6 3. Habitats of threatened and endangered species; and
- 7 4. Steep slopes].

8 [(2) The sensitive areas element adopted under paragraph (1)(viii) of this
 9 subsection may also include other areas in need of special protection, as determined
 10 in the local plan.]

11 [(3) The plan may include, without being limited to, any additional
 12 elements such as community renewal, housing, flood control, pollution, conservation,
 13 natural resources, the general location and extent of public utilities, and other
 14 programs which, in the judgment of the planning commission will further advance the
 15 purposes of the plan.]

16 [(4) (5) (I) THE TRANSPORTATION ELEMENT MAY INCLUDE ALL
 17 TYPES OF HIGHWAYS AND STREETS, BICYCLE WAYS, SIDEWALKS, RAILWAYS,
 18 WATERWAYS, AIRWAYS, ROUTINGS FOR MASS TRANSIT, AND TERMINALS FOR
 19 PEOPLE, GOODS, AND VEHICLES RELATED TO HIGHWAYS, AIRWAYS, WATERWAYS,
 20 AND RAILWAYS.

21 (II) The mineral resources plan element shall be incorporated in:

22 [(i) 1. Any new plan adopted after July 1, 1986 for all or any part
 23 of a LOCAL jurisdiction; and

24 [(ii) 2. Any amendment or addition that is adopted after July 1,
 25 1986 to a plan that was in effect on July 1, 1985.

26 (6) (I) THE PLAN MAY INCLUDE ANY ADDITIONAL ELEMENTS WHICH,
 27 IN THE JUDGMENT OF THE PLANNING COMMISSION, WILL FURTHER ADVANCE THE
 28 PURPOSES OF THE PLAN.

29 (II) THE ADDITIONAL PLAN ELEMENTS MAY INCLUDE:

- 30 1. COMMUNITY RENEWAL ELEMENTS;
- 31 2. HOUSING ELEMENTS;
- 32 3. FLOOD CONTROL ELEMENTS;
- 33 4. POLLUTION CONTROL ELEMENTS;
- 34 5. CONSERVATION ELEMENTS;

1 (II) PROJECTIONS OF FUTURE GROWTH OF THE LOCAL
2 JURISDICTION; AND

3 (III) THE RELATION OF THE LOCAL JURISDICTION TO NEIGHBORING
4 JURISDICTIONS.

5 (2) THE PLANNING COMMISSION SHALL MAKE THE PLAN WITH THE
6 GENERAL PURPOSE OF GUIDING AND ACCOMPLISHING THE COORDINATED,
7 ADJUSTED, AND HARMONIOUS DEVELOPMENT OF THE LOCAL JURISDICTION AND ITS
8 ENVIRONS.

9 (3) A PLAN SHALL PROMOTE, IN ACCORDANCE WITH PRESENT AND
10 FUTURE NEEDS:

11 (I) THE HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE,
12 PROSPERITY, AND THE GENERAL WELFARE OF THE LOCAL JURISDICTION; AND

13 (II) EFFICIENCY AND ECONOMY IN THE DEVELOPMENT PROCESS.

14 (4) A PLAN SHALL PROVIDE FOR:

15 (I) TRANSPORTATION NEEDS;

16 (II) THE PROMOTION OF PUBLIC SAFETY;

17 (III) LIGHT AND AIR;

18 (IV) THE CONSERVATION OF NATURAL RESOURCES;

19 (V) THE PREVENTION OF ENVIRONMENTAL POLLUTION;

20 (VI) THE PROMOTION OF A HEALTHFUL AND CONVENIENT
21 DISTRIBUTION OF POPULATION;

22 (VII) THE PROMOTION OF GOOD CIVIC DESIGN AND ARRANGEMENT;

23 (VIII) THE WISE AND EFFICIENT EXPENDITURE OF PUBLIC FUNDS;

24 (IX) ADEQUATE PUBLIC UTILITIES; AND

25 (X) AN ADEQUATE SUPPLY OF OTHER PUBLIC REQUIREMENTS.

26 [(c)] (D) (1) The commission shall have power to promote public interest in
27 and understanding of the plan.

28 (2) The commission [shall from time to time recommend to the
29 appropriate public officials programs for public structures, improvements and land
30 acquisitions, and for their financing. It shall be part of its duties to] SHALL:

31 (I) PERIODICALLY RECOMMEND TO THE APPROPRIATE PUBLIC
32 OFFICIALS PROGRAMS FOR:

1 Former subsection (d) of this section is transferred without substantive
2 change to new § 3.06(a) of this subtitle.

3 Former subsection (e) of this section, relating to notification of projected
4 compliance by local jurisdictions with implementation of the plan revision
5 schedule under the Economic Growth, Resource Protection, and Planning
6 Act of 1992, is deleted as obsolete.

7 3.06. [Purpose of plan; visions] FIRST ACTIONS BY LOCAL JURISDICTION;
8 IMPLEMENTING THE PLAN.

9 [(a) In the preparation of the plan the commission shall make careful and
10 comprehensive surveys and studies of present conditions and future growth of the
11 jurisdiction, and with due regard to its relation to neighboring territory. The plan
12 shall be made with the general purpose of guiding and accomplishing the coordinated,
13 adjusted, and harmonious development of the jurisdiction, and its environs which
14 will, in accordance with present and future needs, best promote health, safety, morals,
15 order, convenience, prosperity, and general welfare, as well as efficiency and economy
16 in the process of development; including among other things, adequate provisions for
17 traffic, the promotion of public safety, adequate provision for light and air,
18 conservation of natural resources, the prevention of environmental pollution, the
19 promotion of the healthful and convenient distribution of population, the promotion of
20 good civic design and arrangement, wise and efficient expenditure of public funds,
21 and the adequate provision of public utilities and other public requirements.

22 (b) In addition to the requirements of subsection (a) of this section, the
23 commission shall implement the following visions through the plan described in §
24 3.05 of this article:

25 (1) Development is concentrated in suitable areas;

26 (2) Sensitive areas are protected;

27 (3) In rural areas, growth is directed to existing population centers and
28 resource areas are protected;

29 (4) Stewardship of the Chesapeake Bay and the land is a universal ethic;

30 (5) Conservation of resources, including a reduction in resource
31 consumption, is practiced;

32 (6) To assure the achievement of paragraphs (1) through (5) of this
33 subsection, economic growth is encouraged and regulatory mechanisms are
34 streamlined; and

35 (7) Funding mechanisms are addressed to achieve these visions.]

36 (A) (1) WHEN A LOCAL JURISDICTION FIRST ADOPTS THE ZONING POWERS
37 CONFERRED BY THIS ARTICLE, THE PLANNING COMMISSION SHALL RECOMMEND

1 THE BOUNDARIES OF THE VARIOUS ORIGINAL DISTRICTS AND APPROPRIATE
2 REGULATIONS TO BE ENFORCED IN THOSE DISTRICTS.

3 (2) THE PLANNING COMMISSION SHALL MAKE A PRELIMINARY REPORT
4 AND HOLD AT LEAST ONE PUBLIC HEARING ON THE PRELIMINARY REPORT BEFORE
5 SUBMITTING ITS FINAL REPORT.

6 (3) THE LOCAL LEGISLATIVE BODY MAY NOT HOLD A PUBLIC HEARING
7 OR TAKE ACTION UNTIL IT HAS RECEIVED THE FINAL REPORT OF THE PLANNING
8 COMMISSION.

9 (B) TO IMPLEMENT THE PLAN, THE PLANNING COMMISSION SHALL
10 PERIODICALLY RECOMMEND TO THE APPROPRIATE PUBLIC OFFICIALS:

11 (1) PROGRAMS FOR PUBLIC STRUCTURES, IMPROVEMENTS, AND LAND
12 ACQUISITIONS; AND

13 (2) FINANCING PROGRAMS.

14 (c) (1) Except as provided in paragraph (2) of this subsection, ONLY THE
15 LOCAL LEGISLATIVE BODY [the authority to] THAT HAS ADOPTED THE PLAN MAY
16 adopt regulations [concerning the implementation of subsection (b) of this section]
17 IMPLEMENTING THE VISIONS STATED IN § 1.01 OF THIS ARTICLE in a plan [shall be
18 vested solely in the legislative body of the jurisdiction that has adopted the plan].

19 (2) This subsection does not limit the Office of Planning, the State
20 Economic Growth, Resource Protection, and Planning Commission, or any
21 subcommittee of the STATE ECONOMIC GROWTH, RESOURCE PROTECTION, AND
22 PLANNING Commission[,] from exercising any authority granted under the State
23 Finance and Procurement Article.

24 DRAFTER'S NOTE: Former subsection (a) of this section is transferred without
25 substantive change to § 3.05(c) of this subtitle.

26 Subsection (a) of this section is derived without substantive change from
27 former § 3.05(d) of this subtitle, except that the defined term "local
28 jurisdiction" is substituted for the former reference to "a county or
29 municipal corporation".

30 Former subsection (b) of this section is transferred without substantive
31 change to § 1.01 of this article.

32 Subsection (b) of this section is derived without substantive change from
33 the second sentence of former § 3.05(c) of this subtitle.

34 3.07. Procedure for recommending adoption, amendment, etc., of plan; resolution of
35 approval.

36 (A) [The] A PLANNING commission may recommend adoption [of] OF:

1 (1) [the] A WHOLE plan [as a whole or may recommend adoption of
2 successive];

3 (2) SUCCESSIVE parts of [the] A plan, WITH [the parts corresponding]
4 PARTS THAT CORRESPOND to major [geographical] GEOGRAPHIC sections or
5 divisions of the LOCAL jurisdiction[, and may recommend adoption of any]; AND

6 (3) ANY amendment [or extension of or addition] to the plan.

7 (B) (1) Before recommending the adoption of the plan or any part[,] OR
8 amendment, [extension, or addition, the] A PLANNING commission shall hold at least
9 one public [hearing thereon, notice] HEARING.

10 (2) THE PLANNING COMMISSION SHALL PUBLISH ONCE A NOTICE of the
11 time and place of [which shall be given by one publication] THE HEARING in a
12 newspaper of general circulation in the LOCAL jurisdiction.

13 (C) [Copies] AT LEAST 60 DAYS PRIOR TO THE PUBLIC HEARING, THE
14 PLANNING COMMISSION SHALL PROVIDE COPIES of the recommended plan and all
15 amendments to the plan [shall be referred to all] TO:

16 (1) ALL adjoining planning [jurisdictions, and to all] JURISDICTIONS;
17 AND

18 (2) ALL State and local jurisdictions that have responsibility for
19 financing or constructing public improvements necessary to implement the plan[, at
20 least 60 days prior to the public hearing].

21 (D) The PLANNING COMMISSION SHALL INCLUDE THE recommendation of
22 each jurisdiction that comments on the plan's recommendations [shall be included]
23 in the planning commission's report to the local legislative body.

24 (E) (1) The [approval of] PLANNING COMMISSION SHALL APPROVE the plan
25 or [of] any part[,] OR amendment OF THE PLAN[, extension, or addition shall be] by
26 resolution of the commission carried by the affirmative votes of not less than a
27 majority of the COMMISSION membership.

28 (2) The resolution shall refer expressly to the text, map, and descriptive,
29 and other matter [intended by] THAT the commission INTENDS to form the whole or
30 part of the [plan, and the] PLAN.

31 (3) THE action taken shall be recorded on the map, plan, text or other
32 matter by the identifying signature of:

33 (I) [the] THE chairman OF THE PLANNING COMMISSION; [or]

34 (II) THE secretary of the commission[.]; or

35 (III) [both] BOTH THE SECRETARY AND THE CHAIRMAN.

1 (F) An attested copy of the plan or part of the plan shall be certified to the
2 local legislative body.

3 DRAFTER'S NOTE: In subsections (a)(3), (b)(1), and (e)(1) of this section, the
4 former references to "or extension of or addition" and "extension, or
5 addition", respectively are deleted as included within the reference to
6 "amendment".

7 3.08. Legal status of plan; adoption.

8 (A) [Whenever] SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF [the] A
9 local legislative body [shall have] HAS adopted [the] A WHOLE plan [as a whole] or
10 A PLAN for one or more geographic sections or divisions of the LOCAL jurisdiction,
11 [no] A PUBLICLY OR PRIVATELY OWNED street, square, park or other public way,
12 ground, or open space, or public building or structure, or public utility[, whether
13 public or privately owned, shall] MAY NOT be constructed or authorized in the LOCAL
14 jurisdiction or THE major geographic section [thereof] OF THE LOCAL JURISDICTION
15 until the location, character, and extent of [such] THE development [shall have] HAS
16 been submitted to and approved by the PLANNING commission as consistent with the
17 [plan provided, that the] PLAN.

18 (B) (1) THE PLANNING commission shall communicate its decision and THE
19 reasons FOR ITS DECISION to the local legislative body [which shall have the power
20 to] OR TO THE BODY THAT HAS JURISDICTION OVER THE FINANCING OF THE PUBLIC
21 WAY, GROUND, SPACE, BUILDING, STRUCTURE, OR UTILITY.

22 (2) THE LOCAL LEGISLATIVE BODY OR OTHER BODY HAVING
23 JURISDICTION MAY overrule [such] THE [action] DECISION by a recorded vote of not
24 less than 2/3 of its entire membership[; provided, however, that if the public way,
25 ground, space, building, structure or utility be one the authorization of financing of
26 which does not, under the law or charter provisions governing same, fall within the
27 province of the local legislative body, then the submission to the planning commission
28 shall be by the board, commission or body having such jurisdiction, and the planning
29 commission's action may be overruled by said board, commission or body by a vote of
30 not less than 2/3 of its membership].

31 (C) (1) [Failure of the planning commission] IF A PLANNING COMMISSION
32 FAILS to act ON A SUBMISSION within 60 days [from and] after the date of official
33 submission to the planning [commission shall be deemed approval] COMMISSION,
34 THE SUBMISSION SHALL BE CONSIDERED APPROVED.

35 (2) (I) [Failure of the] IF A local legislative body OR OTHER BODY
36 HAVING JURISDICTION FAILS to act within 60 days [from and] after the date of
37 submission of the recommendation of the planning [commission] COMMISSION, THE
38 LOCAL LEGISLATIVE BODY OR OTHER BODY WITH JURISDICTION shall be [deemed
39 concurrence] CONSIDERED TO HAVE CONCURRED with the recommendation of the
40 planning commission.

1 (II) The local legislative body shall adopt the plan as a whole or for
2 one or more major geographic sections or divisions of the jurisdiction, and further
3 shall adopt any amendment or extension thereof or addition thereto.

4 3.09. Annual reports.

5 (A) [The] A planning commission shall [annually] prepare, adopt, and file an
6 annual report with the local legislative body. [The annual report shall be made
7 available for public inspection and a copy of the report shall be mailed to the Director
8 of the Maryland Office of Planning.]

9 (B) The annual report shall [(a) index]:

10 (1) INDEX and locate on a map all changes in development patterns
11 WHICH OCCURRED DURING THE PERIOD COVERED BY THE REPORT, including land
12 use, transportation, community facilities patterns, zoning map amendments, and
13 subdivision plats [which occurred during the period covered by the report, and shall
14 state];

15 (2) STATE whether these changes are or are not consistent with:

16 (I) [each] EACH other[, with the];

17 (II) THE recommendations of the last annual report[, with];

18 (III) THE adopted plans of the LOCAL jurisdiction[, with];

19 (IV) THE adopted plans of all adjoining [planning] LOCAL
20 jurisdictions[, and with]; AND

21 (V) THE adopted plans of State and local jurisdictions that have
22 responsibility for financing or constructing public improvements necessary to
23 implement the LOCAL jurisdiction's plan; [(b) contain] AND

24 (3) CONTAIN statements and recommendations for improving the
25 planning and development process within the LOCAL jurisdiction.

26 (C) The local legislative body shall review the annual report and direct that
27 [such] ANY APPROPRIATE AND NECESSARY studies and other actions [as
28 appropriate and necessary] be undertaken to insure the continuation of a viable
29 planning and development process.

30 (D) (1) THE ANNUAL REPORT SHALL BE MADE AVAILABLE FOR PUBLIC
31 INSPECTION.

32 (2) A COPY OF THE REPORT SHALL BE MAILED TO THE DIRECTOR OF THE
33 MARYLAND OFFICE OF PLANNING.

34 DRAFTER'S NOTE: The second sentence of subsection (a) of this section has
35 been renumbered as subsection (d) of this section.

1 General Development Regulations and Zoning

2 4.01. Grant of powers; [certain restrictions in St. Mary's County;] statement of policy;
3 construction of powers.

4 (A) (1) IT IS THE POLICY OF THIS STATE THAT:

5 (I) THE ORDERLY DEVELOPMENT AND USE OF LAND AND
6 STRUCTURES REQUIRES COMPREHENSIVE REGULATION THROUGH THE
7 IMPLEMENTATION OF PLANNING AND ZONING CONTROLS; AND

8 (II) PLANNING AND ZONING CONTROLS SHALL BE IMPLEMENTED
9 BY LOCAL GOVERNMENT.

10 (2) TO ACHIEVE THE PUBLIC PURPOSES OF THIS REGULATORY SCHEME,
11 IT IS THE POLICY OF THE GENERAL ASSEMBLY AND THIS STATE THAT LOCAL
12 GOVERNMENT ACTION WILL DISPLACE OR LIMIT ECONOMIC COMPETITION BY
13 OWNERS AND USERS OF PROPERTY THROUGH THE PLANNING AND ZONING
14 CONTROLS SET FORTH IN THIS ARTICLE AND ELSEWHERE IN THE PUBLIC LOCAL
15 AND PUBLIC GENERAL LAWS.

16 [(a)] (B) (1) [For the purpose of promoting] TO PROMOTE THE health,
17 safety, morals, or [the] general welfare of the [community the] COMMUNITY, A
18 LOCAL legislative body [of counties and municipal corporations are hereby
19 empowered to] MAY regulate and [restrict the] RESTRICT, FOR TRADE, INDUSTRY,
20 RESIDENCES, AND OTHER PURPOSES:

21 (I) THE height, number of stories, and size of buildings and other
22 structures[, the];

23 (II) THE percentage of A lot that may be occupied[, off-street
24 parking, the];

25 (III) OFF-STREET PARKING;

26 (IV) THE size of yards, [courts] COURTS, and other open [spaces,
27 the] SPACES;

28 (V) THE density of [population] POPULATION; and

29 (VI) [the] THE location and use of buildings, signs, structures and
30 land [for trade, industry, residence or other purposes].

31 (2) (i) If [the] A LOCAL legislative body [of a county or municipal
32 corporation] regulates off-street parking, the LOCAL legislative body shall require
33 space for the parking of bicycles in a manner that the LOCAL legislative body
34 considers appropriate.

1 (ii) [The] A LOCAL legislative body may allow a reduction in the
 2 number of required automobile parking spaces based on the availability of space for
 3 parking bicycles.

4 [(b)] (C) (1) [The] ON THE ZONING OR REZONING OF ANY LAND UNDER
 5 THIS ARTICLE, A local legislative body [of a county or municipal corporation, upon the
 6 zoning or rezoning of any land or lands pursuant to the provisions of this article,]
 7 may impose [such] ANY additional restrictions, conditions, or limitations [as may be
 8 deemed] THAT THE LOCAL LEGISLATIVE BODY CONSIDERS appropriate to preserve,
 9 improve, or protect the general character and design[of the] OF:

10 (I) THE lands and improvements being zoned or [rezoned, or of
 11 the] REZONED; OR

12 (II) THE surrounding or adjacent lands and [improvements, and]
 13 IMPROVEMENTS.

14 (2) ON THE ZONING OR REZONING OF ANY LAND, A LOCAL LEGISLATIVE
 15 BODY may[, upon the zoning or rezoning of any land or lands,] retain or reserve the
 16 power [and authority] to approve or disapprove the design of buildings, construction,
 17 landscaping, or other improvements, alterations, and changes made or to be made on
 18 the [subject] land [or lands] BEING ZONED OR REZONED to assure conformity with
 19 the intent and purpose of this article and of the LOCAL jurisdiction's zoning
 20 ordinance.

21 (3) The powers provided in this subsection shall [be applicable] APPLY
 22 only if the local legislative body adopts an ordinance which shall include enforcement
 23 procedures and requirements for adequate notice of public hearings and conditions
 24 sought to be imposed.

25 [(d)] (1) It has been and shall continue to be the policy of this State that the
 26 orderly development and use of land and structures requires comprehensive
 27 regulation through implementation of planning and zoning controls.

28 (2) It has been and shall continue to be the policy of this State that
 29 planning and zoning controls shall be implemented by local government.

30 (3) To achieve the public purposes of this regulatory scheme, the General
 31 Assembly recognizes that local government action will displace or limit economic
 32 competition by owners and users of property.

33 (4) It is the policy of the General Assembly and of this State that
 34 competition and enterprise shall be so displaced or limited for the attainment of the
 35 purposes of the State policy for implementing planning and zoning controls as set
 36 forth in this article and elsewhere in the public local and public general law.]

37 [(5)] (D) The powers granted to [the county pursuant to] A LOCAL
 38 JURISDICTION UNDER this subsection [shall not be construed] DO NOT:

1 [(i)] (1) [To grant to the county] GRANT THE LOCAL
2 JURISDICTION powers in any substantive area not otherwise granted to the [county]
3 LOCAL JURISDICTION by ANY other public general or public local law;

4 [(ii)] (2) [To restrict the county] RESTRICT THE LOCAL
5 JURISDICTION from exercising any power granted to the [county] LOCAL
6 JURISDICTION by ANY other public general or public local law or otherwise;

7 [(iii)] (3) [To authorize the county] AUTHORIZE THE LOCAL
8 JURISDICTION or its officers to engage in any activity which is beyond their power
9 under ANY other public general law, public local law, or otherwise; or

10 [(iv)] (4) [To preempt] PREEMPT or supersede the regulatory
11 authority of any State department or agency under any public general law.

12 DRAFTER'S NOTE: Former subsection (d)(1) through (4) of this section has
13 been renumbered as subsection (a) of this section.

14 In subsection (d) of this section, the defined term "local jurisdiction" is
15 substituted for the former reference to "county".

16 4.02. Districts.

17 (A) [For any or all of said purposes the] A local legislative body may divide the
18 [county or municipal corporation] LOCAL JURISDICTION into districts of [such] ANY
19 number, shape, and area [as may be deemed] THAT THE LOCAL LEGISLATIVE BODY
20 CONSIDERS best suited to execute the purposes of this [article, and within such]
21 ARTICLE.

22 (B) (1) WITHIN THE districts [it] CREATED, THE LOCAL LEGISLATIVE BODY
23 may regulate and restrict the erection, construction, reconstruction, alteration,
24 [repair] REPAIR, or use of buildings, [structures] STRUCTURES, or land.

25 (2) All [such] regulations shall be uniform for each class or kind of
26 development throughout each district, but the regulations in one district may differ
27 from those in other districts.

28 DRAFTER'S NOTE: In subsection (a) of this section, the defined term "local
29 jurisdiction" is substituted for the former reference to "county or municipal
30 corporation".

31 4.03. Purposes.

32 (A) [Such] THE regulations ADOPTED BY A LOCAL LEGISLATIVE BODY shall be
33 [made in] ADOPTED:

34 (1) IN accordance with the [plan] PLAN;

1 (2) WITH REASONABLE CONSIDERATION FOR, AMONG OTHER THINGS,
 2 THE CHARACTER OF THE DISTRICT AND ITS SUITABILITY FOR PARTICULAR USES;
 3 AND

4 (3) WITH A VIEW TO CONSERVING THE VALUE OF BUILDINGS AND
 5 ENCOURAGING ORDERLY DEVELOPMENT AND THE MOST APPROPRIATE USE OF
 6 LAND.

7 (B) THE REGULATIONS SHALL BE [and] designed TO:

8 (1) [to control] CONTROL congestion in the streets;

9 (2) [to secure] SECURE the public safety;

10 (3) [to promote] PROMOTE health[,] and the general welfare;

11 (4) [to provide] PROVIDE adequate light and air;

12 (5) [to promote] PROMOTE the conservation of natural resources;

13 (6) [to prevent] PREVENT environmental pollution[, to] AND avoid
 14 undue concentration of population; AND

15 (7) [to facilitate] FACILITATE the adequate provision of transportation,
 16 water, sewerage, schools, recreation, parks and other public requirements. [Such
 17 regulations shall be made with reasonable consideration, among other things, to the
 18 character of the district and its suitability for particular uses, and with a view to
 19 conserving the value of buildings and encouraging the orderly development and the
 20 most appropriate use of land throughout the jurisdiction.]

21 DRAFTER'S NOTE: In subsection (a)(2) of this section, the reference to ", among
 22 other things," is deleted as surplusage.

23 4.04. Method of procedure.

24 (a) [The] A local legislative body shall provide for the manner in which
 25 [such] ITS regulations and restrictions and the boundaries of [such] ITS districts
 26 shall be determined, established, [and] enforced, and [from time to time]
 27 PERIODICALLY amended[, supplemented, modified,] or repealed.

28 (B) (1) [However, a] A regulation, restriction, or boundary may not become
 29 effective until 10 days after at least [1] ONE public hearing [in relation thereto] ON
 30 THE MATTER, at which parties in interest and citizens shall have an opportunity to be
 31 heard.

32 [(b)] (2) (I) [Notice] THE LOCAL LEGISLATIVE BODY SHALL PUBLISH
 33 NOTICE of the time and place of [the] A public hearing, together with a summary of
 34 the proposed regulation, restriction, or boundary, [shall be published] in at least [1]
 35 ONE newspaper of general circulation in the jurisdiction once each week for 2
 36 successive weeks[, with the].

1 (II) THE LOCAL LEGISLATIVE BODY SHALL PUBLISH THE first
 2 [such publication of] notice [appearing] OF THE HEARING at least 14 days [prior to]
 3 BEFORE the hearing.

4 DRAFTER'S NOTE: In subsection (a) of this section, the former reference to "
 5 supplemented, modified," is deleted as included within the reference to
 6 "amended".

7 4.05. Amendment, [modification,] repeal and reclassification.

8 (a) (1) [Such] ZONING regulations, restrictions, and boundaries may [from
 9 time to time] PERIODICALLY be amended[, supplanted, modified,] or repealed.

10 (2) (I) Where the purpose and effect of the proposed amendment is to
 11 change the zoning classification, the local legislative body shall make findings of fact
 12 [in each specific case including, but not limited to,] THAT INCLUDE the following
 13 matters: [population change, availability of public facilities, present and future
 14 transportation patterns, compatibility with existing and proposed development for
 15 the area, the recommendation of the planning commission, and the relationship of
 16 such proposed amendment to the jurisdiction's plan; and]

17 1. POPULATION CHANGE;

18 2. THE AVAILABILITY OF PUBLIC FACILITIES;

19 3. PRESENT AND FUTURE TRANSPORTATION PATTERNS;

20 4. COMPATIBILITY WITH EXISTING AND PROPOSED
 21 DEVELOPMENT FOR THE AREA;

22 5. THE RECOMMENDATION OF THE PLANNING COMMISSION;
 23 AND

24 6. THE RELATIONSHIP OF THE PROPOSED AMENDMENT TO
 25 THE LOCAL JURISDICTION'S PLAN.

26 (II) THE LOCAL LEGISLATIVE BODY may grant the amendment TO
 27 CHANGE THE ZONING CLASSIFICATION based [upon] ON a finding that there [was
 28 a] WAS:

29 1. A substantial change in the character of the neighborhood
 30 where the property is located; OR

31 2. [or that there was a] A mistake in the existing zoning
 32 classification.

33 (3) [A] THE LOCAL LEGISLATIVE BODY SHALL KEEP A complete record
 34 of the hearing and the votes of all members of the local legislative body [shall be
 35 kept].

1 (b) [An] A LOCAL LEGISLATIVE BODY MAY NOT ACCEPT THE FILING OF AN
 2 application for a [reclassification shall not be accepted for filing by the local
 3 legislative body if the application is for the] reclassification of the whole or [any]
 4 part of ANY land [the] FOR WHICH A reclassification [of which] has been [opposed
 5 or] denied by the local legislative body on the merits [within twelve (12)] IN THE 12
 6 months [from] BEFORE the date of the [local legislative body's decision]
 7 APPLICATION.

8 (c) The provisions of § 4.04 [above relative to] OF THIS SUBTITLE
 9 CONCERNING public hearings and official notice [shall] apply [equally] IN THE
 10 SAME MANNER AND TO THE SAME EXTENT to [all] reclassifications.

11 DRAFTER'S NOTE: This section is derived without substantive change from
 12 former § 4.05(a) through (c) of this article.

13 In subsection (a)(1) of this section, the former reference to ", supplanted,
 14 modified," is deleted as included within the reference "amended".

15 Former § 4.05(d) of this section as it related to Washington County is
 16 transferred without substantive change to § 14.08 of this article. Former §
 17 4.05(d) of this section as it related to Charles County is added without
 18 substantive change to § 14.05(c) of this article.

19 Former § 4.05(f) and (g) of this section is transferred without substantive
 20 change to § 14.09(b) and (c) of this article.

21 4.06. Hearing examiners.

22 (a) (1) [The] A local legislative body may appoint [such] THE [full] FULL-
 23 and part-time hearing examiners [as in its discretion may be deemed] THAT IT
 24 CONSIDERS necessary and [appropriate and] APPROPRIATE.

25 (2) (I) A LOCAL LEGISLATIVE BODY may delegate to [the said] A
 26 hearing examiner [or examiners] the power to [hold and] conduct A public [hearings
 27 as required and set forth in] HEARING UNDER § 4.05 [above] OF THIS SUBTITLE.

28 (II) [Such] A hearing shall be conducted [in such a manner and
 29 subject to such] UNDER rules and regulations [as may be provided] ADOPTED by the
 30 local legislative body.

31 (b) [The hearing examiner or examiners shall be appointed for such terms of
 32 office, possessed of such qualifications, and shall receive such compensation as may
 33 be provided by the local legislative body] A LOCAL LEGISLATIVE BODY SHALL
 34 DETERMINE THE TERM OF OFFICE, REQUIRED QUALIFICATIONS, AND
 35 COMPENSATION OF A HEARING EXAMINER EMPLOYED BY THE LOCAL JURISDICTION.

36 (c) [The] A hearing examiner shall render a written recommendation [at
 37 such] IN THE time, MANNER, and [in such manner and] form [as may be] required
 38 by the local legislative body.

1 DRAFTER'S NOTE: In subsection (a)(2) of this section, the former reference to
2 "hold" is deleted as included within the reference to "conduct".

3 4.07. Board of appeals.

4 (a) (1) [The] EACH local legislative body shall provide for the appointment
5 of a board of appeals.

6 (2) [The] A board of appeals consists of EITHER three or five members.

7 (3) The terms of office of the members of [the] A board OF APPEALS are
8 [three] 3 years.

9 (4) [The members of the] A MEMBER OF A board OF APPEALS shall be
10 appointed by the local executive[,] and confirmed by the local legislative body.

11 (5) A member of [the] A board OF APPEALS may be [removed for cause,
12 upon written charges, and after] REMOVED:

13 (I) FOR CAUSE;

14 (II) ON WRITTEN CHARGES; AND

15 (III) AFTER a public hearing.

16 (6) [Vacancies shall be filled for] THE APPOINTING AUTHORITY SHALL
17 APPOINT A NEW MEMBER TO FILL the unexpired [terms] TERM of any member
18 [whose term becomes vacant] WHO LEAVES A BOARD OF APPEALS.

19 (7) [Members of the board] A MEMBER OF A BOARD OF APPEALS may
20 receive THE compensation [as] THAT the local legislative body [deems] CONSIDERS
21 appropriate.

22 (b) (1) [The] EACH local legislative body shall designate one alternate
23 member for the board of appeals who may [be empowered to] sit on the board [in the
24 absence of] WHEN any OTHER member of the board IS ABSENT.

25 (2) When the alternate MEMBER is absent, the local legislative body may
26 designate a temporary alternate.

27 (c) (1) [The] A board OF APPEALS shall adopt rules in accordance with the
28 provisions of any ordinance adopted [pursuant to] UNDER this article.

29 (2) [Meetings of the] THE MEETINGS OF A board OF APPEALS shall be
30 held at the call of the chairman and at [such] other times [as] DETERMINED BY the
31 board [may determine].

32 (3) [Such] THE chairman OF A BOARD OF APPEALS or [in his absence,]
33 the acting chairman[,] may administer oaths and compel the attendance of
34 witnesses.

1 (4) All meetings of [the] A board OF APPEALS shall be open to the public.

2 (5) (I) [The] A board OF APPEALS shall make a transcript of all
3 proceedings, showing the vote of each member [upon] ON each question, or[, if
4 absent or failing to vote, indicating such fact, which] THE MEMBER'S ABSENCE OR
5 FAILURE TO VOTE.

6 (II) 1. A BOARD OF APPEALS SHALL IMMEDIATELY FILE THE
7 TRANSCRIPT OF ITS PROCEEDINGS [shall be immediately filed] in the office of the
8 [board and] BOARD.

9 2. A TRANSCRIPT shall be a public record.

10 (d) [The] A board of appeals shall have the following powers:

11 (1) [To hear] HEAR and decide appeals where it is alleged there is AN
12 error in any order, requirement, decision, or determination made by an
13 administrative [official] OFFICER in the enforcement of this article or of any
14 ordinance adopted [pursuant thereto.] UNDER THIS ARTICLE;

15 (2) [To hear] HEAR and decide special exceptions to the terms of [the]
16 AN ordinance [upon] ON which [such] THE board is required to pass under [such
17 ordinances.] THE ORDINANCE; AND

18 (3) [To authorize upon] AUTHORIZE ON appeal in specific cases a
19 variance from the terms of [the] AN ordinance.

20 [(f)] (E) (1) [Appeals] AN APPEAL to the board of appeals may be [taken by
21 any] FILED BY:

22 (I) ANY person aggrieved BY ANY DECISION OF THE
23 ADMINISTRATIVE OFFICER; or

24 (II) [by any] ANY officer, department, [board] BOARD, or bureau of
25 the jurisdiction affected by any [decisions] DECISION of the administrative officer.

26 (2) [Such] AN appeal shall be taken within a reasonable time, as
27 provided by the rules of the board OF APPEALS, by filing with the ADMINISTRATIVE
28 officer from whom the appeal is taken and with the board of appeals a notice of appeal
29 specifying the grounds [thereof] OF THE APPEAL.

30 (3) The officer from whom the appeal is taken shall [forthwith]
31 PROMPTLY transmit to the board all [the] papers constituting the record [upon] ON
32 which the action appealed [from was taken] WAS BASED.

33 [(g)] (F) (1) [An] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
34 SUBSECTION, AN appeal TO A BOARD OF APPEALS stays all proceedings in
35 furtherance of the action appealed [from, unless the officer from whom the appeal is
36 taken certifies to the board of appeals after notice of appeal shall have been filed with

1 him that by reason of the facts stated in the certificate a stay would, in his opinion,
2 cause imminent peril to life or property].

3 (2) [In such case proceedings shall not be stayed otherwise than by a
4 restraining order which may be granted by the board of appeals or by a court of record
5 on application on notice to the officer from whom the appeal is taken and on due
6 cause shown.] IF AN ADMINISTRATIVE OFFICER CERTIFIES TO THE BOARD OF
7 APPEALS FACTS STATED IN THE CERTIFICATE THAT INDICATE TO THE
8 ADMINISTRATIVE OFFICER THAT A STAY WOULD CAUSE IMMINENT PERIL TO LIFE OR
9 PROPERTY AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF
10 APPEALS OR THE COURT OF RECORD MAY STAY THE PROCEEDINGS:

11 (I) ONLY FOR DUE CAUSE SHOWN; AND

12 (II) THROUGH THE ISSUANCE OF A RESTRAINING ORDER AFTER
13 NOTICE IS GIVEN TO THE ADMINISTRATIVE OFFICER.

14 [(h)] (G) (1) [The] A board of appeals shall fix a reasonable time for the
15 hearing of [the] AN appeal, give public notice [thereof] OF THE HEARING[, as well
16 as] AND due notice to the parties in interest, and decide the [same] APPEAL within a
17 reasonable time.

18 (2) [Upon the hearing any] AT A HEARING, A party may appear in
19 person or BE REPRESENTED by AN agent or [by] attorney.

20 [(i)] (H) (1) In exercising [the above-mentioned] ITS powers [such], A
21 board OF APPEALS may, in conformity with the provisions of this article[, reverse or
22 affirm, wholly or partly, or may modify the order, requirement, decision, or
23 determination appealed from and make such order, requirement, decision or
24 determination as ought to be made, and to that end]:

25 (I) WHOLLY OR PARTLY REVERSE THE ORDER, REQUIREMENT,
26 DECISION, OR DETERMINATION FROM WHICH THE APPEAL IS TAKEN;

27 (II) WHOLLY OR PARTLY AFFIRM THE ORDER, REQUIREMENT,
28 DECISION, OR DETERMINATION FROM WHICH THE APPEAL IS TAKEN;

29 (III) MODIFY THE ORDER, REQUIREMENT, DECISION, OR
30 DETERMINATION FROM WHICH THE APPEAL IS TAKEN; OR

31 (IV) ISSUE A NEW ORDER, REQUIREMENT, DECISION, OR
32 DETERMINATION.

33 (2) THE BOARD shall have all the powers of the ADMINISTRATIVE officer
34 from whom the appeal is taken.

35 DRAFTER'S NOTE: Former subsection (b-1) of this section as it related to
36 Frederick County is transferred without substantive change to § 14.06(c) of
37 this article.

1 Former subsection (b-1) of this section as it related to St. Mary's County is
2 added without substantive change to § 14.07(d) of this article.

3 Former subsection (b-2) of this section is transferred without substantive
4 change to § 14.05(d) of this article.

5 Former subsection (b-3) of this section is transferred without substantive
6 change to § 14.04(d) of this article.

7 Former subsection (e) of this section is transferred without substantive
8 change to § 14.05(e) of this article.

9 4.08. Appeals to courts.

10 (a) (1) Any OF THE FOLLOWING [person or] persons MAY, jointly or
11 severally, APPEAL A DECISION OF A BOARD OF APPEALS OR A ZONING ACTION OF A
12 LOCAL LEGISLATIVE BODY TO THE CIRCUIT COURT OF THE COUNTY:

13 (I) A PERSON aggrieved by [any decision of the board of appeals, or
14 by a zoning action by the local legislative body, or any taxpayer,] THE DECISION OR
15 ACTION;

16 (II) ANY TAXPAYER; or

17 (III) [any] ANY officer, department, board, OR bureau of the LOCAL
18 jurisdiction[, may appeal the same to the circuit court of the county].

19 (2) [Such] THE appeal shall be taken in accordance with Title 7,
20 Chapter 200 of the Maryland Rules.

21 (3) [Nothing in this] THIS subsection [shall] DOES NOT change the
22 existing standards for THE review of [any] A zoning action.

23 (b) (1) If, [upon the] AFTER A hearing, [it shall appear to] the court
24 DETERMINES that testimony is necessary for the proper disposition of the matter, [it]
25 THE COURT may take evidence or appoint a referee to take [such] THE REQUIRED
26 evidence [as it may direct] and report [the same] THE EVIDENCE to the court with
27 [his] THE REFEREE'S findings of fact and conclusions of law[, which].

28 (2) THE REFEREE'S EVIDENCE, FINDINGS, AND CONCLUSIONS shall
29 constitute a part of the proceedings [upon] ON which the determination of the court
30 shall be made.

31 (c) [Costs shall not be allowed] THE CIRCUIT COURT MAY NOT ALLOW COSTS
32 against the board unless it [shall appear] APPEARS to the [circuit] court that [it]
33 THE BOARD, IN MAKING THE DECISION THAT IS THE SUBJECT OF THE APPEAL, acted:

34 (1) [with] WITH gross negligence;

35 (2) [, or in] IN bad faith[,]; or

1 (3) [with] WITH malice [in making the decision appealed from].

2 (d) All issues in any proceeding under this section shall [have preference
3 over] BE SCHEDULED AND HEARD BEFORE all other civil actions and proceedings.

4 (e) (1) [Upon its determination of the case] AFTER DECIDING AN APPEAL
5 UNDER THIS SECTION, the circuit court shall file a formal order embodying its final
6 decision.

7 (2) (I) [An appeal may be taken to] A PARTY MAY FILE AN APPEAL
8 FROM A DECISION OF THE CIRCUIT COURT WITH the Court of Special Appeals, during
9 the period and in the manner prescribed by the Maryland Rules[, from any decision
10 of the circuit court. In such cases the award of costs shall be subject to the discretion
11 of the].

12 (II) THE Court of Special Appeals MAY AWARD COSTS IN ANY
13 APPEAL TO THAT COURT UNDER THIS PARAGRAPH.

14 (f) (1) In addition to the appeal provided in this section, a local legislative
15 body may [provide for] ALLOW AN appeal to the circuit court of any matter arising
16 under the planning and zoning laws of the [county or municipal corporation] LOCAL
17 JURISDICTION.

18 (2) [The] A decision of the circuit court UNDER THIS SUBSECTION may
19 be appealed to the Court of Special Appeals.

20 4.09. Implementation of economic growth and resource protection provisions.

21 [(a)] On or before July 1, 1997, and subsequently at intervals of no more than 6
22 years which correspond to the plan revision under ARTICLE 66B, § 3.05(b) of [this
23 article] THE CODE, a local jurisdiction shall ensure that the implementation of the
24 provisions of the plan that comply with ARTICLE 66B, [§§ 3.05(a)(1)(vi) and (viii) and
25 3.06(b)] §§ 1.01, 3.05(A)(4)(VII), AND 3.06(C) of [this article] THE CODE are achieved
26 through the adoption of applicable zoning ordinances and regulations, planned
27 development ordinances and regulations, subdivision ordinances and regulations, and
28 other land use ordinances and regulations that are consistent with the plan.

29 [(b)] Unless comprehensive rezoning is required to comply with subsection (a) of
30 this section, nothing in subsection (a) of this section shall require or limit the
31 authority of a local jurisdiction to undertake or adopt a comprehensive rezoning prior
32 to July 1, 1997.]

33 DRAFTER'S NOTE: Former subsection (b) of this section is deleted as obsolete.

1 Subdivision Control

2 5.01. Jurisdiction of planning commission.

3 (A) [The] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE
4 territorial jurisdiction of any planning commission over the subdivision of land shall
5 [only] include ONLY land located in the jurisdiction.

6 (B) [However, in those jurisdictions] IN A LOCAL JURISDICTION where a
7 county has not [provided functional] ADOPTED subdivision regulations, the
8 territorial jurisdiction of a planning commission of a municipal corporation may
9 include all land [lying within one] LOCATED UP TO 1 mile [of] BEYOND the corporate
10 limits of [said] THE municipal corporation [and] THAT IS not located in any other
11 municipal corporation.

12 5.02. When approval of plat by planning commission required.

13 (a) If a local legislative body has adopted the transportation element of the
14 plan of the territory within its subdivision jurisdiction or part of the territory, and has
15 filed a certified copy of that plan in the office of THE clerk of the circuit court of the
16 county in which the territory or part is located, a plat of a subdivision of land within
17 the territory or part may not be filed or recorded [until it] UNTIL:

18 (1) [has been approved by the] THE planning commission APPROVES
19 THE PLAT; and

20 (2) [the] THE CHAIRMAN OR SECRETARY OF THE PLANNING
21 COMMISSION MARKS AN approval [entered] in writing on the plat [by the chairman
22 or secretary of the commission].

23 (b) (1) [The] A planning commission may authorize the zoning
24 administrator or an equivalent administrative [official] OFFICER to approve
25 subdivision plats and site plans under subsection (a) of this section in accordance with
26 nondiscretionary criteria adopted and specified by ordinance.

27 (2) The ZONING ADMINISTRATOR OR ADMINISTRATIVE OFFICER SHALL
28 INDICATE APPROVAL OF A PLAT BY MARKING AN approval [shall be entered] in
29 writing on the plat.

30 5.03. Regulations.

31 (a) (1) Before exercising the powers [referred to] GRANTED in § 5.02 OF
32 THIS SUBTITLE, the planning commission shall prepare regulations governing the
33 subdivision of land within [its] THE LOCAL jurisdiction.

34 (2) [Those] THE regulations may [provide for the] INCLUDE
35 PROVISIONS TO:

36 (I) [adequate] ADEQUATELY control [of] shore erosion;

1 (II) [the control of] CONTROL sediment and [the protection from]
2 PROTECT FROM flooding;

3 (III) [the proper arrangement of] PROPERLY ARRANGE streets in
4 relation to EACH other [existing planned streets] and to the master plan;

5 (IV) [the adequate and convenient placement of] ADEQUATELY AND
6 CONVENIENTLY PLACE public school sites and [of] open spaces for traffic, utilities,
7 access of fire-fighting apparatus, recreation, AND light and air; [and]

8 (V) [the avoidance of congestion of] AVOID population[, including]
9 CONGESTION; AND

10 (VI) SET minimum [width and area of lots] LOT WIDTHS AND
11 AREAS.

12 (b) (1) [Such] THE regulations may [include provision as to] PROVIDE FOR
13 the extent to which THE FOLLOWING ACTIONS MUST BE TAKEN AS A CONDITION
14 PRECEDENT TO THE APPROVAL OF A PLAT:

15 (I) [streets and other ways shall be graded and improved, to which
16 soil] THE GRADING AND IMPROVEMENT OF STREETS AND OTHER WAYS;

17 (II) THE PROVISION OF SOIL erosion or sediment control [shall be
18 provided, and to which water]; AND

19 (III) THE INSTALLATION OF WATER and sewer and other utility
20 mains, piping, or other facilities [shall be installed as a condition precedent to the
21 approval of the plat].

22 (2) (I) The regulations or practice of the PLANNING commission may
23 provide for a tentative approval of [the] A plat [previous to such] BEFORE
24 [installation; but any such] INSTALLATION.

25 (II) ANY tentative approval OF A PLAT shall be revocable and
26 [shall] MAY not be entered on the plat.

27 (3) (I) [In lieu] INSTEAD of REQUIRING the completion of [such]
28 improvements and utilities [prior to] BEFORE the final approval of [the] A plat,
29 [the] A PLANNING commission may accept a bond with surety to secure to the
30 [county or municipal corporation] LOCAL JURISDICTION the actual construction and
31 installation of [such] THE improvements or [utilities at a] UTILITIES.

32 (II) THE BOND SHALL SPECIFY THE time FOR COMPLETION and
33 [according to] specifications fixed by or in accordance with the regulations of the
34 PLANNING commission.

35 (III) The [county or municipal corporation is hereby granted the
36 power to] LOCAL JURISDICTION MAY enforce [such] THE bond by [all] ANY
37 appropriate legal [and] OR equitable [remedies] REMEDY.

1 (c) (1) Before any [regulations shall] REGULATION MAY be submitted to the
 2 local legislative body for [adoption] ADOPTION, THE LOCAL LEGISLATIVE BODY
 3 SHALL HOLD a public hearing [shall be held thereon and all such] ON THE
 4 REGULATION.

5 (2) THE LOCAL LEGISLATIVE BODY SHALL PUBLISH A NOTICE OF THE
 6 PUBLIC HEARING AT LEAST ONCE IN A WEEKLY OR DAILY NEWSPAPER OF GENERAL
 7 CIRCULATION IN THE LOCAL JURISDICTION.

8 (3) THE PUBLISHED NOTICE SHALL CONTAIN:

9 (I) THE TEXT OF THE [regulations, or] REGULATION OR, [if in the
 10 opinion of the commission it is best,] IF THE PLANNING COMMISSION BELIEVES IT
 11 WOULD BE BETTER, [a brief synopsis of such regulations, sufficient to inform a person
 12 of ordinary intelligence] A BRIEF AND ACCURATE SUMMARY of the nature and
 13 contents of [such regulations, together with] the REGULATION SUFFICIENT TO
 14 INFORM AN INDIVIDUAL OF ORDINARY INTELLIGENCE; AND

15 (II) THE time and place of [such] THE public hearing[, shall be
 16 published once or more, if the commission deems best, in a weekly or daily newspaper
 17 of general circulation in such county or municipal corporation].

18 (4) When [such regulations are] A REGULATION IS adopted by the local
 19 legislative body, THE LOCAL LEGISLATIVE BODY SHALL SEND a CERTIFIED copy
 20 [thereof] OF THE REGULATION [shall be certified by the commission] to the clerk of
 21 the circuit court in which the LOCAL jurisdiction is located for [record] RECORDING.

22 (d) (1) Regulations governing the subdivision of land shall require that an
 23 appropriate easement be provided for any burial site located on the [land subject]
 24 LAND.

25 (2) THE EASEMENT SHALL BE SUBJECT to the subdivision plat for
 26 [ingress and egress] ENTRY to AND EXIT FROM the burial site by persons related by
 27 blood or marriage or persons in interest, as defined in § 14-121 of the Real Property
 28 Article.

29 (3) [Improvements are not required to exceed any] THE existing
 30 right-of-way NEED NOT BE EXTENDED FOR ANY IMPROVEMENTS ON THE BURIAL
 31 SITE.

32 5.04. Plat approval and disapproval generally.

33 (A) (1) (I) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF AN
 34 APPLICANT HAS COMPLIED WITH ALL REGULATIONS GOVERNING THE SUBDIVISION
 35 OF LAND, A planning commission shall approve or disapprove a final plat[, if all
 36 subdivision regulations have been complied with,] within [thirty (30)] 30 days after
 37 the [submission thereof] APPLICANT SUBMITS THE FINAL PLAT to [it;] THE
 38 PLANNING COMMISSION.

1 (II) [otherwise such] IF THE PLANNING COMMISSION DOES NOT
 2 APPROVE OR DISAPPROVE A FINAL PLAT WITHIN 30 DAYS, THE plat shall be [deemed
 3 to have been] CONSIDERED approved and THE PLANNING COMMISSION SHALL ISSUE
 4 a certificate to that effect [shall be issued by the commission] on demand.

5 (2) [Provided, however, that the] NOTWITHSTANDING PARAGRAPH (1)
 6 OF THIS SUBSECTION, IF THE PLANNING COMMISSION DOES NOT APPROVE OR
 7 DISAPPROVE THE PLAT WITHIN 30 DAYS, AN applicant for the PLANNING
 8 commission's approval OF A FINAL PLAT may waive this requirement and consent to
 9 an extension of [such] THE period FOR APPROVAL.

10 (3) [The ground of disapproval of any plat shall be stated upon] IF A
 11 FINAL PLAT IS DISAPPROVED, THE PLANNING COMMISSION SHALL STATE THE
 12 GROUNDS FOR THE PLANNING COMMISSION'S DISAPPROVAL IN the records of the
 13 PLANNING commission.

14 (B) (1) Every plat approved by the PLANNING commission [shall by virtue of
 15 such] SHALL, THROUGH THE approval, be [deemed to be an] CONSIDERED:

16 (I) AN amendment [of or an addition to] or a detail of the plan; and

17 (II) [a] A part [thereof] OF THE PLAN.

18 (2) Approval of a plat [shall not be deemed to] DOES NOT constitute or
 19 effect an acceptance by the public of any street or other open space shown [upon] ON
 20 the plat.

21 (3) [The] A planning commission may[, from time to time,]
 22 PERIODICALLY recommend to the local legislative body amendments of the zoning
 23 ordinance or map [or additions thereto] to conform to the PLANNING commission's
 24 recommendations for the zoning regulation of the territory [comprised] within
 25 approved subdivisions.

26 (C) (1) [The] A PLANNING commission [shall have the power to] MAY agree
 27 with AN applicant [upon] ON use, height, area or bulk requirements or restrictions
 28 [which] THAT are designed to promote the purposes of the zoning ordinance of the
 29 LOCAL jurisdiction.

30 (2) (I) [Such] THE requirements or restrictions shall be stated [upon]
 31 ON the plat [prior to the approval and recording thereof and] BEFORE THE PLAT IS
 32 APPROVED AND RECORDED.

33 (II) THE REQUIREMENTS OR RESTRICTIONS shall have the same
 34 force of [law and] LAW, SHALL be enforceable in the same manner and with the same
 35 sanctions and [penalties] PENALTIES, and SHALL BE subject to the same power of
 36 amendment or repeal as though [set out as a] part of the zoning ordinance or map of
 37 the LOCAL jurisdiction.

38 DRAFTER'S NOTE: In subsection (b)(1)(i) and (3) of this section, the former
 39 references to "addition" and "additions" are deleted as included within the

1 references to "amendment" and "amendments".

2 5.05. Sale or transfer of lots in unapproved subdivisions[; special provisions as to
3 Charles, St. Mary's, Frederick, and Carroll Counties].

4 (a) Except as provided in [subsections (b) through (d) of this section] §§
5 14.03(C), 14.05(F), 14.06(D), AND 14.07(E) AND (F) OF THIS ARTICLE, [whoever, being the]
6 AN owner or agent of [the] AN owner of [any] land located within a subdivision WHO
7 transfers or sells or agrees to sell or negotiate to sell any land by reference [to or] TO,
8 exhibition [of] OF, or [by] other use of a plat of a subdivision[,] before the plat has
9 been approved by the planning commission and recorded or filed in the office of the
10 appropriate county clerk, shall [forfeit and pay] BE SUBJECT TO a civil penalty of not
11 less than \$200 and not [more than] EXCEEDING \$1,000 [in the discretion of the
12 court,] for each lot or parcel [so] transferred or sold or agreed or negotiated to be
13 sold[; and the].

14 (B) THE description of [the] A lot or parcel by metes and bounds in the
15 instrument of transfer or other document used in the process of selling or [transfer or
16 other document used in the process of selling or] transferring [shall] DOES not
17 exempt the transaction from the penalties or [from] the remedies [herein] provided
18 IN THIS SECTION.

19 (C) [The county or municipal corporation] A LOCAL JURISDICTION MAY SEEK
20 TO:

21 (1) [may enjoin] ENJOIN the [transfer or sale] TRANSFER, SALE, or
22 agreement [by action for injunction brought] in any court of [equity jurisdiction]
23 EQUITY; or

24 (2) [may recover] RECOVER the penalty by civil action in [any] A court
25 of competent jurisdiction.

26 DRAFTER'S NOTE: This section is derived without substantive change from
27 former § 5.05(a) of this article.

28 Former subsection (b) of this section as it related to Charles County is
29 transferred without substantive change to § 14.05(f) of this article.

30 Former subsection (b) of this section as it related to St. Mary's County is
31 added without substantive change to § 14.07(e) of this article.

32 Former subsection (c) of this section, as it related to Carroll County, is
33 transferred without substantive change to § 14.03(c) of this article.

34 Former subsection (c) of this section, as it related to Frederick County, is
35 added without substantive change to § 14.06(d) of this article.

36 In subsection (c) of this section, the defined term "local jurisdiction" is
37 substituted for the former reference to "county or municipal corporation"
38 for consistency throughout the article.

1 Former subsection (d) of this section is transferred without substantive
2 change to § 14.07(f) of this article.

3 5.06. Recording unapproved subdivision plat.

4 (A) A clerk of the circuit court FOR THE COUNTY IN WHICH THE LOCAL
5 JURISDICTION IS LOCATED [shall] MAY not record a plat of a subdivision unless the
6 plat has been approved by the planning commission FOR THE LOCAL JURISDICTION
7 [as] IN THE MANNER required by law.

8 (B) Any plat of a subdivision recorded without [planning commission] THE
9 REQUIRED approval has only the legal effect of an unrecorded plat.

10 5.07. Status of existing platting statutes.

11 (A) [From and after the time when] AFTER a planning commission [shall
12 have] BEGINS TO EXERCISE control over subdivisions [as provided in] UNDER § 5.01
13 of this [article] SUBTITLE, the [jurisdiction] AUTHORITY of the planning commission
14 over plats shall be exclusive within the territory under its [jurisdiction, and all]
15 JURISDICTION.

16 (B) TO THE EXTENT THAT STATUTORY CONTROL IS IN CONFORMITY WITH THE
17 PROVISIONS OF THIS ARTICLE, ALL statutory control over plats or subdivisions of land
18 granted by other statutes shall [, insofar as in harmony with the provisions of this
19 article] be [deemed] CONSIDERED transferred to the planning commission of [such]
20 THE LOCAL jurisdiction.

21 DRAFTER'S NOTE: In subsection (a) of this section, the reference to "authority"
22 has been substituted for former reference to "jurisdiction" in discussing the
23 planning commission's authority, to avoid confusion with the defined term
24 "local jurisdiction".

25 **Development in Mapped Streets**

26 6.01. Reservation of locations of mapped streets, etc., for future dedication or
27 acquisition for public use.

28 (A) [Any] A planning commission [is empowered] MAY, after [it shall have
29 adopted] ADOPTING the transportation element of the plan of the territory within its
30 subdivision jurisdiction or of any major section or district [thereof] OF ITS
31 JURISDICTION, [to make or cause to be made, from time to time,] PERIODICALLY:

32 (1) CONDUCT surveys [for the exact location of the lines of a street or
33 streets] TO LOCATE STREET LINES and any other part of the transportation [element
34 in any portion of such territory and to make] ELEMENT; AND

35 (2) MAKE a plat of the area or district [thus] surveyed, showing the land
36 which [it] THE PLANNING COMMISSION recommends be reserved for future
37 dedication or acquisition for public streets and any other part of the transportation
38 element.

1 (B) (1) [The commission before] BEFORE adopting [any such] THE plat, A
2 PLANNING COMMISSION shall hold a public [hearing thereon, notice] HEARING.

3 (2) NOT LESS THAN 10 DAYS BEFORE THE HEARING, THE PLANNING
4 COMMISSION SHALL PUBLISH NOTICE of the time and place of [which] THE
5 HEARING, with a general description of the district or area covered by the plat, [shall
6 be given not less than 10 days previous to the time fixed therefor by one publication]
7 in a newspaper of general circulation in the [jurisdiction] LOCAL JURISDICTION IN
8 WHICH [if] the district or area [be within the jurisdiction] IS LOCATED.

9 (C) After [such hearing] THE PUBLIC HEARING, the PLANNING commission
10 may transmit the plat, as originally made or [modified as may be determined] AS
11 AMENDED by the commission, to the local legislative body, [together] with the
12 commission's estimate of the [time or times within] SCHEDULE UNDER which the
13 lands shown on the plat as street locations should be acquired by the [county or
14 municipal corporation] LOCAL JURISDICTION.

15 (D) [Thereupon by resolution] AFTER RECEIVING THE TRANSMITTED PLAT
16 FROM THE PLANNING COMMISSION, the local legislative body [may approve] MAY,
17 BY RESOLUTION:

18 (1) APPROVE and adopt THE PLAT;

19 (2) [or may reject such plat or may modify it] DISAPPROVE THE PLAT;

20 (3) MODIFY THE PLAT with the approval of the planning [commission, or,
21 in the event of the planning commission's disapproval] COMMISSION; OR

22 (4) IF THE PLANNING COMMISSION DISAPPROVES THE PLAT, [the local
23 legislative body may,] by a favorable vote of not less than [two thirds] TWO-THIRDS
24 of [its] THE entire membership OF THE LOCAL LEGISLATIVE BODY, modify [such]
25 THE plat and adopt the modified plat.

26 (E) (1) In the resolution [of adoption of a plat] ADOPTING THE PLAT, the
27 local legislative body shall fix the period of time for which the street locations shown
28 [upon] ON the plat shall be [deemed] reserved for future taking or acquisition for
29 public use.

30 (2) [Upon such adoption] AFTER THE PLAT IS ADOPTED, the clerk of the
31 local legislative body [shall transmit] SHALL:

32 (I) TRANSMIT one attested copy of the plat to the county recorder of
33 each county in which the platted land is [located and retain] LOCATED; AND

34 (II) KEEP one copy OF THE PLAT for [the purpose of] public
35 examination.

36 (F) (1) THE APPROVAL AND ADOPTION OF A PLAT RESERVES THE STREET
37 LOCATIONS ON THE PLAT FOR FUTURE ACQUISITION FOR PUBLIC USE.

1 (2) [Such approval] THE APPROVAL and adoption of a plat [shall not,
2 however, be deemed the] DOES NOT CONSTITUTE:

3 (I) THE opening or establishment of [any street, nor] A STREET; OR

4 (II) [the] THE taking of [any land for street purposes, nor for public
5 use, nor as a public improvement,] ANY LAND FOR THE PURPOSE OF CREATING A
6 STREET, A PUBLIC USE, OR A PUBLIC IMPROVEMENT, but solely as a reservation of
7 the street locations shown thereon, for future taking or acquisition for public use.

8 (3) (I) [The] AT ANY TIME, A PLANNING commission may[, at any
9 time,] negotiate for or secure from the owner [or owners] of any [such lands
10 releases] LAND RESERVED FOR THE LOCATION OF A STREET:

11 1. A RELEASE of claims for damages or compensation for
12 [such reservations] THE RESERVATION OF THE LAND; or

13 2. [agreements] AN AGREEMENT indemnifying the [county
14 or municipal corporation] LOCAL JURISDICTION from [such] claims by others FOR
15 DAMAGES OR COMPENSATION.

16 (II) [, which releases or agreements] A NEGOTIATED RELEASE OR
17 AGREEMENT shall [be binding upon] BIND the [owner or owners] LANDOWNER
18 executing the [same] RELEASE OR AGREEMENT and [their] THE LANDOWNER'S
19 successors in title.

20 (G) (1) At any time after the filing of a plat with the county recorder[, and
21 during the period specified for the reservation, [the] A planning commission and the
22 owner of any land containing a reserved street location may agree [upon a
23 modification of] TO MODIFY the location of the lines of the proposed [street, such]
24 STREET.

25 (2) AN agreement to MODIFY SHALL include a release by [said owner]
26 THE LANDOWNER of any claim for compensation or damages [by reason of such
27 modification;] CAUSED BY THE MODIFICATION.

28 (3) [and thereupon] AFTER THE RELEASE IS EXECUTED, the PLANNING
29 commission may make a plat corresponding to the [said] modification and transmit
30 [same] THE PLAT to the local legislative body FOR APPROVAL.[: and if such]

31 (4) IF THE modified plat [be] IS approved by the local legislative body,
32 the clerk of [said] THE LOCAL LEGISLATIVE body shall transmit an attested copy
33 [thereof] OF THE MODIFIED PLAT to the [said] clerk of the circuit [court, and said]
34 COURT OF THE COUNTY IN WHICH THE LOCAL JURISDICTION IS LOCATED.

35 (5) THE modified plat shall [take the place of] REPLACE the original
36 plat.

37 (H) At any [time] TIME, the local legislative body may, by resolution, abandon
38 any reservation and [shall] certify [any such] THE abandonment to the [said] clerk

1 of the circuit court OF THE COUNTY IN WHICH THE LOCAL JURISDICTION IS
2 LOCATED.

3 DRAFTER'S NOTE: In subsections (c) and (f)(3)(i)2 of this section, the defined
4 term "local jurisdiction" is substituted for the former reference to "county
5 or municipal corporation" for consistency throughout the article.

6 6.02. Control of development in bed of mapped streets.

7 (A) [From and after the recording of any] EXCEPT AS PROVIDED IN
8 SUBSECTION (B) OF THIS SECTION, AFTER RECORDING A street plat approved by the
9 local legislative body[, as provided in] UNDER § 6.01 of this [article, no permit shall
10 be issued for any development on] SUBTITLE, A LOCAL JURISDICTION MAY NOT
11 ISSUE A PERMIT TO DEVELOP any part of the land between the lines of a proposed
12 street as [thus platted; provided, however, that the] PLATTED.

13 (B) (1) THE board of zoning appeals of the LOCAL jurisdiction [in which the
14 location of such] WHERE A platted street [lies,] IS LOCATED, or a special board of
15 appeals [which may be] created for the purpose [of] BY the local legislative [body of
16 the jurisdiction, shall have the power, upon an] BODY, MAY GRANT A PERMIT TO
17 DEVELOP A PLATTED STREET:

18 (I) ON AN appeal filed [with it] by the owner of [any such] THE
19 land ON WHICH THE STREET IS LOCATED [and by]; AND

20 (II) BY a vote of a majority of [its] THE members[,] OF THE BOARD
21 OF ZONING APPEALS OR THE SPECIAL BOARD OF APPEALS [to grant a permit for a
22 development in such platted street location in any case in which such].

23 (2) IN ORDER TO GRANT A PERMIT FOR DEVELOPMENT, THE board
24 [finds, upon] OF ZONING APPEALS OR THE SPECIAL BOARD OF APPEALS MUST FIND,
25 FROM the evidence and arguments presented [to it upon such appeal:] ON APPEAL,
26 THAT:

27 [(a)] (I) [that the] THE entire property of the appellant, of which [such] THE
28 reserved street location forms a part, cannot yield a reasonable return to the owner
29 unless [such permit be] THE PERMIT IS granted; and

30 [(b)] (II) [that, balancing] AFTER BALANCING the interest of the [county or
31 municipal corporation] LOCAL JURISDICTION in preserving the integrity of [such]
32 THE street plat and [of] the municipal plan and the interest of the owner of the
33 property in the use of [his] THE property and in the benefits of [the] PROPERTY
34 ownership [thereof], the grant of [such] THE permit is required by [consideration
35 of] reasonable justice and equity.

36 (3) (I) Before taking [any such action] ACTION, the board of ZONING
37 appeals OR THE SPECIAL BOARD OF APPEALS shall [give] HOLD a hearing at which
38 the parties in interest shall have an opportunity to be heard.

1 (II) At least [fifteen (15) days' notice of the time and place of such
 2 hearing shall be given to the appellant by mail at the address specified by the
 3 appellant in his appeal petition and shall be published in a newspaper of general
 4 circulation in the jurisdiction] 15 DAYS BEFORE THE HEARING, THE BOARD OF
 5 ZONING APPEALS OR THE SPECIAL BOARD OF APPEALS SHALL:

6 1. MAIL TO THE APPELLANT, AT THE ADDRESS SPECIFIED IN
 7 THE APPEAL PETITION, NOTICE OF THE TIME AND PLACE OF THE HEARING; AND

8 2. PUBLISH A NOTICE OF THE HEARING IN A NEWSPAPER OF
 9 GENERAL CIRCULATION IN THE LOCAL JURISDICTION.

10 (4) (I) [In the event that] IF the board of ZONING appeals OR THE
 11 SPECIAL BOARD OF APPEALS grants a development [permit in any such appeal]
 12 PERMIT, THE BOARD OF ZONING APPEALS OR THE SPECIAL BOARD OF APPEALS [it]
 13 shall specify the exact location, ground area, height, and other details [as to the
 14 extent and character] of the development for which the permit is [granted and may]
 15 GRANTED.

16 (II) THE BOARD OF ZONING APPEALS OR THE SPECIAL BOARD OF
 17 APPEALS ALSO MAY impose reasonable requirements BENEFITTING THE LOCAL
 18 JURISDICTION as a condition of granting [such] THE permit[, which requirements
 19 shall inure to the benefit of the county or municipal corporation].

20 DRAFTER'S NOTE: In subsection (b)(2)(ii) and (4)(ii) of this section, the defined
 21 term "local jurisdiction" is substituted for the former reference to "county
 22 or municipal corporation".

23 6.03. Municipal utilities or improvements in streets; development not on mapped
 24 street.

25 (A) [No] A public sewer or other municipal street utility or improvement
 26 [shall] MAY NOT be constructed in [any] A street or highway until [such] THE street
 27 or highway is [fully] placed on the official map.

28 (B) [No] A permit for [any] development [shall] MAY NOT be issued unless a
 29 street or highway giving access to [such] THE proposed development has been [duly]
 30 placed on the official map.

31 (C) (1) [Where the enforcement of the provisions of this section would entail
 32 exceptional difficulty or unwarranted hardship and where the circumstances of the
 33 case do not require the development to be related to existing or proposed streets or
 34 highways, the] AN applicant for [such] a permit may appeal from [the] A decision of
 35 the administrative officer having charge of the issue of permits to [the] A board of
 36 appeals IF:

37 (I) THE ENFORCEMENT OF THIS SECTION WOULD ENTAIL
 38 EXCEPTIONAL DIFFICULTY OR UNWARRANTED HARDSHIP; AND

1 (II) THE CIRCUMSTANCES DO NOT REQUIRE THE DEVELOPMENT
2 TO BE RELATED TO EXISTING OR PROPOSED STREETS OR HIGHWAYS.

3 (2) [The board may] A BOARD OF APPEALS MAY, in passing on [such]
4 AN appeal UNDER THIS SUBSECTION, make any reasonable exception and issue the
5 permit subject to conditions that will protect any future street or highway layout.

6 (3) [Any such] A decision RENDERED UNDER THIS SUBSECTION shall be
7 subject to review in the same manner and [pursuant] SUBJECT to the same
8 provisions OF LAW as [in appeals] AN APPEAL from [the decisions of such] A
9 DECISION OF A board OF APPEALS [upon] ON zoning regulations.

10 General Provisions

11 7.01. Enforcement and remedies.

12 (a) (1) The local legislative body may provide by ordinance for the
13 enforcement of this article and of any ordinance ENACTED or regulation [made
14 thereunder] ADOPTED UNDER THIS ARTICLE.

15 (2) A violation of this article or of [such] AN ordinance or regulation
16 ADOPTED UNDER THIS ARTICLE is a misdemeanor[, and such].

17 (3) THE local legislative body [may provide for] MAY:

18 (I) PROVIDE FOR punishment OF A VIOLATION by fine or
19 imprisonment or both[. It is also empowered to provide]; AND

20 (II) IMPOSE civil penalties for [such] A violation.

21 (b) (1) [In case any building or structure is erected, constructed,
22 reconstructed, altered, repaired, converted, or maintained, or any building, structure,
23 sign, or land is used in violation of this article or of any ordinance or other regulations
24 made under authority conferred hereby, the proper local authorities of the jurisdiction
25 in] IN addition to ANY other AVAILABLE remedies, A LOCAL JURISDICTION may
26 institute any appropriate action or proceeding [to prevent] TO:

27 (I) PREVENT the unlawful erection, construction, reconstruction,
28 alteration, repair, conversion, maintenance, or use[,] OF A BUILDING, STRUCTURE,
29 SIGN, OR LAND IN VIOLATION OF THIS ARTICLE OR OF ANY ORDINANCE ENACTED OR
30 REGULATION ADOPTED UNDER THIS ARTICLE [to restrain];

31 (II) RESTRAIN, correct, or abate the [violation, to prevent]
32 VIOLATION;

33 (III) PREVENT the occupancy of the building, structure, or [land, or
34 to prevent] LAND; OR

35 (IV) PREVENT any illegal act, conduct, business, or use in or about
36 the premises.

1 (2) [However, despite any provisions] NOTWITHSTANDING SUBSECTION
 2 (A) of this section, the [proper local authorities] LOCAL JURISDICTION may not
 3 institute [any] AN action or proceeding [to abate] TO:

4 (I) ABATE a transfer [which] THAT has been [completed or to
 5 prevent] COMPLETED; OR

6 (II) PREVENT the occupancy of a building, structure, or land
 7 involved in the transfer as a result of a violation of § 5.05 or § 5.06 of this article.

8 (3) [Further provided, that any] ANY property subdivided in violation of
 9 §§ 5.05 and 5.06 of this article shall remain subject to the adopted subdivision
 10 regulations.

11 DRAFTER'S NOTE: This section is derived without substantive change from
 12 former § 7.01(a)(1) and (b) of this subheading.

13 Former § 7.01(a)(2) is transferred without substantive change to § 14.02 of
 14 this article.

15 Former § 7.01(c) is transferred without substantive change to § 7.02 of this
 16 subheading.

17 Former § 7.01(d) is transferred without substantive change to § 14.07(g) of
 18 this article.

19 7.02. CIVIL PENALTY FOR ZONING VIOLATION.

20 [(1)] (A) (1) In this [subsection] SECTION, the following words have
 21 the meanings indicated.

22 [(i)] (2) "Commission" means the planning and zoning commission
 23 or A similar body of [the] A county.

24 [(ii)] (3) "Local legislative body" means:

25 [1.] (I) [The elected body of a county, whether known as] A
 26 BOARD OF county [commissioners, or county council; and] COMMISSIONERS;

27 (II) A COUNTY COUNCIL; OR

28 [2.] (III) The Mayor and City Council of Baltimore.

29 [(iii)] (4) "Zoning official" means a county employee with the duty of
 30 enforcing the zoning ordinance.

31 [(2)] (B) [The] A local legislative body OF A COUNTY may provide a civil
 32 penalty for a zoning violation, which shall be enforced as provided in this
 33 [subsection] SECTION.

1 [(3)] (C) (1) [The] A zoning official may deliver a citation to a person
2 believed to be committing a civil zoning violation.

3 (2) (I) [A] THE ZONING OFFICIAL SHALL KEEP A copy of the citation
4 [shall be retained by the zoning official and].

5 (II) THE CITATION shall bear a certification attesting to the truth of
6 the matters set forth IN THE CITATION.

7 (3) The citation shall contain:

8 (i) The name and address of the person charged;

9 (ii) The nature of the violation;

10 (iii) The [place where] LOCATION and time [that] OF the violation
11 [occurred];

12 (iv) The amount of the fine [assessed];

13 (v) The manner, location, and time in which the fine may be paid;
14 and

15 (vi) The CITED person's right to elect to stand trial for the violation.

16 [(4)] (D) (1) A [preset] fine[, not to exceed] NOT EXCEEDING \$500[,]
17 may be imposed for each violation.

18 (2) The local legislative body [may establish] ALSO MAY:

19 (I) ESTABLISH a schedule of ADDITIONAL fines for each [violation
20 and may adopt] VIOLATION; AND

21 (II) ADOPT procedures for THE collection of [these] THE fines.

22 [(5)] (E) (1) A person who receives a citation may elect to stand trial
23 for the offense by filing with the zoning official a notice of intention to stand trial.

24 (2) [The notice shall be given] THE PERSON ELECTING TO STAND TRIAL
25 SHALL GIVE NOTICE at least 5 days before the date [of payment as] set forth in the
26 citation FOR THE PAYMENT OF FINES.

27 (3) [On receipt of the] AFTER RECEIVING A notice of intention to stand
28 trial, the zoning official shall forward THE NOTICE to the District Court having venue,
29 WITH a copy of the citation [and the notice of intention to stand trial. On receipt of
30 the].

31 (4) AFTER RECEIVING THE citation AND NOTICE, the District Court shall
32 schedule the case for trial and notify the defendant of the trial date.

1 (5) All fines, penalties, or forfeitures collected by the District Court for
2 zoning violations shall be remitted to the county in which the zoning violation
3 occurred.

4 [(6)] (F) (1) If a person who receives a citation for a violation fails to
5 pay the fine by the date of payment set forth on the citation and fails to file a notice
6 of intention to stand trial, a formal notice of the violation shall be sent to the owner's
7 last known address.

8 (2) If the citation is not satisfied within 15 days [from] AFTER the date
9 [of] the FORMAL notice OF VIOLATION IS MAILED, the person [is liable for] SHALL BE
10 SUBJECT TO an additional fine not [to exceed] EXCEEDING twice the AMOUNT OF
11 THE original fine.

12 (3) If [, after 35 days,] the PERSON WHO RECEIVES THE CITATION DOES
13 NOT PAY THE citation [is not satisfied] BY THE 36TH DAY AFTER THE FORMAL
14 NOTICE OF VIOLATION IS MAILED, the zoning official may request [adjudication of
15 the case through] the District Court TO ADJUDICATE THE VIOLATION.

16 (4) [The] AFTER THE ZONING OFFICIAL REQUESTS ADJUDICATION, THE
17 District Court shall schedule the case for trial and summon the defendant to appear.

18 [(7) Adjudication of a violation under this subsection is not a criminal
19 conviction, nor does it impose any of the civil disabilities ordinarily imposed by a
20 criminal conviction.]

21 [(8)] (G) In a proceeding before the District Court, [the] A violation shall
22 be prosecuted in the same manner and to the same extent as [set forth for] A
23 municipal [infractions in] INFRACTION UNDER Article 23A, § 3(b)(7) through (15) of
24 the Code.

25 (H) The governing body of [any] A county may authorize the county attorney
26 to prosecute a civil zoning violation.

27 [(9)] (I) If [a person is found by] the District Court [to have] FINDS
28 THAT A PERSON HAS committed a civil zoning violation, the person shall be liable for
29 the costs of the COURT proceedings [in the District Court].

30 (J) THE FINDING BY THE DISTRICT COURT OF A VIOLATION UNDER THIS
31 SECTION IS NOT A CRIMINAL CONVICTION AND DOES NOT IMPOSE ANY OF THE CIVIL
32 DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

33 DRAFTER'S NOTE: This section is derived without substantive change from
34 former § 7.01(c) of this subtitle.

35 The drafter has created a new section, because unlike the remaining
36 provisions of § 7.01 of this subtitle, the provisions of former § 7.01(c) of this
37 subtitle apply only to counties (including Baltimore City) and not to
38 municipal corporations. The new section was created to avoid confusion in
39 the application of those provisions.

1 7.03. Conflict with other laws.

2 (A) [Whenever the regulations made under the authority of] IF REGULATIONS
3 ADOPTED UNDER this article require a greater width or size of yards, courts, or other
4 open spaces, [or require] a lower height of [building or less] BUILDING, A REDUCED
5 number of stories, or [require] a greater percentage of lot [to be left unoccupied]
6 LEFT UNOCCUPIED, or impose other higher standards than are required [in] UNDER
7 any other [statute or] STATUTE, local [ordinance] ORDINANCE, or regulations, the
8 provisions of the regulations [made under authority of] ADOPTED UNDER this article
9 shall govern.

10 (B) [Whenever] IF the provisions of any other [statute or] STATUTE, local
11 [ordinance] ORDINANCE, or regulation require a greater width or size of yards,
12 courts, or other open spaces, [or require] a lower height of [building or a less]
13 BUILDING, A REDUCED number of stories, or [requires] a greater percentage of lot [to
14 be left unoccupied] LEFT UNOCCUPIED, or impose other higher standards than are
15 required by the regulations [made under authority of] ADOPTED UNDER this article,
16 the provisions of [such statute or] THE STATUTE, local [ordinance] ORDINANCE, or
17 regulation shall govern[; provided, however, that within].

18 (C) (1) THIS SUBSECTION APPLIES TO THE MARYLAND-WASHINGTON
19 REGIONAL DISTRICT ESTABLISHED UNDER CHAPTER 992 OF THE LAWS OF
20 MARYLAND OF 1943, AS AMENDED.

21 (2) WITHIN the limits of the Maryland-Washington regional district [as
22 said district is now or shall hereafter be defined by law], in Montgomery and Prince
23 George's Counties [-- in which district] WHERE there is [now in effect] city and
24 regional planning and zoning[, which are being] administered by [existing agencies
25 under existing law --] LOCAL AGENCIES, this article [shall not be construed as
26 supplemental to] DOES NOT SUPPLEMENT Chapter 992 of the Laws of Maryland of
27 1943, as amended[; and within the said].

28 (3) IN THE MARYLAND-WASHINGTON REGIONAL [district] DISTRICT,
29 the [several] additional and supplemental powers [or any of them] vested by this
30 article in [the "municipality," and/or the "council," shall] A MUNICIPALITY OR
31 COUNCIL MAY not be [construed to be] CONSIDERED vested in and may not be
32 exercised by [the respective board of county commissioners or] A county [councils]
33 COUNCIL acting as [the] A district council[, as provided in said] UNDER Chapter 992
34 OF THE LAWS OF MARYLAND OF 1943, as amended[; and within the said].

35 (4) IN THE MARYLAND-WASHINGTON REGIONAL [district in like manner
36 the several powers or any of them] DISTRICT, THE POWERS vested by this article in
37 [the "commission" and in the "board of appeals," respectively, shall be construed not
38 to be] A PLANNING COMMISSION OR BOARD OF APPEALS MAY NOT BE CONSIDERED
39 vested in and may not be exercised by the Maryland-National Capital Park and
40 Planning Commission, the [respective] planning [boards] BOARD, [and/or] OR the
41 [respective] board of zoning appeals of the county affected[; and provided further,
42 that insofar as].

1 (5) TO THE EXTENT THAT the provisions of this article may be
2 inconsistent with or contrary to the provisions of Chapter 992 of the Laws of
3 Maryland of 1943, as amended[; such], THE provisions [shall have no application]
4 OF THIS ARTICLE DO NOT APPLY within the Maryland-Washington regional district[,
5 but].

6 (6) [nothing contained herein shall be deemed or construed to] THE
7 PROVISIONS OF THIS ARTICLE DO NOT affect the validity of [said] Chapter 992 OF
8 THE LAWS OF MARYLAND OF 1943, as amended[; and provided further, that nothing
9 in §§ 3.01 - 8.15, inclusive, shall apply to Baltimore City].

10 DRAFTER'S NOTE: The last clause of this section is added without substantive
11 change to § 2.13(a) of this article.

12 [7.03. Article not applicable to chartered counties.

13 (a) (1) Except as provided in §§ 3.05(a)(1)(iii), (v), (vi), and (viii), (4), and (b),
14 3.06(b) and (c), 4.01(a)(2), 4.09, 5.03(d), 7.01(c), 10.01, 11.01, 12.01, and 13.01 of this
15 article, and subject to subsection (b) of this section, this article does not apply to the
16 chartered counties of Maryland.

17 (2) This section supersedes § 7.02 of this article and any inconsistent
18 provision of Article 28 of the Code.

19 (b) Section 13.01 of this article does not apply to Montgomery County or
20 Prince George's County.]

21 DRAFTER'S NOTE: This section is deleted and re-written as § 1.02 of this
22 article.

23 7.04. Severability.

24 If any clause, sentence, part or [parts] PROVISION of this article[, or of any
25 section thereof shall be] IS held unconstitutional, [such] THE unconstitutionality
26 [shall] MAY not affect the validity of the remaining [parts] PROVISIONS of this
27 article [or of any section thereof. The legislature hereby declares that it would have
28 passed the remaining parts of this article or any section thereof, if it had known such
29 clause, sentence, part or parts of any section thereof should be declared
30 unconstitutional].

31 DRAFTER'S NOTE: The second sentence of this section is deleted as
32 surplusage.

33 7.05. Repeal of inconsistent laws.

34 Except as otherwise provided [herein] IN THIS ARTICLE, [all acts and parts of
35 acts, laws and parts of laws, ordinances and parts of ordinances, inconsistent
36 herewith or contrary hereto, are] ANY LAW OR ORDINANCE THAT IS INCONSISTENT
37 WITH OR CONTRARY TO THE PROVISIONS OF THIS ARTICLE IS [hereby] repealed to
38 the extent of [such inconsistency, provided, however, that §§ 2.01-2.11 and all laws

1 and ordinances passed pursuant thereto shall not be affected hereby, and that this
2 article shall be deemed to be in addition to said §§ 2.01-2.11 and not in substitution
3 therefor.] THE INCONSISTENCY.

4 DRAFTER'S NOTE: The latter portion of former § 7.05 of this article is added
5 without substantive change to § 2.13(b) of this article.

6 Historic Area Zoning

7 8.01. Declaration of public purpose; power to regulate sites, structures and districts;
8 definitions; purpose of ordinance or resolution.

9 (A) (1) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE
10 MEANINGS INDICATED.

11 (2) "APPURTENANCES" AND "ENVIRONMENTAL SETTINGS" INCLUDE:

12 (I) PAVED OR UNPAVED WALKWAYS AND DRIVEWAYS;

13 (II) TREES;

14 (III) LANDSCAPING;

15 (IV) PASTURES;

16 (V) CROPLANDS;

17 (VI) WATERWAYS; AND

18 (VII) ROCKS.

19 (3) "DEMOLITION" INCLUDES ANY WILLFUL NEGLECT IN THE
20 MAINTENANCE AND REPAIR OF A STRUCTURE, OTHER THAN THE STRUCTURE'S
21 APPURTENANCES AND ENVIRONMENTAL SETTINGS, THAT:

22 (I) DOES NOT RESULT FROM A FINANCIAL INABILITY TO
23 MAINTAIN AND REPAIR THE STRUCTURE; AND

24 (II) THREATENS TO RESULT IN A SUBSTANTIAL DETERIORATION OF
25 THE EXTERIOR FEATURES OF THE STRUCTURE.

26 (4) "DISTRICT" MEANS A SIGNIFICANT CONCENTRATION, LINKAGE, OR
27 CONTINUITY OF SITES, STRUCTURES, OR OBJECTS UNITED HISTORICALLY OR
28 AESTHETICALLY BY PLAN OR PHYSICAL DEVELOPMENT.

29 (5) "ROUTINE MAINTENANCE" MEANS WORK THAT DOES NOT ALTER
30 THE EXTERIOR FABRIC OR FEATURES OF A SITE OR STRUCTURE AND HAS NO
31 MATERIAL EFFECT ON THE HISTORICAL, ARCHAEOLOGICAL, OR ARCHITECTURAL
32 SIGNIFICANCE OF THE SITE OR STRUCTURE.

1 (6) "SITE" MEANS THE LOCATION OF AN EVENT OF HISTORIC
2 SIGNIFICANCE OR A STANDING OR RUINED STRUCTURE THAT POSSESSES HISTORIC,
3 ARCHAEOLOGICAL, OR CULTURAL SIGNIFICANCE.

4 (7) (I) "STRUCTURE" MEANS A COMBINATION OF MATERIAL TO FORM
5 A CONSTRUCTION THAT IS STABLE.

6 (II) "STRUCTURE" INCLUDES BUILDINGS, STADIUMS, REVIEWING
7 STANDS, PLATFORMS, STAGINGS, OBSERVATION TOWERS, RADIO TOWERS, WATER
8 TANKS AND TOWERS, TRESTLES, BRIDGES, PIERS, PAVING, BULKHEADS, WHARVES,
9 SHEDS, COAL BINS, SHELTERS, FENCES, AND DISPLAY SIGNS VISIBLE OR INTENDED
10 TO BE VISIBLE FROM A PUBLIC WAY.

11 (III) "STRUCTURE" ALSO INCLUDES A NATURAL LAND FORMATION
12 AND AN APPURTENANCE AND ENVIRONMENTAL SETTING.

13 (IV) "STRUCTURE" INCLUDES A PART OF A STRUCTURE.

14 [(a)] (B) (1) [The preservation of] IT IS A PUBLIC PURPOSE IN THIS STATE
15 TO PRESERVE sites, [structures] STRUCTURES, and districts of historical,
16 archeological, or architectural significance [together with] AND their appurtenances
17 and environmental settings [is a public purpose in this State].

18 (2) [The] EXCEPT FOR THE MAYOR AND CITY COUNCIL OF BALTIMORE,
19 THE LOCAL LEGISLATIVE BODY OF [board of county commissioners of every county in
20 the State and the mayor and city council, by whatever name known, of every
21 municipal corporation, except the Mayor and City Council of Baltimore City] EVERY
22 LOCAL JURISDICTION may, by ordinance or [resolution regulate the] RESOLUTION,
23 REGULATE:

24 (I) THE construction, alteration, reconstruction, [moving]
25 MOVING, and demolition of [such] sites or [structures] STRUCTURES OF
26 HISTORICAL, ARCHEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE;

27 (II) [or such] THE CONSTRUCTION, ALTERATION,
28 RECONSTRUCTION, MOVING, AND DEMOLITION OF sites and structures within
29 [districts and their] DISTRICTS; AND

30 (III) THE appurtenances and environmental settings [within their
31 respective limits] OF SITES AND STRUCTURES WITHIN THEIR LIMITS. [Hereafter in
32 this subtitle such counties and municipal corporations are referred to as "county" or
33 "counties" or "municipal corporation" as the case may be.]

34 [(3) (i) In this subtitle the following words have the meanings
35 indicated.

36 (ii) "Structure" means a combination of material to form a
37 construction that is stable; including among other things, buildings, stadiums,
38 reviewing stands, platforms, stagings, observation towers, radio towers, water tanks
39 and towers, trestles, bridges, piers, paving, bulkheads, wharves, sheds, coal bins,

1 shelters, fences and display signs visible or intended to be visible from a public way.
2 The term also includes natural land formations and appurtenances and
3 environmental settings. The term shall be construed as if followed by the words "or
4 part thereof".

5 (iii) "Appurtenances" and "environmental settings" include
6 walkways and driveways (whether paved or not), trees, landscaping, pastures,
7 croplands, waterways, and rocks.

8 (iv) "Site" means the location of an event of historic significance or a
9 structure, whether standing or ruined, which possesses historic, archeological, or
10 cultural significance.

11 (v) "District" means a significant concentration, linkage, or
12 continuity of sites, structures, or objects united historically or aesthetically by plan or
13 physical development.

14 (vi) "Demolition" includes any wilful neglect in maintenance and
15 repair of a structure, not including any appurtenances and environmental settings,
16 that does not result from financial inability to maintain and repair the structure and
17 that threatens to result in any substantial deterioration of the exterior features of the
18 structure.

19 (vii) "Routine maintenance" means work that does not alter the
20 exterior fabric or features of a site or structure and has no material effect on the
21 historical, archeological, or architectural significance of the historical site or
22 structure.]

23 [(b)] (C) The purpose of an ordinance or resolution adopted under this
24 [subtitle shall be] SUBTITLE IS TO:

25 (1) [To safeguard] SAFEGUARD the heritage of [the county or municipal
26 corporation] THE LOCAL JURISDICTION by preserving sites, structures, or districts
27 [therein] which reflect elements of cultural, social, economic, political, archeological,
28 or architectural history;

29 (2) [To stabilize] STABILIZE and improve THE property values of [such]
30 THOSE sites, structures, or districts;

31 (3) [To foster] FOSTER civic beauty;

32 (4) [To strengthen] STRENGTHEN the local economy; and

33 (5) [To promote] PROMOTE the preservation and appreciation of [the]
34 THOSE sites, structures, and districts for the education and welfare of the residents of
35 [the county or municipal corporation] EACH LOCAL JURISDICTION.

36 DRAFTER'S NOTE: Former subsection (a)(3) of this section has been
37 renumbered subsection (a) of this section.

1 In subsection (c)(1) and (5) of this section, the defined term "local
2 jurisdiction" is substituted for the former reference to "county or municipal
3 corporation" for consistency throughout the article.

4 8.02. Power to designate boundaries for sites, structures, or districts.

5 For the purposes of this [subtitle] SUBTITLE, each [county and each municipal
6 corporation] LOCAL JURISDICTION may designate boundaries for sites, structures, or
7 districts which are deemed to be of historic, archeological, or architectural
8 significance, BY following the [procedure in such county or municipal corporation]
9 PROCEDURES OF THE LOCAL JURISDICTION [applicable to the establishment or
10 change of] FOR ESTABLISHING OR CHANGING areas and classifications of zoning.

11 DRAFTER'S NOTE: In this section, the defined term "local jurisdiction" is
12 substituted for the former reference "county or municipal corporation" for
13 consistency within the article.

14 8.03. Historic district commissions generally; report by Maryland Historical Trust.

15 (a) (1) A [county or a municipal corporation] LOCAL JURISDICTION may
16 create a [commission to be called "the historic" "HISTORIC district commission" or
17 ["the historic" "HISTORIC preservation commission"].

18 (2) (i) [The] A HISTORIC DISTRICT COMMISSION OR HISTORIC
19 PRESERVATION commission shall have [a membership of no less than five persons]
20 AT LEAST FIVE MEMBERS.

21 (ii) Each member OF A HISTORIC DISTRICT COMMISSION OR
22 HISTORIC PRESERVATION COMMISSION shall possess a demonstrated special
23 interest, specific knowledge, or professional or academic training in such fields as
24 history, architecture, architectural history, planning, archeology, anthropology,
25 curation, conservation, landscape architecture, historic preservation, urban [design]
26 DESIGN, or related disciplines.

27 (iii) A majority of the members of [each] A HISTORIC DISTRICT
28 COMMISSION OR HISTORIC PRESERVATION commission shall be residents of the
29 [county or municipal corporation as the case may be] LOCAL JURISDICTION THAT
30 CREATED THE COMMISSION.

31 (iv) Each [county and municipal corporation] LOCAL JURISDICTION
32 that creates a HISTORIC DISTRICT COMMISSION OR HISTORIC PRESERVATION
33 commission under this subtitle shall establish and publicly adopt criteria for
34 qualifying as a member OF THE COMMISSION [under this paragraph].

35 (3) (I) [The members] EACH MEMBER OF A HISTORIC DISTRICT
36 COMMISSION OR HISTORIC PRESERVATION COMMISSION shall be appointed for A
37 3-YEAR [terms of three years each except that in making the initial appointments
38 some appointments shall be established for less than three years in order that as
39 these initial terms expire all subsequent appointments shall be for three years and
40 shall not expire at the same time] TERM.

1 (II) THE TERMS OF THE MEMBERS OF THE COMMISSION SHALL BE
2 STAGGERED.

3 [(4)] (III) [Members of any] A MEMBER OF A HISTORIC DISTRICT
4 COMMISSION OR HISTORIC PRESERVATION commission [are] IS eligible for
5 reappointment.

6 [(5)] (IV) [Any] THE APPOINTING AUTHORITY SHALL FILL ANY vacancy
7 on a commission [shall be filled by the appointing authority] for the unexpired term
8 of the [particular] VACANT position.

9 [(6)] (4) Subject to any requirements of [a county or municipal
10 corporation] THE LOCAL JURISDICTION governing the acceptance and use of gifts by
11 public officials, [the] A HISTORIC DISTRICT COMMISSION OR HISTORIC
12 PRESERVATION commission shall have the right to accept and use gifts [for the
13 exercise of its functions] AS NEEDED TO PERFORM ITS DUTIES.

14 (b) (1) The Maryland Historical Trust may be designated by [the] A
15 HISTORIC DISTRICT COMMISSION OR HISTORIC PRESERVATION commission to [make
16 an analysis of] ANALYZE and [recommendation] MAKE RECOMMENDATIONS
17 concerning the preservation of sites, structures, or districts of historic, archeological,
18 architectural, or cultural significance within the area served by the commission.

19 (2) [Such report] THE RECOMMENDATIONS OF THE MARYLAND
20 HISTORIC TRUST may [include proposed] INCLUDE:

21 (I) PROPOSED boundaries [of] FOR sites, structures, or [districts
22 as well as make recommendations for the] DISTRICTS; AND

23 (II) THE identification and designation of particular sites,
24 structures, or districts to be preserved.

25 DRAFTER'S NOTE: In subsection (a) of this section, the defined term "local
26 jurisdiction" is substituted for the former references to "county or a
27 municipal corporation" and "county or municipal corporation" for
28 consistency throughout the article.

29 8.04. Easements to preserve historic, archeological or architectural significance.

30 (A) Subject to any requirements of [a county or municipal corporation] A
31 LOCAL JURISDICTION governing the acquisition of easements, [the] A HISTORIC
32 DISTRICT COMMISSION OR HISTORIC PRESERVATION commission may acquire
33 easements in connection with individual sites or structures, or with sites or
34 structures located in or adjacent to a locally designated historic district.

35 (B) [Such] THE easements ACQUIRED BY A HISTORIC DISTRICT COMMISSION
36 OR HISTORIC PRESERVATION COMMISSION may grant to the commission, the
37 residents of the historic district, and the general public the right to ensure that any
38 [site or any structure and] SITE, STRUCTURE, OR surrounding property [upon which
39 it] ON WHICH THE EASEMENT is applied is protected, in perpetuity, from changes

1 [which] THAT would affect [its] THE historic, archeological, or architectural
2 significance OF THE SITE, STRUCTURE, OR SURROUNDING PROPERTY.

3 DRAFTER'S NOTE: In subsection (a) of this section, the defined term "local
4 jurisdiction" is substituted for the former reference to "county or municipal
5 corporation" for consistency throughout the article.

6 8.05. Application for permission to construct, alter, reconstruct, move or demolish.

7 (A) Before [the construction, alteration, reconstruction, moving, or demolition
8 of any site or structure is made] A PERSON MAY CONSTRUCT, ALTER, RECONSTRUCT,
9 MOVE, OR DEMOLISH A SITE OR STRUCTURE LOCATED WITHIN A DESIGNATED
10 DISTRICT [within the county or municipal corporation] OF A LOCAL JURISDICTION, if
11 any exterior changes are involved which would affect the historic, archeological, or
12 architectural significance of [a] THE site or structure [within a designated district],
13 any portion of which is visible or intended to be visible from a public way, the person[,
14 individual, firm, or corporation proposing to make the construction or change] shall
15 file AN APPLICATION with the HISTORIC DISTRICT COMMISSION OR HISTORIC
16 PRESERVATION commission [an application for permission to construct, alter,
17 reconstruct, move, or demolish the site or structure].

18 (B) [Every such] AN application FILED UNDER SUBSECTION (A) OF THIS
19 SECTION shall [be referred to and considered] BE CONSIDERED by the HISTORIC
20 DISTRICT COMMISSION OR HISTORIC PRESERVATION commission and [accepted]
21 APPROVED or rejected by the commission.

22 (C) [An] AN APPLICANT MAY NOT RESUBMIT AN application [which] THAT is
23 identical to a rejected application [shall not be resubmitted within a period of one]
24 FOR 1 year after the rejection.

25 (D) [No] THE LOCAL JURISDICTION MAY NOT GRANT A permit for [any such]
26 A change UNDER THIS SECTION [may be granted] until the HISTORIC DISTRICT
27 COMMISSION OR HISTORIC PRESERVATION commission has acted [thereon as
28 hereinafter provided] ON THE APPLICATION AS PROVIDED UNDER § 8.06 OF THIS
29 SUBTITLE.

30 DRAFTER'S NOTE: In subsection (a) of this section, the defined term "local
31 jurisdiction" is substituted for the former reference to "county or municipal
32 corporation" for consistency throughout the article.

33 Also in subsection (a) of this section, the former reference to "individual,
34 firm, or corporation" is deleted as included within the defined term
35 "person".

36 8.06. Guidelines for construction or change; review of application.

37 (a) (1) A [county or municipal corporation] LOCAL JURISDICTION shall
38 adopt GUIDELINES FOR rehabilitation and new construction design [guidelines] for
39 designated sites, structures, and districts [which] THAT are consistent with those
40 generally recognized by the Maryland Historical Trust.

1 (2) (I) [Guidelines] THE GUIDELINES ADOPTED UNDER THIS SECTION
2 may [include design] INCLUDE:

3 1. DESIGN characteristics intended to meet the needs of
4 particular types of sites, structures, and [districts, and may identify] DISTRICTS;
5 AND

6 2. IDENTIFICATION OF categories of changes that are so
7 minimal in nature that they do not affect historic, archeological, or architectural
8 significance and require no review by [the] A HISTORIC DISTRICT COMMISSION OR
9 HISTORIC PRESERVATION commission.

10 (II) [These] A HISTORIC DISTRICT COMMISSION OR HISTORIC
11 PRESERVATION COMMISSION SHALL USE THE guidelines [shall be utilized by the
12 Commission] in [its] THE COMMISSION'S review of applications.

13 (b) In reviewing applications, [the] A commission shall [give consideration
14 to] CONSIDER:

15 (1) The historic, archeological, or architectural significance of the site or
16 structure and its relationship to the historic, archeological, or architectural
17 significance of the surrounding area;

18 (2) The relationship of the exterior architectural features of [a] THE
19 structure to the remainder of the structure and to the surrounding area;

20 (3) The general compatibility of exterior design, scale, proportion,
21 arrangement, texture, and materials proposed to be used; and

22 (4) Any other [factors including aesthetic factors] FACTORS, INCLUDING
23 AESTHETICS, which the HISTORIC DISTRICT COMMISSION OR HISTORIC
24 PRESERVATION commission [deems to be] CONSIDERS pertinent.

25 DRAFTER'S NOTE: In subsection (a)(1) of this section, the defined term "local
26 jurisdiction" is substituted for the former reference to "county or municipal
27 corporation" for consistency throughout the article.

28 8.07. Only exterior features to be considered.

29 (A) [The] A HISTORIC DISTRICT COMMISSION OR HISTORIC PRESERVATION
30 commission shall consider only THE exterior features of a structure and [shall] MAY
31 not consider any interior arrangements.

32 (B) [Also, the] A HISTORIC DISTRICT COMMISSION OR HISTORIC
33 PRESERVATION commission [shall] MAY not disapprove an application except [with
34 respect to] AS BASED ON the [several factors specified] CONSIDERATIONS LISTED in
35 § 8.06 [above] OF THIS SUBTITLE.

1 8.08. Strictness [and leniency] in judgment of plans; limiting architectural style to
2 one period.

3 (A) [The] A HISTORIC DISTRICT COMMISSION OR HISTORIC PRESERVATION
4 commission shall [be strict in its judgment of] STRICTLY JUDGE plans for sites or
5 structures determined by research to be of historic, archeological, or architectural
6 significance.

7 (B) [The] UNLESS THE PLANS WOULD SERIOUSLY IMPAIR THE HISTORIC,
8 ARCHEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF THE SURROUNDING SITE
9 OR STRUCTURE, A HISTORIC DISTRICT COMMISSION OR HISTORIC PRESERVATION
10 commission [shall be lenient in its judgment of plans for] MAY NOT STRICTLY JUDGE
11 PLANS:

12 (1) FOR [sites or structures] A SITE OR STRUCTURE of little historic,
13 archeological, or architectural [significance, or for plans involving] SIGNIFICANCE;
14 OR

15 (2) INVOLVING new construction[, unless such plans would seriously
16 impair the historic, archeological, or architectural significance of the surrounding site
17 or structure].

18 (C) A HISTORIC DISTRICT COMMISSION OR HISTORIC PRESERVATION
19 commission is not required to limit construction, reconstruction, or alteration to the
20 architectural style of any one period.

21 8.09. Application for construction, reconstruction, alteration, moving or demolition of
22 structure of unusual importance -- Preservation of site or structure.

23 (a) (1) If an application is submitted for construction, reconstruction, or
24 alteration affecting a site or the exterior of a structure or for the moving or demolition
25 of a structure, [the preservation of which the] AND A HISTORIC DISTRICT
26 COMMISSION OR HISTORIC PRESERVATION commission considers PRESERVATION OF
27 THE SITE OR STRUCTURE to be of unusual importance to the [county or municipal
28 corporation or unusual importance to the entire State] LOCAL JURISDICTION, THE
29 STATE, or THE nation, the commission shall [attempt] ATTEMPT, with the owner of
30 the [structure] STRUCTURE, to formulate an economically feasible plan [for the
31 preservation of] TO PRESERVE the site or structure.

32 (2) Unless [in these circumstances] the HISTORIC DISTRICT
33 COMMISSION OR HISTORIC PRESERVATION commission is satisfied that the proposed
34 construction, [alteration, or reconstruction] RECONSTRUCTION, OR ALTERATION will
35 not materially impair the historic, archeological, or architectural significance of the
36 site or structure, the commission[shall reject] SHALL:

37 (I) REJECT the [application, filing] APPLICATION; AND

38 (II) FILE a copy of its rejection with the building inspector [by
39 whatever name known] of the [county or municipal corporation] LOCAL
40 JURISDICTION.

1 (b) [If an application is submitted for construction, reconstruction, or
 2 alteration, or for the moving or demolition of a site or structure that the commission
 3 considers to be of unusual importance and no economically feasible plan can be
 4 formulated, the] THE HISTORIC DISTRICT COMMISSION OR HISTORIC PRESERVATION
 5 commission shall have [ninety] 90 days from the [time] DATE THAT it concludes that
 6 [no] AN economically feasible plan [can] CANNOT be formulated UNDER THIS
 7 SECTION to negotiate with the owner and other parties [in an effort] to find a means
 8 of preserving the site or structure.

9 DRAFTER'S NOTE: In subsection (a)(2) of this section, the defined term "local
 10 jurisdiction" is substituted for the former reference to "county or municipal
 11 corporation" for consistency throughout the article.

12 8.10. Same -- Approval under certain circumstances.

13 [In the case of] IF a site or structure IS considered to be valuable for its historic,
 14 archeological, or architectural significance, [the] A HISTORIC DISTRICT COMMISSION
 15 OR HISTORIC PRESERVATION commission may approve [the] proposed construction,
 16 reconstruction, alteration, moving, or [demolition] DEMOLITION, despite the fact
 17 THAT the changes come within the provisions of § 8.09 of this [subtitle] SUBTITLE, if:

18 (1) The site or structure is a deterrent to a major improvement program
 19 which will be of substantial benefit to the [county or municipal corporation] LOCAL
 20 JURISDICTION; OR

21 (2) [Retention] THE RETENTION of the site or structure [would cause]
 22 WOULD:

23 (I) CAUSE undue financial hardship to the owner; or

24 [(3)] (II) [The retention of the site or structure would not be to] NOT BE
 25 IN the best interests of a majority of persons in the community.

26 DRAFTER'S NOTE: In item (1) of this section, the defined term "local
 27 jurisdiction" is substituted for the former reference to "county or municipal
 28 corporation" for consistency throughout the article.

29 8.11. Rules and regulations for HISTORIC DISTRICT commission meetings; meetings to
 30 be public; right to appear and be heard.

31 (A) [The] A HISTORIC DISTRICT COMMISSION OR HISTORIC PRESERVATION
 32 commission shall adopt [such] THOSE rules and regulations [as may be] necessary
 33 for the proper transaction of [its] THE COMMISSION'S business.

34 (B) Any interested person or [a person's] representative OF AN INTERESTED
 35 PERSON [is entitled to] MAY appear and be heard at any public hearing conducted by
 36 [the] A HISTORIC DISTRICT COMMISSION OR HISTORIC PRESERVATION commission.

1 8.12. Certificate of approval, modification or rejection of application and plans.

2 (A) [The] A HISTORIC DISTRICT COMMISSION OR HISTORIC PRESERVATION
3 commission [shall file] SHALL:

4 (1) FILE with the building inspector [by whatever name known] of the
5 [county or municipal corporation] LOCAL JURISDICTION a certificate of [its] THE
6 COMMISSION'S approval, modification, or rejection of [all applications and plans]
7 ANY APPLICATION OR PLAN submitted to [it] THE COMMISSION for [review]
8 REVIEW; OR

9 (2) IF THERE IS NO BUILDING INSPECTOR IN THE COUNTY OR
10 MUNICIPAL CORPORATION, ISSUE TO THE OWNER, LESSEE, OR TENANT OF THE
11 PROPERTY AND PREMISES THAT IS THE SUBJECT OF THE APPLICATION OR PLAN A
12 CERTIFICATE OF THE COMMISSION'S APPROVAL, MODIFICATION, OR REJECTION .

13 (B) [Work shall not be commenced on any such] AN APPLICANT MAY NOT
14 BEGIN WORK ON ANY project SUBMITTED FOR REVIEW BY A HISTORIC DISTRICT
15 COMMISSION OR HISTORIC PRESERVATION COMMISSION, until [such a] THE
16 COMMISSION HAS FILED THE certificate of approval [has been filed, and the] WITH
17 THE BUILDING INSPECTOR.

18 (C) THE building inspector [shall] MAY not issue a building permit for [such]
19 A change or construction SUBMITTED FOR REVIEW BY A HISTORIC DISTRICT
20 COMMISSION OR HISTORIC PRESERVATION COMMISSION [unless and until he]
21 UNTIL THE BUILDING INSPECTOR has received [such a] THE certificate of approval.

22 (D) If there is no building inspector in the [county or municipal corporation]
23 LOCAL JURISDICTION, the owner, lessee, or tenant of the property and premises
24 [shall] MAY not commence the proposed work or change until [and unless he or it has
25 received such] THE HISTORIC DISTRICT COMMISSION OR HISTORIC PRESERVATION
26 COMMISSION HAS ISSUED TO THE OWNER, LESSEE, OR TENANT a certificate of
27 approval [from the commission].

28 (E) [The failure of the commission] IF A HISTORIC DISTRICT COMMISSION OR
29 HISTORIC PRESERVATION COMMISSION FAILS to act [upon] ON a completed
30 application within [forty-five (45) days from] 45 DAYS AFTER the date THAT the
31 completed application was [filed shall be deemed to constitute automatic approval of]
32 FILED, the [proposed changes] APPLICATION SHALL BE CONSIDERED APPROVED
33 [unless an] UNLESS:

34 (1) [extension of this forty-five day period is agreed upon mutually by
35 the applicant and the commission or the] THE APPLICANT AND THE COMMISSION
36 AGREE TO AN EXTENSION OF THE 45-DAY PERIOD; OR

37 (2) THE application [has been] IS withdrawn.

38 DRAFTER'S NOTE: In subsections (a)(1) and (d) of this section, the defined
39 term "local jurisdiction" is substituted for the former reference to "county
40 or municipal corporation" for consistency throughout the article.

1 Subsection (a)(2) of this section is new language derived without
2 substantive change from subsection (d) of this section.

3 8.13. Routine maintenance, customary farming, or landscaping not affected;
4 completion of work under prior permit.

5 [Nothing in this subtitle shall be taken or construed to] THIS SUBTITLE MAY
6 NOT BE INTERPRETED TO prevent routine maintenance, customary farming
7 operations, or landscaping which [will have no] DOES NOT HAVE A material effect on
8 the historic, archeological, or architectural significance of a designated site, structure,
9 or district. Nothing in this subtitle affects the right to complete any work covered by
10 a permit or authorization issued prior to October 1, 1995.

11 8.14. Enforcement.

12 A HISTORIC DISTRICT COMMISSION OR HISTORIC PRESERVATION commission
13 may request that the enforcing authority institute any of the remedies and penalties
14 provided by law for any violation of an ordinance or resolution adopted under this
15 subtitle.

16 8.15. Appeal from decision of HISTORIC DISTRICT commission OR HISTORIC
17 PRESERVATION COMMISSION.

18 Any person [or persons, firm, or corporation] aggrieved by a decision of [the] A
19 HISTORIC DISTRICT COMMISSION OR HISTORIC PRESERVATION commission [has a
20 right of appeal therefrom similar to that] MAY APPEAL THE DECISION IN THE
21 MANNER provided FOR AN APPEAL from the decision of the zoning board or
22 commission [within the county or municipal corporation] OF THE LOCAL
23 JURISDICTION.

24 DRAFTER'S NOTE: The former reference to "persons, firm, or corporation" is
25 deleted as included within the defined term "person".

26 The defined term "local jurisdiction" is substituted for the former reference
27 to "county or municipal corporation" for consistency throughout the article.

28 8.16. Underground placement of overhead utility lines and facilities.

29 (a) (1) Every [county, municipal corporation and Baltimore City] LOCAL
30 JURISDICTION in which a district is designated[,], may enact laws requiring [that
31 utility] THAT:

32 (I) UTILITY companies relocate underground existing overhead
33 lines and facilities within the defined part of the district or the entire [district, and
34 requiring the] DISTRICT; AND

35 (II) IF NECESSARY, PRIVATE OWNERS RECEIVING SERVICE FROM
36 THE RELOCATED LINES AND FACILITIES PLACE ANY connection [thereto to be
37 placed] underground [if necessary by private owners then receiving service from the
38 overhead lines and facilities].

1 (2) [The] A law ENACTED UNDER THIS SECTION [shall provide] SHALL:

2 [(1) (I) [The] REQUIRE THAT THE estimated cost to property owners
3 for work [to be] performed on private property be determined and made available to
4 affected property owners;

5 [(2) (II) [Financing of] PROVIDE FINANCING FOR these costs to private
6 [owners be provided] OWNERS, including FINANCING FOR any charges for the
7 amortization of the bonds issued to initially cover [such] private costs[. The county,
8 municipal corporation, or Baltimore City may enter into agreement with individual
9 property owners whereupon it will advance funds to cover the property owner's costs
10 involved in the conversion of the overhead lines and facilities and may appropriate
11 funds, levy taxes or borrow funds to pay and advance the costs of such conversion. The
12 county or municipal corporation and Baltimore City also may impose a benefit
13 assessment against the property in the district for which the conversion is made in
14 order to recapture such expended costs and make appropriate provisions for the
15 collection thereof]; and

16 [(3) (III) [Any] INCLUDE ANY other provisions reasonably related to
17 [the objective of] placing [underground] overhead lines and facilities
18 UNDERGROUND[,] and the administration of [such] UNDERGROUND RELOCATION
19 projects.

20 (b) (1) Notwithstanding any other provision [in] OF this [section]
21 SECTION, the Public Service Commission [shall prescribe] SHALL:

22 (I) PRESCRIBE the amount of the monthly surcharge required to
23 support the net capital costs OF AN UNDERGROUND RELOCATION and determine
24 which customers of the applicable utility are subject to the [surcharge, or the
25 Commission shall include] SURCHARGE;

26 (II) INCLUDE the related net capital costs in the rate [base, or shall
27 adopt] BASE; OR

28 (III) ADOPT any other method to appropriately apportion the [said]
29 costs.

30 (2) [However, in no event shall the utility] A UTILITY MAY NOT be
31 required to pay more than [50 percent] ONE-HALF of the net capital costs OF
32 UNDERGROUND RELOCATION.

33 (3) [The county, municipal corporation, or Baltimore City is authorized
34 to make appropriations] A LOCAL JURISDICTION MAY APPROPRIATE MONEY for
35 [such] UNDERGROUND relocation projects from any appropriate federal, State, and
36 local funds it receives for [this] THE purpose.

37 (C) (1) IN IMPLEMENTING SUBSECTION (A)(2)(II) OF THIS SECTION, THE
38 LOCAL JURISDICTION MAY ENTER INTO AN AGREEMENT WITH INDIVIDUAL
39 PROPERTY OWNERS UNDER WHICH THE LOCAL JURISDICTION AGREES TO ADVANCE

1 FUNDS TO COVER THE PROPERTY OWNER'S COSTS FOR THE RELOCATION OF THE
2 OVERHEAD LINES AND FACILITIES.

3 (2) (I) THE LOCAL JURISDICTION MAY APPROPRIATE FUNDS, LEVY
4 TAXES, OR BORROW FUNDS TO PAY AND ADVANCE THE COSTS OF AN UNDERGROUND
5 RELOCATION.

6 (II) THE LOCAL JURISDICTION ALSO MAY:

7 1. IN ORDER TO RECAPTURE EXPENDED COSTS, IMPOSE A
8 BENEFIT ASSESSMENT AGAINST PROPERTY IN THE DISTRICT ON BEHALF OF WHICH
9 THE UTILITY IS RELOCATED UNDERGROUND; AND

10 2. PROVIDE FOR THE COLLECTION OF THE ASSESSMENT.

11 [(c)] (D) [The provisions of § 7.03] SECTION 7.04 of this article [do] DOES not
12 apply to [the provisions of] this section.

13 DRAFTER'S NOTE: In subsection (a)(1) of this section, the defined term "local
14 jurisdiction" is substituted for the former reference to "county, municipal
15 corporation, or Baltimore City" for consistency throughout the article.

16 In subsection (b) of this section, the defined term "local jurisdiction" is
17 substituted for the former reference to "county, municipal corporation, or
18 Baltimore City".

19 Subsection (c) of this section is transferred from the latter portion of
20 former subsection (a)(2)(ii) of this section.

21 In subsection (c)(1) of this section, the defined term "local jurisdiction" is
22 substituted for the former reference to "county or municipal corporation
23 and Baltimore City" for consistency throughout the article.

24 8.17. Severability.

25 (A) The provisions of this subtitle are [severable, and if any of their provisions
26 are] SEVERABLE.

27 (B) IF ANY PROVISION OF THIS SUBTITLE IS held unconstitutional by [any] A
28 court of competent jurisdiction, the decision of [such court shall] THE COURT DOES
29 not affect or impair any of the remaining provisions.

30 Adequate Public Facilities Ordinances

31 10.01. Authority to enact.

32 (a) [In order to] TO encourage the preservation of natural resources or the
33 provision of affordable housing and to facilitate orderly development and growth,
34 [any county or municipal corporation, including Baltimore City.] A LOCAL
35 JURISDICTION that exercises authority granted by this article may [enact] ENACT,

1 and is encouraged to [enact] ENACT, ordinances or [other] laws providing for or
2 requiring:

3 (1) The planning, [staging] STAGING, or provision of adequate public
4 facilities and affordable housing;

5 (2) Off-site improvements or THE dedication of land for public facilities
6 essential for a development;

7 (3) Moderately priced dwelling unit programs;

8 (4) Mixed use developments;

9 (5) Cluster developments;

10 (6) Planned unit developments;

11 (7) Alternative subdivision requirements [that meet] THAT:

12 (I) MEET minimum performance standards set by the [county or
13 municipal corporation and that reduce] LOCAL JURISDICTION; AND

14 (II) REDUCE infrastructure costs;

15 (8) Floating zones;

16 (9) Incentive zoning; and

17 (10) Performance zoning.

18 (b) Notwithstanding any other provision of law, [the] A LOCAL legislative
19 body [of a county or municipal corporation, including Baltimore City,] that exercises
20 authority granted by this article may enact ordinances or [other] laws providing for
21 the [transfer] TRANSFER, WITH OR WITHOUT CONSIDERATION, of real property
22 belonging to the [county or municipal corporation, with or without consideration,]
23 LOCAL JURISDICTION to a public or private [entity for use in the development or
24 preservation of] ENTITY, TO USE IN DEVELOPING OR PRESERVING affordable housing.

25 (c) The authority provided [for in] UNDER this section is not intended to limit
26 a [county's or municipal corporation's] LOCAL JURISDICTION'S authority to:

27 (1) Exercise any [existing] planning and zoning powers not expressly
28 authorized [in] UNDER this section; or

29 (2) Adopt other methods [for facilitating] TO:

30 (I) FACILITATE orderly development and [growth and
31 encouraging] GROWTH;

32 (II) ENCOURAGE the preservation of natural [resources or the
33 provision of] RESOURCES; OR

1 (III) PROVIDE affordable housing.

2 DRAFTER'S NOTE: In subsection (a) of this section, the defined term "local
3 jurisdiction" is substituted for the former reference to "any county or
4 municipal corporation, including Baltimore City" for consistency
5 throughout the article.

6 In subsection (b) of this section, the former reference to "of a county or
7 municipal corporation, including Baltimore City" is deleted as included
8 within the defined term "local legislative body".

9 Also in subsection (b) of this section, the defined term "local jurisdiction" is
10 substituted for the former reference to "county or municipal corporation"
11 for consistency throughout the article.

12 In subsection (c) of this section, the derivation of the defined term "local
13 jurisdiction", or "local jurisdiction's" is substituted for the former reference
14 to "county's or municipal corporation's" for consistency throughout the
15 article.

16 Transfer of Development Rights

17 11.01. Establishment of programs for transfer of development rights.

18 [In order to encourage the preservation of natural resources and to facilitate
19 orderly growth and development in the State, the] A LOCAL legislative body [of a
20 county or municipal corporation, including Baltimore City,] that exercises authority
21 granted by this article may establish a program for the transfer of development rights
22 TO:

23 (1) ENCOURAGE THE PRESERVATION OF NATURAL RESOURCES; AND

24 (2) FACILITATE ORDERLY GROWTH AND DEVELOPMENT IN THE STATE.

25 DRAFTER'S NOTE: The former reference to "of a county or municipal
26 corporation" is deleted as included within the defined term "local
27 legislative body".

28 Inclusionary Zoning

29 12.01. Affordable housing.

30 (a) To promote the creation of housing that is affordable to persons and
31 families who have low or moderate incomes, [the legislative body of a county or
32 municipal corporation, including Baltimore City,] A LOCAL LEGISLATIVE BODY that
33 exercises authority granted by this article may enact ordinances or [other] laws that:

34 (1) Impose inclusionary zoning and award density bonuses to create
35 affordable housing units; and

1 (2) Impose restrictions on the use, cost, and resale of housing that is
2 created under this subtitle to ensure that the purposes of this subtitle are carried out.

3 (b) The authority GRANTED under this subtitle is in addition to any [existing]
4 OTHER zoning and planning powers.

5 DRAFTER'S NOTE: In subsection (a)(1) of this section, the former reference to
6 "of a county or municipal corporation, including Baltimore City," is deleted
7 as included within the defined term "local legislative body".

8 Development Rights and Responsibilities Agreements

9 13.01. Agreements.

10 (a) (1) In this section[,] the following words have the meanings indicated.

11 (2) "Agreement" means A development rights and responsibilities
12 agreement.

13 [(3) "Commission" means a planning and zoning commission or similar
14 body.]

15 [(4) (3) "Governing body" means the local legislative body, the local
16 executive, or other elected governmental body that has zoning powers under this
17 article.

18 [(5) (4) "Public principal" means the governmental entity of a LOCAL
19 jurisdiction that has been granted the authority to enter agreements under
20 subsection (b)(1) of this section.

21 (b) (1) Subject to subsections (c) through (l) of this section, the governing
22 body of a LOCAL jurisdiction may:

23 (i) By ordinance, establish procedures and requirements for the
24 consideration and execution of agreements; and

25 (ii) Delegate all or part of the authority established under the
26 ordinance to a public principal within the jurisdiction of the governing body.

27 (2) The public principal may:

28 (i) Execute agreements for real property located within jurisdiction
29 of the governing body with a person having a legal or equitable interest in the real
30 property; and

31 (ii) Include a federal, State, or local government or unit as an
32 additional party to the agreement.

33 (c) Before entering an agreement, a person having a legal or equitable interest
34 in real property or the [representative of a person having a legal or equitable interest

1 in real property] PERSON'S REPRESENTATIVE shall petition [to] the public principal
2 of the LOCAL jurisdiction in which the property is located.

3 (d) (1) After receiving a petition and before entering an agreement, the
4 public principal shall conduct a public hearing.

5 (2) [If a] A public hearing THAT is [already] required for approval of the
6 development[, that public hearing may satisfy] SATISFIES the public hearing
7 [provisions under paragraph (1) of this subsection] REQUIREMENTS.

8 (e) The public principal of a LOCAL jurisdiction may not enter an agreement
9 unless the PLANNING commission of the LOCAL jurisdiction determines whether the
10 proposed agreement is consistent with the plan of the LOCAL jurisdiction.

11 (f) (1) An agreement shall include:

12 (i) A legal description of the real property subject to the agreement;

13 (ii) The names of the persons having a legal or equitable interest in
14 the real property subject to the agreement;

15 (iii) The duration of the agreement;

16 (iv) The permissible uses of the real property;

17 (v) The density or intensity of use OF THE REAL PROPERTY;

18 (vi) The maximum height and size of structures TO BE LOCATED ON
19 THE REAL PROPERTY;

20 (vii) A description of the permits required or already approved for
21 the development of the real property;

22 (viii) A statement that the proposed development is consistent with
23 the plan and development regulations of the LOCAL jurisdiction;

24 (ix) A description of the conditions, terms, restrictions, or other
25 requirements determined by the governing body of the LOCAL jurisdiction [as] TO BE
26 necessary to ensure the public health, safety, or welfare; and

27 (x) To the extent applicable, provisions for the:

28 1. Dedication of a portion of the real property for public use;

29 2. Protection of sensitive areas;

30 3. Preservation and restoration of historic structures; and

31 4. Construction or financing of public facilities.

32 (2) An agreement may:

1 (i) Fix the [period in and terms by which development and
2 construction may commence or be completed] TIME FRAME AND TERMS FOR
3 DEVELOPMENT AND CONSTRUCTION ON THE REAL PROPERTY; and

4 (ii) Provide for other matters consistent with this article.

5 (g) [Unless otherwise established under subsection (f)(1)(iii) and (2)(i) of this
6 section or extended by amendment under subsection (h) of this section, an] AN
7 agreement shall be void 5 years after the day on which the parties [executed]
8 EXECUTE the agreement UNLESS:

9 (1) OTHERWISE ESTABLISHED UNDER SUBSECTION (F)(1)(III) OR (2)(I) OF
10 THIS SECTION; OR

11 (2) EXTENDED BY AMENDMENT UNDER SUBSECTION (H) OF THIS
12 SECTION.

13 (h) (1) Subject to paragraph (2) of this subsection and after a public hearing,
14 the parties to an agreement may amend the agreement by mutual consent.

15 (2) [The] UNLESS THE PLANNING COMMISSION OF THE LOCAL
16 JURISDICTION DETERMINES THAT THE PROPOSED AMENDMENT IS CONSISTENT
17 WITH THE PLAN OF THE LOCAL JURISDICTION, THE parties may not amend an
18 agreement[, unless the commission of the jurisdiction determines whether the
19 proposed amendment is consistent with the plan of the jurisdiction].

20 (i) (1) The parties to an agreement may terminate the agreement by mutual
21 consent.

22 (2) [After a public hearing,] IF THE PUBLIC PRINCIPAL OR THE
23 GOVERNING BODY DETERMINES THAT SUSPENSION OR TERMINATION IS ESSENTIAL
24 TO ENSURE THE PUBLIC HEALTH, SAFETY, OR WELFARE, the public principal or its
25 governing body may suspend or terminate an agreement [if the public principal or
26 the governing body determines that suspension or termination is essential to ensure
27 the public health, safety, or welfare] AFTER A PUBLIC HEARING.

28 (j) (1) Except as provided in paragraph (2) of this subsection, the laws,
29 rules, regulations, and policies governing the use, density, or intensity of the real
30 property subject to the agreement shall be the laws, rules, regulations, and policies in
31 force at the time the parties execute the agreement.

32 (2) [An] IF THE LOCAL JURISDICTION DETERMINES THAT COMPLIANCE
33 WITH LAWS, RULES, REGULATIONS, AND POLICIES ENACTED OR ADOPTED AFTER
34 THE EFFECTIVE DATE OF THE AGREEMENT IS ESSENTIAL TO ENSURE THE HEALTH,
35 SAFETY, OR WELFARE OF RESIDENTS OF ALL OR PART OF THE JURISDICTION, AN
36 agreement may not prevent a local government from requiring a person to comply
37 with [the laws, rules, regulations, and policies enacted after the date of the
38 agreement, if the local government determines that imposition and compliance with
39 these laws and regulations is essential to ensure the public health, safety, or welfare

1 of residents of all or part of the jurisdiction] THOSE LAWS, RULES, REGULATIONS,
2 AND POLICIES.

3 (k) (1) An agreement [shall be void if] THAT IS not recorded in the land
4 records office of the LOCAL jurisdiction within 20 days after the day on which the
5 parties execute the agreement IS VOID.

6 (2) [When an agreement is recorded, the] THE parties to [the] AN
7 agreement and their successors in interest are bound to the agreement AFTER THE
8 AGREEMENT IS RECORDED.

9 (l) Unless THE AGREEMENT IS terminated under subsection (i) of this section,
10 the parties to an agreement or their successors in interest may enforce the
11 agreement.

12 (m) [Nothing in this section may be construed to] THIS SECTION DOES NOT
13 require the adoption of an ordinance by a governing body or [to] authorize a
14 governing body to require a party to enter into an agreement.

15 DRAFTER'S NOTE: Throughout this section, the defined term "local
16 jurisdiction" is substituted for the former references to "jurisdiction" for
17 consistency throughout the article.

18 In subsection (j)(2) of this section, the defined term "local jurisdiction" is
19 substituted for the former reference to "local government" for consistency
20 throughout the article.

21 MISCELLANEOUS LOCAL PROVISIONS

22 14.01. ALLEGANY COUNTY.

23 [The following counties are excepted from the provisions of subsection (a) to the
24 extent provided in this subsection:]

25 (A) THIS SECTION APPLIES TO ALLEGANY COUNTY.

26 (B) [In Allegany County, the] THE PLANNING commission may consist of
27 seven members.

28 (C) (1) The term of each member [shall be five years] IS 5 YEARS.

29 (2) EACH MEMBER SHALL SERVE [or] until [his] A successor [takes
30 office, except that the respective terms of the sixth and seventh members first
31 appointed may be less than five years] IS APPOINTED AND QUALIFIES.

32 (3) THE TERMS OF TWO OF THE MEMBERS OF THE PLANNING
33 COMMISSION SHALL BE STAGGERED.

34 DRAFTER'S NOTES: This section is transferred from former § 3.02(b)(1) of this
35 article.

1 Subsection (a) of this section is new language added to define the scope of
2 this section.

3 Subsection (c)(3) of this section is derived from the former second clause of
4 subsection (c)(2) of this section, which is otherwise obsolete.

5 14.02. BALTIMORE COUNTY.

6 (A) THIS SECTION APPLIES TO BALTIMORE COUNTY.

7 (B) In addition to the jurisdiction [as defined in subsection (c) of this section]
8 GRANTED IN § 7.02 OF THIS ARTICLE, the legislative body of Baltimore County may
9 provide by ordinance for an administrative proceeding to enforce its zoning
10 [regulations, including the imposition of] REGULATIONS.

11 (C) THE ORDINANCE MAY INCLUDE THE AUTHORITY TO IMPOSE civil fines
12 and penalties for zoning violations.

13 DRAFTER'S NOTE: Subsection (a) of this section is new language added to
14 define the scope of this section.

15 Subsections (b) and (c) of this section are transferred without substantive
16 change from former § 7.01(a)(2) of this article.

17 14.03. CARROLL COUNTY.

18 (A) THIS SECTION APPLIES TO CARROLL COUNTY.

19 (b) (1) [In Carroll County, the] THE County Commissioners [have the
20 discretion to determine whether or not one of the appointive members of the planning
21 and zoning commission is a member] MAY APPOINT ONE OF THE MEMBERS of the
22 Board of County Commissioners TO THE PLANNING AND ZONING COMMISSION.

23 (2) (I) The County Commissioners shall designate one alternate
24 member of the PLANNING commission who may [be empowered to] sit on the
25 PLANNING AND ZONING commission in the absence of [any] A member of the
26 PLANNING AND ZONING commission.

27 (II) When the alternate is absent, the County Commissioners may
28 designate a temporary alternate [who shall sit on the commission].

29 (c) [In Frederick and Carroll Counties, this section] IF A PLAT IS APPROVED
30 AND RECORDED IN ACCORDANCE WITH THIS ARTICLE BEFORE THE TRANSFER OF
31 THE LAND, § 5.05 OF THIS ARTICLE does not apply to [the] A contract for sale or
32 negotiation for sale of property zoned industrial, commercial, or both industrial and
33 commercial[, if a plat is approved and recorded in accordance with this article prior to
34 the transfer of land].

35 DRAFTER'S NOTE: Subsection (a) of this section is new language added to
36 define the scope of this section.

1 Subsections (b) and (c) of this section are transferred without substantive
2 change from former §§ 3.02(b)(2) and 5.05(c) of this article.

3 14.04. CECIL COUNTY.

4 (A) THIS SECTION APPLIES TO CECIL COUNTY.

5 (b) [(i)] (1) [In Cecil County, the] THE planning commission has six
6 regular members and one alternate member.

7 [(ii)] (2) (I) Members of the planning commission serve for
8 3-year [staggered] terms.

9 (II) THE TERMS OF THE MEMBERS OF THE PLANNING COMMISSION
10 SHALL BE STAGGERED.

11 [(iii)] (3) At the end of a term, an appointed member continues to
12 serve until a successor is appointed and qualifies.

13 [(iv)] (4) An ex officio member serves a term concurrent with the
14 member's term of office.

15 [(v)] (5) A member who is appointed after a term has begun serves
16 only for the rest of the term and until a successor is appointed and qualifies.

17 (c) [(1)] In Cecil County, the commission may not appoint a director of
18 planning and zoning.]

19 [(2)] (1) (I) The Board of County Commissioners [of Cecil County]
20 shall appoint a director of planning and zoning for the [County and the] COUNTY.

21 (II) THE director shall serve at the pleasure of the County
22 Commissioners.

23 (2) THE PLANNING COMMISSION MAY NOT APPOINT A DIRECTOR OF
24 PLANNING AND ZONING.

25 (d) (1) Notwithstanding [subsection (a) of this section, in Cecil County] §
26 4.07(A) OF THIS ARTICLE, the [board] BOARD OF APPEALS has five regular members
27 and one alternate member.

28 (2) (I) Board members serve for 3-year [staggered] terms.

29 (II) THE TERMS OF THE MEMBERS OF THE BOARD OF APPEALS
30 SHALL BE STAGGERED.

31 (3) At the end of a term, a member continues to serve until a successor is
32 appointed and qualifies.

33 (4) A member who is appointed after a term has begun serves only for
34 the rest of the term and until a successor is appointed and qualifies.

1 DRAFTER'S NOTE: Subsection (a) of this section is new language added to
2 define the scope of this section.

3 Subsections (b) through (d) of this section are transferred without
4 substantive change from former §§ 3.02(b)(4), 3.04(b), and 4.07(b-3),
5 respectively, of this article.

6 14.05. CHARLES COUNTY.

7 (A) THIS SECTION APPLIES TO CHARLES COUNTY.

8 (b) [(i)] (1) The [Charles County] planning commission is [comprised of 7]
9 COMPOSED OF SEVEN members [and] WHO shall represent as many different
10 geographical areas of Charles County as is possible.

11 [(ii)] (2) [Members] A MEMBER OF THE PLANNING COMMISSION
12 may receive [such] THE compensation [as deemed] CONSIDERED appropriate by the
13 [Charles] County Commissioners.

14 [(iii)] (3) (I) [The members serve] A MEMBER OF THE PLANNING
15 COMMISSION SERVES for [four-year terms] A 4-YEAR TERM or until [their
16 successors are] A SUCCESSOR IS appointed and [qualified] QUALIFIES.

17 (II) The [respective] terms of the members shall be [on a]
18 staggered [basis].

19 [(iv)] (4) [The] EACH YEAR, THE COUNTY COMMISSIONERS SHALL
20 APPOINT THE chairperson [shall be appointed annually by the Charles County
21 Commissioners] OF THE PLANNING COMMISSION.

22 [(v)] A member of the Charles County Commissioners may sit on the
23 Charles County planning commission in an ex officio capacity through December 31,
24 1988. The member shall have voting privileges on all matters except matters on
25 which the member would be called on to vote again in the capacity as a member of the
26 Charles County Commissioners, such as zoning and rezoning matters. This member
27 shall be counted as one of the 7 members.]

28 [(vi)] (5) [Beginning January 1, 1989, a] A member of the
29 [Charles] County Commissioners may not sit on the [Charles County] planning
30 commission.

31 (C) (1) THE LOCAL LEGISLATIVE BODY MAY AUTHORIZE THE PLANNING
32 DIRECTOR OR OTHER DESIGNEE TO GRANT ADMINISTRATIVE ADJUSTMENTS FROM
33 HEIGHT, SETBACK, BULK, PARKING, LOADING, DIMENSIONAL, AREA, OR SIMILAR
34 REQUIREMENTS OF THE ZONING ORDINANCE.

35 (2) THE LOCAL LEGISLATIVE BODY SHALL:

1 (I) CONSULT WITH THE PLANNING COMMISSION AND THE BOARD
2 OF APPEALS IN DEVELOPING CRITERIA AND PROCEDURES FOR ADMINISTRATIVE
3 ADJUSTMENTS UNDER THIS SUBSECTION; AND

4 (II) ADOPT THE CRITERIA AND PROCEDURES AFTER REASONABLE
5 PUBLIC NOTICE, PUBLIC HEARING, AND AN OPPORTUNITY FOR REVIEW AND
6 COMMENT BY THE PUBLIC.

7 (3) CRITERIA FOR ADMINISTRATIVE ADJUSTMENTS SHALL INCLUDE:

8 (I) STANDARDS FOR ACTIONS ON REQUESTS;

9 (II) STANDARDS FOR CLASSES OF DEVELOPMENT ELIGIBLE FOR
10 ADMINISTRATIVE ADJUSTMENTS; AND

11 (III) THE MAXIMUM VARIATION FROM A ZONING REQUIREMENT
12 ALLOWABLE UNDER AN ADMINISTRATIVE ADJUSTMENT.

13 (4) PROCEDURES FOR ADMINISTRATIVE ADJUSTMENTS MAY INCLUDE:

14 (I) APPLICATIONS;

15 (II) NOTICE TO THE PUBLIC AND PARTIES IN INTEREST;

16 (III) OPPORTUNITY FOR PUBLIC HEARING;

17 (IV) TAKING OF TESTIMONY AND EVIDENCE; AND

18 (V) DECISION MAKING.

19 (5) A DECISION ON AN APPLICATION FOR AN ADMINISTRATIVE
20 ADJUSTMENT SHALL INCLUDE WRITTEN FINDINGS OF FACT.

21 (6) BY ORDINANCE OR OTHER ADOPTED PROCEDURE, THE LOCAL
22 LEGISLATIVE BODY MAY ALLOW AN APPEAL TO THE BOARD OF APPEALS OF A
23 DECISION TO APPROVE OR DENY AN ADMINISTRATIVE ADJUSTMENT.

24 (d) (1) Notwithstanding [subsection (a) of this section, in Charles County] §
25 4.07(A) OF THIS ARTICLE, [board members] A MEMBER OF THE BOARD OF APPEALS
26 shall be appointed to A 4-YEAR [staggered terms of 4 years] TERM.

27 (2) THE TERMS OF THE MEMBERS OF THE BOARD OF APPEALS SHALL BE
28 STAGGERED.

29 (e) (1) This subsection applies only[:

30 (i) In Charles County; and

31 (ii) To] TO an application for a special exception for surface mining,
32 an asphalt plant, concrete plant, or sand and gravel washing, crushing, or screening.

1 (2) (I) Notwithstanding [any other provision of this section] § 4.07 OF
2 THIS ARTICLE, the County Commissioners may hear and decide a special exception
3 under an appeal filed by a property owner WHO IS aggrieved by a decision of the board
4 of appeals on the special [exception, in] EXCEPTION.

5 (II) THE COUNTY COMMISSIONERS SHALL HEAR AND DECIDE AN
6 APPEAL OF A SPECIAL EXCEPTION IN accordance with rules and procedures adopted
7 by the County Commissioners.

8 (3) If the County Commissioners adopt rules and procedures for
9 considering a special exception under this subsection, the decision of the [county
10 commissioners] COUNTY COMMISSIONERS to grant, deny, modify, or remand the
11 application for the special exception is a final decision from which an appeal may be
12 taken to the circuit court under § 4.08 of this [subtitle] ARTICLE.

13 (f) [In Charles and St. Mary's Counties this section] SECTION 5.05 OF THIS
14 ARTICLE does not apply to the sale or negotiation for sale of industrial property.

15 (g) [(a)] (1) Notwithstanding any other provision of this article, if [an
16 application or permit or series of applications or permits] A PERMIT is granted
17 [within Charles County] to an owner [or owners] of land [which allows the
18 applicant] to proceed with the development of land for [purposes of constructing]
19 residential dwelling units, [whether single or multiple, detached or attached, in a
20 manner] SO that the County or the State will have to provide additional school sites
21 or school facilities for the use and benefit of new residents [who will populate] OF the
22 developed land, the owner [or owners] of the land, in accordance with regulations or
23 procedures [which may be promulgated] ADOPTED by the County Commissioners,
24 shall [compensate the County for] PAY THE COUNTY FOR THE COSTS OF the burden
25 the development will impose in terms of the additional public school facilities which
26 will have to be provided in an amount equal to the cost attributable to the proposed
27 development of the land involved.

28 [(b) (1)] (2) (I) 1. [The] AFTER A PUBLIC HEARING, THE COUNTY
29 COMMISSIONERS SHALL ANNUALLY SET THE costs to be compensated by the land
30 owner or owners [shall be determined annually by the County Commissioners after a
31 public hearing].

32 2. THE COSTS ASSESSED UNDER THIS SUBSECTION MAY NOT
33 EXCEED \$5,000 PER RESIDENTIAL UNIT.

34 (II) 1. Proportionate division and provisions for payment of these
35 costs shall be made according to reasonable schedules approved by the County
36 Commissioners.

37 2. THE PAYMENT SCHEDULES SHALL REFLECT THE IMPACT
38 OF THE DEVELOPMENT OVER TIME AND PROVIDE FOR THE TIMELY ACQUISITION OF
39 LAND AND OTHER FACILITIES BY THE COUNTY, THE STATE, OR THE LAND OWNER, AS
40 NEEDED TO SERVE THE RESIDENTS OF THE DEVELOPMENT. [However, in no case
41 may this exceed \$5,000 per unit.]

1 [(2) (i)] (III) 1. [The] EACH YEAR, BEFORE THE PUBLIC HEARING TO
 2 SET THE IMPACT FEES, THE County Commissioners shall conduct [an annual] A
 3 study to determine the reasonableness of [these costs before] THE FEES TO BE
 4 PROPOSED AT the public hearing.

5 [(ii)] 2. The study shall include an analysis of the effect of the
 6 impact [fee] FEES on the cost of housing in the County.

7 3. The analysis shall be made available to the public at the
 8 time of the public hearing.

9 [(iii)] (IV) Any new or increased [costs] IMPACT FEES may not take
 10 effect until at least 90 days after the public hearing.

11 [(3) These schedules shall reflect the impact of the development over time
 12 and provide for the timely acquisition of land and other facilities by the County, State,
 13 or the land owners, as the case may be, designed to serve residents of the
 14 development.]

15 [(4)] (V) 1. [Up to] THE COUNTY COMMISSIONERS MAY REQUIRE
 16 THAT NOT EXCEEDING 20% of any fee imposed [under this section] for any
 17 residential dwelling unit UNDER THIS SUBSECTION [may be required to] be paid
 18 [at] ON or after the approval of a preliminary subdivision plan for lots that include
 19 the residential dwelling unit.

20 2. The LANDOWNER SHALL PAY THE balance of the fee [shall
 21 be paid] before the [issuance of] COUNTY COMMISSIONERS MAY ISSUE the
 22 occupancy permit for the residential dwelling unit.

23 [(c)] (3) (I) [Moneys] THE COUNTY COMMISSIONERS SHALL PLACE THE
 24 IMPACT FEES received by the County [for compensation] under this [section shall be
 25 placed] SUBSECTION in a [separate] SPECIAL fund.

26 (II) The [funds shall be used] COUNTY COMMISSIONERS SHALL
 27 USE THE MONEYS IN THE SPECIAL FUND for public school facilities.

28 (III) [This] THE special fund shall be administered by the County
 29 [Commissioners and is subject to investment or expenditure by the County
 30 Commissioners, in their absolute discretion solely for the purposes of this section]
 31 COMMISSIONERS, WHO MAY, IN THEIR ABSOLUTE DISCRETION, INVEST OR SPEND
 32 THE MONEY IN THE FUND SOLELY FOR THE PURPOSES LISTED IN THIS SUBSECTION.

33 [(d) (1)] (4) (I) On or before October 1, 1998, the County Commissioners
 34 shall adopt an impact fee ordinance on impact fees for public school facilities.

35 [(2)] (II) The ordinance shall include regulations and procedures
 36 necessary to establish an impact fee program and to allow applications for impact fee
 37 credits for designated residential dwelling units.

1 [(3)] (III) The impact fee program shall [include] REFLECT the 5-year
2 capital improvement needs of the County Board of Education.

3 DRAFTER'S NOTE: Subsection (a) of this section is new language added to
4 define the scope of the section.

5 Subsections (b) and (d) through (g) of this section are transferred without
6 substantive change from former §§ 3.02(b)(3), 4.07(b-2) and (e), 5.05(b),
7 and 5.08, respectively, of this article.

8 In subsection (b) of this section, the former provision relating to a member
9 of the County Commissioners sitting on the planning commission is
10 deleted as obsolete.

11 Subsection (c) of this section is derived without substantive change from
12 former § 4.05(d) of this article.

13 14.06. FREDERICK COUNTY.

14 (A) THIS SECTION APPLIES TO FREDERICK COUNTY.

15 (b) Notwithstanding any other provision [in] OF this article, [in Frederick
16 County,] the Board of County Commissioners may overrule [the] AN action of the
17 Frederick County planning commission by a majority vote of the membership of the
18 Board of County Commissioners.

19 (c) (1) Notwithstanding [subsection (a) of this section, in Frederick County
20 and St. Mary's County] § 4.07(A) OF THIS ARTICLE, the [board] members OF THE
21 BOARD OF APPEALS may be appointed to [staggered] terms [varying from one to
22 three] OF 1 TO 3 years.

23 (2) THE TERMS OF THE BOARD OF APPEALS SHALL BE STAGGERED.

24 (D) IF A PLAT IS APPROVED AND RECORDED IN ACCORDANCE WITH THIS
25 ARTICLE BEFORE THE TRANSFER OF LAND, § 5.05 OF THIS ARTICLE DOES NOT APPLY
26 TO THE CONTRACT FOR SALE OR NEGOTIATION FOR SALE OF PROPERTY ZONED
27 INDUSTRIAL, COMMERCIAL, OR BOTH INDUSTRIAL AND COMMERCIAL.

28 DRAFTER'S NOTE: Subsection (a) of this section is new language added to
29 define the scope of the section.

30 Subsections (b) and (c) of this section are transferred without substantive
31 change from former §§ 3.08.1 and 4.07(b-1) of this article, as they related
32 to Frederick County.

33 Subsection (d) of this section is derived without substantive change from
34 former § 5.05(c) of this article as it related to Frederick County.

35 14.07. ST. MARY'S COUNTY.

36 (A) THIS SECTION APPLIES TO ST. MARY'S COUNTY.

1 (b) (1) [(i) In St. Mary's County, land] LAND and buildings may not be
2 used for chemical or catalytic manufacturing, chemical fabrication, gasoline
3 processing, or refining of petroleum or petroleum products.

4 [(ii)] (2) This prohibition does not apply to land [and] OR buildings
5 [if they were] used:

6 [1.] (I) On or before July 23, 1974, for chemical or catalytic
7 manufacturing, chemical fabrication, gasoline fabrication, gasoline processing, or
8 refining of petroleum or petroleum products; or

9 [2.] (II) On or after July 1, 1980, for manufacturing alcohol
10 fuel.

11 (c) [(2) (i)] (1) [In St. Mary's County, except] EXCEPT as provided in
12 [subparagraph (ii) of this] paragraph (2) OF THIS SUBSECTION, any land [and
13 buildings that are] OR BUILDING used for races or speed contests involving
14 automobiles or other vehicles, as defined in § 11-176 of the Transportation Article,
15 shall be restricted to hours of operation that cease:

16 [1.] (I) At 12:30 a.m.; or

17 [2.] (II) If a race or speed contest is in progress at 12:30 a.m.,
18 within 30 minutes after the conclusion of that race or speed contest.

19 [(ii)] (2) The required closing time for land and buildings under
20 [subparagraph (i) of this] paragraph (1) OF THIS SUBSECTION does not apply to areas
21 used for the operation of concessions or to [passages used for ingress and egress to
22 these] A PASSAGE USED AS AN ENTRANCE TO OR EXIT FROM THE concession areas.

23 (D) (1) NOTWITHSTANDING § 4.07(A) OF THIS ARTICLE, THE MEMBERS OF
24 THE BOARD OF APPEALS MAY BE APPOINTED TO TERMS OF 1 TO 3 YEARS.

25 (2) THE TERMS OF THE MEMBERS OF THE BOARD OF APPEALS SHALL BE
26 STAGGERED.

27 (E) SECTION 5.05 OF THIS ARTICLE DOES NOT APPLY TO THE SALE OR
28 NEGOTIATION FOR SALE OF INDUSTRIAL PROPERTY.

29 (f) (1) Notwithstanding [the provisions of subsection (a)] § 5.05(A) of this
30 [section] ARTICLE, [in St. Mary's County] the [county commissioners] COUNTY
31 COMMISSIONERS may provide a civil penalty for a subdivision violation.

32 (2) In a proceeding before the district court, [the] A subdivision violation
33 shall be enforced in the same manner and to the same extent as [set forth for] A
34 municipal [infractions in] INFRACTION UNDER Article 23A, § 3(b) of the Code.

35 (g) (1) Notwithstanding [the provisions of subsection (c)] § 7.02 of this
36 [section] ARTICLE, [in St. Mary's County] the County Commissioners may provide a
37 civil penalty for a zoning violation.

1 (2) In a proceeding before the District Court, [the] A zoning violation
2 shall be enforced in the same manner and to the same extent as [set forth for] A
3 municipal [infractions in] INFRACTION UNDER Article 23A, § 3(b) of the Code.

4 DRAFTER'S NOTE: Subsection (a) of this section is new language added to
5 define the scope of the section.

6 Subsections (b), (c), (f), and (g) of this section are transferred without
7 substantive change from former §§ 4.01(c)(1) and (2), 5.05(d), and 7.01(d) of
8 this article.

9 Subsection (d) of this section is derived without substantive change from
10 former § 4.07(b-1) of this article, as that provision related to St. Mary's
11 County.

12 Subsection (e) of this section is derived without substantive change from
13 former § 5.05(b) of this article, as that provision related to St. Mary's
14 County.

15 14.08. WASHINGTON COUNTY.

16 [(1)] (A) [This subsection applies to Charles County and Washington
17 County.] THIS SECTION APPLIES TO WASHINGTON COUNTY.

18 [(2)] (B) The local legislative body may authorize the planning director
19 or other designee to grant administrative adjustments from height, setback, bulk,
20 parking, loading, dimensional, area, or similar requirements of the zoning ordinance.

21 [(3)] (C) The local legislative body [shall consult] SHALL:

22 (1) CONSULT with the planning commission and the board of appeals in
23 developing criteria and procedures for administrative adjustments under this
24 subsection[.]; AND

25 [(4)] (2) [The local legislative body shall adopt] ADOPT the criteria and
26 procedures after reasonable public notice, public hearing, and AN opportunity for
27 review and comment by the public.

28 [(5)] (D) Criteria for administrative adjustments shall include:

29 [(i)] (1) Standards for actions on requests;

30 [(ii)] (2) Standards for classes of development eligible for
31 administrative adjustments; and

32 [(iii)] (3) [Maximum] THE MAXIMUM variation from a zoning
33 requirement allowable under an administrative adjustment.

34 [(6)] (E) Procedures for administrative adjustments may include:

35 [(i)] (1) Applications;

1 [(ii)] (2) Notice to the public and parties in interest;

2 [(iii)] (3) Opportunity for public hearing;

3 [(iv)] (4) Taking of testimony and evidence; and

4 [(v)] (5) Decision making.

5 [(7)] (F) A decision on an application for an administrative adjustment
6 shall include written findings of fact.

7 [(8)] (G) [The] BY ORDINANCE OR OTHER ADOPTED PROCEDURE, THE
8 local legislative body may [provide, by ordinance or other adopted procedure, for the]
9 ALLOW AN appeal TO THE BOARD OF APPEALS of a decision to approve or deny an
10 administrative adjustment [to the board of appeals].

11 DRAFTER'S NOTE: Subsections (b) through (g) of this section are transferred
12 from former § 4.05(d) of this article.

13 14.09. WORCESTER COUNTY.

14 (A) THIS SECTION APPLIES TO WORCESTER COUNTY.

15 (b) (1) [In Worcester County, notwithstanding] NOTWITHSTANDING any
16 other [provisions of the] PROVISION OF law, ON THE ZONING OR REZONING OF ANY
17 LAND, the County Commissioners[, upon the zoning or rezoning of any land or
18 lands,] may impose [such] restrictions, [conditions] CONDITIONS, or limitations [as
19 may be deemed by them] CONSIDERED BY THE COUNTY COMMISSIONERS to be
20 appropriate to preserve, [improve] IMPROVE, or protect the general character and
21 design [of the lands] OF:

22 (I) THE LAND and improvements being zoned or [rezoned, or of
23 the] REZONED; OR

24 (II) THE surrounding or adjacent lands and improvements[, and].

25 (2) ON THE ZONING OR REZONING OF ANY LAND, THE COMMISSIONERS
26 may[, upon the zoning or rezoning of any land or lands,] retain or reserve the power
27 [and authority] to approve or disapprove the design of buildings, construction,
28 [landscaping] LANDSCAPING, or other improvements, alterations, and changes made
29 [or to be made] on the [subject] land [or lands] to assure conformity with the intent
30 and [purpose] PURPOSES of this article and of the county zoning ordinance.

31 (3) The COUNTY COMMISSIONERS MAY EXERCISE THE powers [in]
32 GRANTED UNDER this subsection [shall be applicable] only if the County
33 Commissioners adopt an ordinance [which shall include enforcement procedures]
34 THAT INCLUDES:

35 (I) ENFORCEMENT PROCEDURES; and

1 (II) [requirements] REQUIREMENTS for adequate notice of public
2 hearings and conditions sought to be imposed.

3 (c) [In Worcester County, notwithstanding] NOTWITHSTANDING any other
4 provisions [to] OF this article or of the local laws of Worcester County, [any] AN
5 application for zoning classification or reclassification [must] SHALL contain the
6 following information:

7 (1) If the applicant is a corporation, the names and residences of the
8 officers, directors, and all stockholders owning more than [20 percent] 20% of the
9 capital stock of the corporation;

10 (2) If the applicant is a GENERAL OR LIMITED partnership[, whether a
11 general or limited partnership], the names and residences of all partners who own
12 more than [twenty percent] 20% of the interest of the partnership;

13 (3) If the applicant is an individual, [his] THE APPLICANT'S name and
14 residence; OR

15 (4) If the applicant is a joint venture, unincorporated association, real
16 estate investment trust, or other business trust, the names and residences of all
17 persons holding an interest of more than [twenty percent] 20% in the joint venture,
18 unincorporated association, real estate investment trust, or other business [trust]
19 TRUST, RESPECTIVELY.

20 DRAFTER'S NOTE: Subsection (a) of this section is new language added to
21 define the scope of the section.

22 Subsections (b) and (c) of this section are transferred without substantive
23 change from former § 4.05(f) and (g) of this article.

24 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 3.01(c),
25 3.05(b)(1), and 4.09(a) of Article 66B - Zoning and Planning of the Annotated Code of
26 Maryland be repealed and reenacted, with amendments, and transferred to the
27 Session Laws, to read as follows:

28 IMPLEMENTATION OF THE LAND USE LAWS

29 [3.01.] 1.

30 [(c)] (A) The PLANNING commission appointed under this article shall have
31 all powers PREVIOUSLY granted by law [heretofore] to any planning or zoning
32 commission of the [jurisdiction, and from and after] LOCAL JURISDICTION.

33 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AFTER the
34 creation of a planning commission [hereunder in such jurisdiction] UNDER THIS
35 ARTICLE, all powers and records of the [then] PREVIOUS planning and zoning
36 commission shall be transferred to [this] THE NEW planning [commission, provided,
37 however, that in the event that any] COMMISSION.

1 (C) IF AN existing planning and zoning commission [shall be] IS nearing the
2 completion of its zoning plan, the local legislative body may, by resolution, postpone
3 the [said] transfer of the PLANNING AND zoning commission's powers [but such
4 postponement shall not exceed a period of six] FOR A PERIOD NOT EXCEEDING 6
5 months.

6 DRAFTER'S NOTE: This section is transferred from the last former sentence of
7 Article 66B, § 3.01(c) of the Code.

8 [3.05.] 2.

9 [(b) (1)] Any plan whose preparation or revision begins or is required to begin
10 after October 1, 1992 shall include all elements required [in subsection (a) of this
11 section] UNDER ARTICLE 66B, § 3.05(A) OF THE CODE and the visions set forth in [§
12 3.06(b) of this article] ARTICLE 66B, § 1.01 OF THE CODE.

13 DRAFTER'S NOTE: This section is transferred from the last former sentence of
14 Article 66B, § 3.05(b)(1) of the Code.

15 SECTION 4. AND BE IT FURTHER ENACTED, That Article 66B - Zoning and
16 Planning of the Annotated Code of Maryland be renamed to be Article 66B - Land
17 Use.

18 SECTION 5. AND BE IT FURTHER ENACTED, That the catchlines and
19 drafter's notes contained in this Act are not law and may not be considered to have
20 been enacted as a part of this Act.

21 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2000.